

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 December 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.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBER ABSENT:

DR THE HONOURABLE MARGARET NG

PUBLIC OFFICERS ATTENDING:

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

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

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

THE HONOURABLE GREGORY SO KAM-LEUNG, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE RAYMOND TAM CHI-YUEN, J.P.
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

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

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

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

PRESIDENT (in Cantonese): The meeting will now start.

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>
Harmful Substances in Food (Amendment) Regulation 2011	173/2011
Pilotage (Dues) (Amendment) Order 2011	174/2011
Port Control (Public Cargo Working Area) Order 2011....	175/2011

Other Papers

- No. 40 — The Board of Governors of the Prince Philip Dental Hospital Annual Report 2010/11
- No. 41 — Hong Kong Council for Accreditation of Academic and Vocational Qualifications Annual Report 2010-2011
- No. 42 — The Accounts of the Lotteries Fund 2010-11
- No. 43 — Annual Report of the Equal Opportunities Commission 2010/11

No. 44 — The Government Minute in response to the 23rd Annual Report of The Ombudsman 2011

No. 45 — Independent Police Complaints Council Report 2010/11

No. 46 — Ocean Park Hong Kong Annual Report 2010-2011

Report No. 6/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Road Traffic (Amendment) Bill 2011

ADDRESSES

PRESIDENT (in Cantonese): Addresses. The Chief Secretary for Administration will address the Council on "The Government Minute in response to the 23rd Annual Report of The Ombudsman 2011".

The Government Minute in response to the 23rd Annual Report of The Ombudsman 2011

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I would like to submit the Government Minute in response to the recommendations in the 23rd Annual Report of The Ombudsman which was tabled before the Legislative Council on 6 July this year.

The Government and the relevant public organizations have generally accepted The Ombudsman's recommendations in respect of various investigation cases and proactively adopted various measures to implement these recommendations. As for a small number of recommendations which are not accepted, the relevant departments have given an explanation to The Ombudsman or proposed other options as set out in this Government Minute.

The Ombudsman has been playing a very important role in raising the quality of public services and the achievements over the years are evident to all.

We will continue to work together with The Ombudsman in meeting the people's expectation on continued upgrading of the quality of public services and enhanced transparency of governance. Here we thank The Ombudsman for giving us valuable advice and will continue our efforts in upgrading the quality and efficiency of public administration.

Thank you, President.

PRESIDENT (in Cantonese): Dr Joseph LEE will address the Council on the "Independent Police Complaints Council Report 2010/11".

Independent Police Complaints Council Report 2010/11

DR JOSEPH LEE (in Cantonese): President, on behalf of the Independent Police Complaints Council (IPCC) I present its Second report after incorporation in 2009. This Report covers the financial year ending 31 March 2011.

In the year 2010-2011, the IPCC scrutinized and endorsed the findings of 3 968 complaint cases involving 7 182 allegations, an increase of 3.7% and 10.5% respectively over the previous year. During this period, the three most common allegations were "Neglect of Duty" (with 3 211 counts), "Misconduct/Improper Manner/Offensive Language" (with 2 632 counts), and "Assault" (with 515 counts). These three types of allegations accounted for 88.5% of all allegations made in 2010-2011.

In 2010-2011, 2 105 allegations were fully investigated. Of these, 130 were classified as "Substantiated"; 96 "Substantiated Other Than Reported"; 61 "Not Fully Substantiated"; 1 107 "Unsubstantiated"; 567 "No Fault" and 144 "False". These figures also include 286 allegations of which classification was changed from that earlier conducted by the police following queries raised by the IPCC. In 2010-2011, the IPCC has raised a total of 2 427 query points and suggestions in respect of the cases endorsed. Out of these query points, the police accepted 1 708 of them.

Under the Observers Scheme, 1 974 observations were conducted by Observers of the IPCC in 2010-2011, an increase of 6.1% over the previous year. During the reporting period, the IPCC has also interviewed six persons to seek clarification from them on matters relating to the investigation reports.

While we will continue to ensure thoroughness and fairness in the investigation to both complainants and complainees, in view of the numerous complaints against the police, the IPCC and the police this year established a Working Group to come up with a more efficient system of sorting complaints by their nature in order to boost the efficiency of investigation of complaint cases. Notwithstanding this, we have not, and will not compromise the rigour of our scrutiny work. We will also continue to look for ways to strengthen our work in reducing complaints through identifying any fault or deficiency in police practices or procedures which has led to or might lead to complaints.

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

President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Safety of Professional Drivers Under Occupational Safety and Health Ordinance

1. **MR WONG KWOK-HING** (in Cantonese): *President, the Occupational Safety and Health Ordinance (OSHO) requires employers to provide a safe working environment for employees. Yet, under the existing OSHO, the definition of "workplace" does not include the vehicles operated by professional drivers and the cabs of these vehicles, hence they are not within the scope of protection of the OSHO. Although employers are required, under the Employees' Compensation Ordinance (ECO), to take out employees'*

compensation insurance so that if employees are injured or killed at work, they or their families will be entitled to compensation under the ECO, vehicle owners may not take out insurance policies for the professional drivers and some of these drivers are self-employed and thus are not protected by the ECO. In this connection, will the Government inform this Council:

- (a) among the traffic accidents in the past five years which involved professional drivers, of the number of cases in which the professional drivers were granted compensation under employees' compensation insurance, and the number of cases in which the professional drivers were not protected by employees' compensation insurance; whether the authorities have assessed if the exclusion of "the seat or position occupied by the driver of a land vehicle located in a public place" from the scope of protection under the OSHO is an act of discrimination against the occupational safety needs and rights of professional drivers; whether the authorities will consider conducting a comprehensive review of and a study on amending the OSHO; if they will, of the details and the timetable; if not, the justifications and reasons for that;*
- (b) whether the authorities had, in the past five years, monitored as well as carried out investigation and inspection regarding the occupational safety of the working environment of professional drivers; if they had, of the outcome; if not, the reasons for that; and*
- (c) regarding the prevalence of occupational diseases among professional drivers and the causes of such diseases, whether the authorities have carried out relevant surveys, studies and analyses so as to formulate specific measures and plans for improving the work safety and health of professional drivers; if they have, of the details and the specific work done in the past five years; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the OSHO stipulates that employers must, so far as reasonably practicable, ensure the safety and health at work of their employees. The Ordinance covers most of the workplaces, but excludes land, sea and air transport which are regulated by other

legislation such as the Road Traffic Ordinance, the Merchant Shipping Ordinance and the Civil Aviation Ordinance. Hence, the definition of "workplace" in the OSHO does not include the driving seat of a professional driver in a vehicle, and an aircraft or vessel located in a public place.

My reply to the Honourable WONG Kwok-hing's question is as follows:

- (a) The Labour Department (LD) does not have breakdown of statistics on employees' compensation cases by work type. Hence, information on whether the professional drivers who were involved in traffic accidents had obtained employees' compensation could not be provided.

Although the OSHO does not cover the driving duties of professional drivers, they are protected by the legislation if they carry out non-driving duties assigned by their employers. Besides, the ECO stipulates that an employer shall be liable to pay compensation to employees who sustain injuries or death in accidents arising out of and in the course of employment (including injuries or death sustained in accidents due to fatigue from work or heat stroke at work) or suffer from prescribed occupational diseases. The ECO is applicable to professional drivers who are employees. Therefore, the existing legislation has not discriminated against professional drivers. In order to further enhance the protection of professional drivers, we shall consult the Transport and Housing Bureau in reviewing the existing occupational safety and health arrangements for professional drivers.

- (b) The LD has been concerned about the occupational safety and health of professional drivers, and conducts targeted inspections and monitoring operations from time to time, including inspecting the hygiene facilities and provision of drinking water at public transport stations, and such duties as loading and unloading of goods and operation of machinery by professional drivers. In summer this year, the LD took the initiative to inspect a number of bus termini of a bus company, checking whether the measures implemented by the company to prevent bus drivers from suffering heat stroke were appropriate and sufficient, and making recommendations for

improvement in strengthening the preventive measures. In addition, in response to a complaint, the LD has recently conducted inspections on some drivers' duty to operate facilities for assisting disabled passengers to get on or off the bus, and requested the employer concerned to make improvements.

- (c) The LD has been conducting publicity and promotion activities through various channels to raise professional drivers' awareness of occupational safety and health. This year, the LD, in collaboration with the Occupational Safety and Health Council (OSHC) and relevant trade unions, visited a number of bus, taxi, public light bus and tram stations to promote occupational safety and health messages and distribute publicity leaflets and souvenirs to professional drivers direct. The LD has broadcast an educational video on mobile advertising media, occupational safety and health tips on the radio after traffic news, and conducted various activities to remind professional drivers of the importance of healthy living.

In order to learn more about the occupational safety and health conditions of professional drivers, the OSHC conducted a questionnaire survey last year to collect information about the lifestyle and health status of a pool of professional drivers, as well as their awareness of and attitudes towards occupational safety and health. We will make reference to the results of the survey in formulating specific measures to improve the occupational safety and health of professional drivers.

MR WONG KWOK-HING (in Cantonese): *President, tragedies of drivers who died because of heat stroke have shown that the existing OSHO discriminates against professional drivers and violates the principle of equal opportunities. But in the second paragraph of part (a) of the main reply, the Secretary has pointed out that although the OSHO does not cover the driving duties of professional drivers, they are protected by the legislation if they carry out non-driving duties assigned by their employers. President, this reply from the Secretary is obviously self-contradictory because he admits that while driving duties are not covered by the OSHO, non-driving duties are covered. So, President, I would like to ask the Secretary this question through you and I*

beseech him to give a reply which is true to his conscience. Does the existing OSHO discriminate against professional drivers? Does it violate the principle of equal opportunities? I hope the Secretary can base his answer on the OSHO instead of other pieces of legislation.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Secretary, I have given a clear account in the main reply and that is, there is not any discrimination whatsoever. It is also clearly stated in the main reply that if the work concerned is related to driving duties, and if the driver concerned sits in the driving seat, since that comes under the regulation of other pieces of legislation, it is not covered by the OSHO. However, if the driver concerned is not carrying out any driving duties, that is, if he is performing some other tasks in the vehicle, such as selling ice cream, that will be classified as non-driving duty and it will certainly be covered by the OSHO. This point is very clear.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not replied in the context of the original remarks he made in the part which I have just quoted. Why are driving duties not covered?*

PRESIDENT (in Cantonese): Mr WONG, you have asked the Secretary whether or not the OSHO discriminates against professional drivers and the Secretary has said in reply that there is no discrimination under the existing policies. If you do not agree to this reply from the Secretary, you have to resort to other channels to follow up.

MR CHAN KIN-POR (in Cantonese): *Mr WONG Kwok-hing has mentioned in the main question that vehicle owners may not take out insurance for the professional drivers. I hope the Secretary can comment briefly on this. Has the trend of employers not taking out insurance for their employees been on the rise in recent years, and what measures the LD has put in place to address the situation?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, if there is a genuine employment relationship between the employer and the

employee, that is, if the vehicle owner is also the employer, he is obliged to do so. If he fails take out any insurance, he is definitely in breach of the law. So this would have to depend on the type of relationship that exists between the vehicle owner and the driver. If they are not in any kind of employment relationship, this problem of insurance will not exist. Employers have the responsibility to take out insurance for their employees. We are very mindful of this and we also conduct inspections. There is no indication of any marked upsurge in the situation as mentioned by the Member. Things have been going very steady.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam.

MR CHAN KAM-LAM (in Cantonese): *President, I did not press the "Request to speak" button.*

MR LEE CHEUK-YAN (in Cantonese): *President, I note from the main reply that the LD has recently inspected a bus company and made some recommendations on drivers helping disabled passengers to get on the bus. As a matter of fact, our trade union has made some complaints in this regard to the Government and we know that the Government has conducted inspections and made recommendations for improvement. But according to the drivers, despite recommendations for improvement having been made by the LD, the bus company did not heed them actually. As we all know, passengers of airport buses carry a lot of baggage, and every time a bus driver sees some heavy baggage, he would have to bend down, pull out the handle and lift it, so that the platform can be lowered and the baggage can be moved into the bus. All these actions may cause strains to his body and these are serious problems in occupational safety and health. As far as we know, even though recommendations are made by the authorities, the bus company in question has not taken any action to effect improvement. Will the Secretary agree or, based on the information he has got, say that the bus company has not made any improvement? How can the authorities ensure that improvement will be made?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am very grateful to Mr LEE for raising this supplementary question, and I am

also very grateful to Mr LEE's trade union for referring the complaint case to us. We have taken active steps to follow up.

First, after the inspections, we found that the entire operation process, that is, the postures used by the bus captains and how they use their fingers to move the steel platform, and so on, was unacceptable and must be addressed. So we suggested the company in question to implement an effective set of improvements, draw up a set of guidelines on the correct postures of operating the wheelchair platform and provide supervision and training to bus captains on the proper procedures. The bus company had accepted the recommendations and it was taking active steps to study and source the proper equipment in order to prevent bus captains from having to use their fingers or any incorrect postures to operate the steel platform. As far as I know, the management will consult bus captains on their views after using the new equipment and if this is found to be satisfactory, the new equipment will be introduced on a full scale. Now the employer side has agreed to provide related training to enable bus captains to use the equipment properly and it has informed us that the measure concerned will take effect from January next year. We will keep a close watch on the situation and see whether the company has kept its promise. If it is found by January next year that it has not kept its promise, we may have to take action.

MR IP WAI-MING (in Cantonese): *President, this issue is actually not brought up only today. President, when the OSHO was enacted in 1995, the Occupational Safety and Health Committee of the Hong Kong Federation of Trade Unions already voiced its opposition because the legislation did not cover professional drivers.*

President, when the Secretary was making his replies earlier, I noticed that he had been evading the crux of the matter. In his main reply the Secretary said that even if some injuries or accidents happened, the drivers were protected by the ECO. But we are not asking about this point, but the question of should some professional drivers develop occupational safety and health conditions and if it is found that their employers have not provided enough measures to protect their safety and health, then how should they lodge complaints? And what powers do the authorities have to make sure that employers will provide the relevant safety facilities? This is the crux of the matter, but the Secretary has not made his replies to this point.

PRESIDENT (in Cantonese): Is this your supplementary question?

MR IP WAI-MING (in Cantonese): *May I ask, if an employer really has not provided any safety facilities, then what law the authorities will invoke to make the employer to provide some proper occupational safety and health facilities to the professional driver concerned?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am grateful to Mr IP for raising this supplementary question. In 1997 when the Legislative Council enacted this Ordinance, it was clearly stated that the workplace would certainly include driver's seat, cab, and so on, and Members agreed to that at that time. And as I have said in the main reply, as vehicles, vessels and aeroplanes are already regulated by other legislation such as the Road Traffic Ordinance, the Merchant Shipping Ordinance and the Civil Aviation Ordinance, such kinds of workplace are excluded. However, I am aware of Members' concern. And as Members may have noted, I have made it sufficiently clear in the main reply that the Government is concerned about this. What have we done currently? I have said clearly in the main reply that we are happy to examine the arrangements for occupational safety and health in a holistic manner and we will maintain close contact with the Transport and Housing Bureau in this course.

In addition, the last part of part (c) of the main reply is also very important. Last year the OSHC conducted a questionnaire survey to collect information on the health of some 800 professional drivers, their working conditions and their awareness of occupational safety and health. I will make an effort to analyse and study the data obtained, then undertake a full-scale examination to see if there is any room for improvement. Since the occupational safety and health of employees comes under my portfolio, I am very concerned about it. But Members should know that the present position of the Executive Council is that since the issue is regulated by other legislation and the Legislative Council agreed to it at the time of enactment, so I think that at this stage, we should carry out some studies and analyses first. I hope all these can be completed some time later next year. We will then report the findings to Members, as well as what should be done to improve the situation if we found that there are areas that warrant improvement. We have not closed all the doors and, indeed, I am very

concerned about the drivers like Members of this Council are. It is because many drivers are under tremendous pressure at work.

There is also another reason Members must realize, one which I have explained before but I did not repeat in the main reply. This is about why the employers should not be regulated, that is, to require them to bear a responsibility in this. This is because there are many factors that may affect the safety of drivers. First, the design and maintenance of vehicles and roads. Second, the driver's driving skills and attitude are also vital. And there is also the question of whether safety facilities are in place and whether safety belts are properly used. Moreover, the employers cannot have any control over road users and road conditions. I can give a simple example and that is, on a construction site, the employer concerned has the responsibility to provide a safe working environment. Why? This is because he can have control over factors that may pose hazards. But road surface conditions are beyond his control. Should an employer be responsible for say, a car that suddenly comes out from nowhere? However, all these are included under injuries and accidents sustained at work. If the injury is related to work, there is no way the employer can shirk his responsibility.

So President, I wish to reiterate that we will examine the entire arrangement in the hope that the views found in the survey conducted by the OSHC can be accepted and overseas experience in that area can be used as reference. I undertake that I will report these to Members in the Panel on Manpower later next year.

PRESIDENT (in Cantonese): Mr IP, is your supplementary question not answered?

MR IP WAI-MING (in Cantonese): *President, the Secretary smacks of "putting words into our mouth". We in the labour sector did not agree at that time that drivers should be excluded. Furthermore, I asked him earlier*

PRESIDENT (in Cantonese): Mr IP, we are not having a debate now.

MR IP WAI-MING (in Cantonese): *No, but I was trying to say*

PRESIDENT (in Cantonese): You need only repeat the part of your supplementary question not answered by the Secretary.

MR IP WAI-MING (in Cantonese): *..... Just now I asked him which ordinance was invoked and whether any ordinance was invoked, but he did not answer it.*

PRESIDENT (in Cantonese): Which part has the Secretary not answered?

MR IP WAI-MING (in Cantonese): *I asked him which ordinance had been invoked to protect the occupational safety and health of employees. But all along he has not replied as to which ordinance was invoked and whether it has ever been invoked.*

PRESIDENT (in Cantonese): The Member asks which ordinance is invoked. Secretary, do you have anything to add?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I can cite a number of examples on that. For instance, with respect to roads, section 109 of the Road Traffic Ordinance (Cap. 374) provides that a person should not drive if he has fatigue, is physically unfit or in a bad mood. Also, the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A) provides that every vehicle shall be soundly and properly constructed with suitable materials, in good and serviceable condition, equipped with a suspension system, a silencer, a ventilation system, and so on. In times of inclement weather, the cab should give the driver adequate protection. All these are specified in the relevant road legislation and it is not true to say that there is no legislation regulating such matters.

We do understand Members' concern. The OSHO has been in force for more than 10 years and both my colleagues and I think that it is time we

undertook a full-scale review to see if there is room for improvement. We, after all, hope that the well-being of employees can be protected. But what we have now is not a blank sheet without any protection at all. We have laws to regulate commercial vessels and aeroplanes. With respect to franchised buses in general, the Public Bus Services Ordinance (Cap. 230) clearly states the maximum working hours of drivers and specifies their rest time and tea break in between. From this it can be seen that such matters are regulated by law.

DR PAN PEY-CHYOU (in Cantonese): *The Secretary has talked just now at great length, saying that we should separate driving duties in the cab of drivers and these should not be regarded as part of the job. I can never see the point of this. Then the Secretary also said that this is because of the many factors that are beyond control in driving, such as road surface conditions, or the attitude of drivers, and so on. But the same problem also occurs in other kinds of work or occupations. In the case of a cook, for example, when he works in a kitchen, how is he to control other people and matters in the kitchen? Maybe an egg has fallen to the ground and people walking on it will slip and fall. These are things beyond his control.*

I heard the Secretary say just now that a review would be undertaken next year. I have this supplementary question. At what time next year will the relevant papers be submitted to the Legislative Council to facilitate such a review? Do we have to wait until the completion of this term of the Government and the matter is handed over to the Government of the next term?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I wish to respond to Dr PAN's supplementary question in two aspects. First, he mentioned the working conditions in a kitchen. But these are different from road conditions. The employer has control over his kitchen because he owns the restaurant, and he has the responsibility to provide a safe, comfortable, clean and healthy environment to his employee. Right? But things are different on the road. The conditions are beyond the control of the driver, and the employer, too. This is the first point I wish to clarify.

Second, we are concerned about that issue and so we are prepared to examine it. I said earlier that we would keep in close touch with the Transport

and Housing Bureau and we would refer to the latest report from the OSHC. According to our timetable, we hope to submit the relevant papers in the second half of next year. If this can be completed within this term of the Legislative Council, I will definitely report the findings to Members within this term of the Legislative Council.

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

Private Recreational Leases

2. **MISS TANYA CHAN** (in Cantonese): *Some members of private clubs have relayed to me that most of the private recreational leases (PRLs) will expire by the end of this year, but so far the Government has not announced any renewal arrangement or specific arrangement relating to the policy that regulates PRLs. Regarding the latest development of the policy on PRLs, will the Government inform this Council:*

- (a) *whether the Government has conducted a review of the policy on PRLs; if it has, of the progress, methodology and outcome of the review; whether it can provide the review report and related information; whether it has amended the relevant policy in the light of the review outcome; if it has, of the details; whether such amendments apply to all private recreational venues (PRVs), particularly in respect of the renewal of those PRLs which will expire between the end of this year and early next year; if it has not amended the policy, of the reasons for that; in the process of reviewing the policy, how it ensures that PRVs are put to optimal use, and that the interests of the members of private clubs are fully protected while encouraging other organizations to borrow and use the venues; if it has not conducted any review so far, of the reasons for that;*
- (b) *given that most of the PRLs will expire this year or next year, of the latest development of the renewal arrangements for the various PRLs at present, including the respective numbers and details of*

those PRLs which are under negotiation for renewal, those PRLs of which renewal negotiation has not yet started and those PRLs which have already been renewed upon completion of negotiation; whether the Government will renew the PRLs in accordance with the policy which has been reviewed; if it will, of the details; if not, the reasons for that; whether the Government will modify the terms (including general and special terms) of the PRLs upon renewal; if it will, of the details of the modifications (including the content of and justification for the modifications); whether the Government will adopt different renewal arrangements in the light of the nature of the PRVs or their operators (for example, private clubs or uniformed groups, and so on); if it will, of the details; and

- (c) *whether it knows the details of the cases of outside organizations borrowing PRVs from private clubs for organizing activities in accordance with PRLs in the past five years (including the names of borrowers, details and nature of activities, facilities borrowed, borrowing duration in hours and borrowing dates, and the authorities which arranged the borrowing of PRVs), together with a table setting out such information in detail?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, in Hong Kong, there is a long history of community organizations operating clubs on land leased under PRLs to develop sports or recreational activities for their members. A PRL is a type of government land lease, and the role of the Home Affairs Bureau is to examine whether continuous policy support should be given to such PRLs from the perspective of sports development. My reply to the three parts of the question is as follows:

- (a) Quite a number of PRLs were granted a long time ago and have since been renewed many times. In the past when there was an acute shortage of public sports facilities, sports clubs operated by organizations in the community helped to alleviate this shortage. The sites that some of these clubs have been using for years were originally considered to be in remote areas but these have gradually become prime locations as a result of urban development. In view of changes in the circumstances, we have re-examined the policy on

PRLs in recent years in communication with the sports clubs and taking account of the views of stakeholders. In this connection, we briefed the Legislative Council Panel on Home Affairs on 13 May and 8 July on our thinking. Having obtained the views from different parties and after careful consideration, we are of the view that holders of PRLs have contributed to the promotion of sport in Hong Kong through the provision of facilities and equipment, the promotion of sports events, the training of athletes and the hosting of major competitions. These organizations have invested substantial resources into their sports clubs over the years to achieve their present scale. To many Hong Kong people, going to these clubs for sports and recreational activities has become a part of their life. These clubs also help attract overseas professionals to work in Hong Kong.

In the light of historical development and present circumstances, the Bureau's major policy considerations in respect of the renewal of PRLs for sports clubs are as follows:

First, notwithstanding the substantial increase in government-built sports and recreational facilities, sports clubs operated by organizations in the community are still responding to the demand of many people in a society with diverse needs, and they merit policy support on the grounds of sports promotion. Therefore, unless the land concerned has been planned for other uses, we intend to support the renewal of the leases that will expire shortly.

Second, the prerequisite of our support for lease renewals is that the lessees shall support the major policy objectives of sports development in Hong Kong, that is, promoting sport in the community, promoting elite sports development and promoting Hong Kong as a centre for international sports events. In this connection, private sports clubs should, having regard to their own circumstances, help promote Hong Kong's sports development by allowing greater access to their sports facilities by outside bodies, by nurturing young athletes and by providing venues for staging major sports events. It is of paramount importance that the public should be allowed more opportunities to use the clubs' facilities. The

Government will step up monitoring and publicity efforts to facilitate the use of the lessees' facilities for sports activities by more eligible outside bodies.

Third, in the long run, we consider it worthwhile to work with relevant Policy Bureaux and departments to conduct a full-scale review of the policy on PRLs, having regard to our overall development strategy. The proposed review should cover areas such as land use, sports development and the balance of different public needs. With the long-term policy review in mind, when handling lease renewals we will advise lessees that there should be no expectation that their leases would be further renewed upon expiry and that even if the leases are further renewed, they might not be renewed on the same terms and conditions as the renewed leases.

- (b) In reply to part (b) of the question, as most of the current leases will expire between the end of this year and the end of next year, we informed all lessees in writing of the lease renewal arrangements and the greater access requirements in August this year. We also conducted a briefing in September to explain the arrangements in detail to lessees, and advised them on how they should further open up their facilities to outside bodies. We also issued a questionnaire to help lessees formulate proposals for the implementation of the greater access requirements. In their proposals, lessees have also been asked to provide us with details of their publicity measures, charges and application procedures. We are now receiving the proposals submitted by the lessees. We have also begun discussion with individual lessees on their proposals to ensure that they will comply with our greater access requirements. In addition to the greater access requirements, we will also consider modifying general and special conditions in individual PRLs in the light of the circumstances of each case. Given that the lease renewal exercise is still under way, details of the modifications are not yet finalized. Once the arrangements for opening up are finalized, the formal lease renewal exercise will commence. For the remaining small number of lessees whose PRLs will not expire before the end of 2012, we will also encourage them to allow outside bodies to use their

facilities as far as practicable, whilst balancing the interests of their own members.

Given that more time will be needed for discussion with the lessees, the Director of Lands has issued "holding over" letters to lessees whose PRLs will expire before the end of 2012 to allow these lessees to hold over the sites concerned under the terms and conditions of the expired leases, and subject to the payment of the interim rent until the completion of the lease renewal exercise. At present, of the 55 cases, the Lands Department has completed the "holding over" arrangements in 15 cases, and the lessees' confirmation of the acceptance of the "holding over" arrangements is pending in eight cases, while 30 other cases are being processed. As for the remaining two cases, the lessees will continue to use the sites on a temporary basis by way of short-term tenancies since the two sites in question will be required for public purposes.

- (c) For part (c) of the question, we note that a considerable number of outside bodies have directly approached the lessees in the past five years for the use of the lessees' facilities. During the same period, no outside bodies have sought the assistance of the competent authorities for the use of lessees' facilities.

As for the information on lessees' direct opening-up of facilities for the use of outside bodies (including the names of the user organizations), a Member has earlier made a request for access to such information. In our reply, we pointed out that since the requested information was provided by the lessees as third parties, it was necessary for us to follow the requirements of the Code on Access to Information (the Code) by seeking the consent of the lessees concerned for disclosure of the requested information. In compliance with the guidelines of the Code, we are now giving the lessees' time to consider the request. We will follow up and submit the requested information to the Legislative Council after obtaining the consent to release this from the third parties concerned. (Supplementary information provided after meeting at Appendix 1) Meanwhile, a summary of the use of private clubs' facilities by outside bodies in the past three years is at Annex for reference.

Annex

Summary of Outside Bodies' Utilization of Private Clubs' Facilities or Venues
for Organizing Activities in the Past Three Years^{Note}

<i>Club</i>	<i>Location and Lot No.</i>	<i>Provision of Facilities and Opening-Up of Venues for the Use of National Sports Associations, Schools and Social and Welfare Organizations and/or Major International Sports Event(s) Hosted</i>
Aberdeen Boat Club	AIL 454, Shum Wan Road, Brick Hill	As sailing competition or training venue and for school practice or training
Chinese Recreation Club, Hong Kong	IL 8875, No. 123 Tung Lo Wan Road	As tennis competition or training venue; for school practice or training; and for social and welfare organizations to hold activities
Clearwater Bay Golf & Country Club	Lot 227 DD 241, Po Toi O	As golf competition or training venue; for school practice or training; and for social and welfare organizations to hold activities
Club De Recreio	KIL 11098, No. 20 Gascoigne Road	As hockey competition or training venue and for school practice or training
Craigengower Cricket Club	IL 8881, No. 188 Wong Nai Chung Road	As lawn bowls competition or training venue and for social and welfare organizations to hold activities
Filipino Club	KIL 11096, No. 10 Wylie Road	As lawn bowls competition or training venue
Hebe Haven Yacht Club	Lot 1138 and Extension DD 217, Pak Sha Wan	For school practice or training and for social and welfare organizations to hold activities
Hong Kong Country Club	RBL 1129, Wong Chuk Hang Road	As tennis competition or training venue and for social and welfare organizations to hold activities
Hong Kong Cricket Club	IL 9019, No. 137 Wong Nai Chung Gap Road	As cricket and lawn bowls competition or training venue and for social and welfare organizations to hold activities
Hong Kong Football Club	IL 8846, No. 3 Sports Road, Happy Valley	- As hockey and rugby competition or training venue; for school practice or training; and for social and welfare organizations to hold activities - Hosted Hong Kong International Soccer 7s Tournament

<i>Club</i>	<i>Location and Lot No.</i>	<i>Provision of Facilities and Opening-Up of Venues for the Use of National Sports Associations, Schools and Social and Welfare Organizations and/or Major International Sports Event(s) Hosted</i>
Hong Kong Golf Club	Lot 942 RP in DD 94, Sheung Shui	- As golf competition or training venue; for school practice or training; and for social and welfare organizations to hold activities - Hosted Hong Kong Open Championship (Golf)
	RBL 1117, Deep Water Bay	- As golf competition or training venue; for school practice or training; and for social and welfare organizations to hold activities
Hong Kong Gun Club	TWTL 399, Chuen Lung, Tsuen Wan	As shooting competition or training venue
India Club, Kowloon	KIL 11095, No. 24 Gascoigne Road	As tennis competition or training venue
Indian Recreation Club	IL 8900, No. 63 Caroline Hill Road, So Kon Po	As tennis competition or training venue
Jardine's Lookout Residents' Association	IL 8895, No. 2 Creasy Road, Jardine's Lookout	As tennis competition or training venue and for professional sports associations to hold activities
Kowloon Bowling Green Club	KIL 11065, No. 123 Austin Road	- As lawn bowls competition or training venue and for school practice or training - Hosted World Singles Champion of Champions (Lawn Bowling)
Kowloon Cricket Club	KIL 11052, No. 10 Cox's Road	- As cricket competition or training venue and for school practice or training - Hosted World Singles Champion of Champions (Lawn Bowling), Hong Kong Cricket Sixes
Kowloon Tong Club	NKIL 5989, Waterloo Road, Kowloon Tong	As tennis competition or training venue
Kowloon Tsai Home Owners Association	NKIL 5961, No. 10A Cambridge Road, Kowloon Tong	As tennis competition or training venue and for professional sports associations to hold activities
Pakistan Association of Hong Kong Limited	KIL 11094, No. 150 Princess Margaret Road	As cricket competition or training venue

<i>Club</i>	<i>Location and Lot No.</i>	<i>Provision of Facilities and Opening-Up of Venues for the Use of National Sports Associations, Schools and Social and Welfare Organizations and/or Major International Sports Event(s) Hosted</i>
Royal Hong Kong Yacht Club	ML 709, Kellett Island RBL 1181, Middle Island Lot 341 and Extension DD 212, Che Keng Tuk	As sailing competition or training venue and for school practice or training
Yau Yat Chuen Garden City Club Limited	NKIL 6042, 7 Cassia Road, Yau Yat Chuen	As tennis competition or training venue and for school practice or training

Note:

All the entries in the Annex are collated with reference to the information provided by the PRL lessees.

MISS TANYA CHAN (in Cantonese): *President, according to the figures of 2002, 66 private clubs had taken up land of a total area equivalent to 25 Victoria Parks, measuring 475 hectares in total, but as at today, the progress is still very slow insofar as the review is concerned. There used to be a batch of PRL which expired in 1971 or 1972, and the relevant authorities already commenced a review as early as in 1966 and published a report in 1968. I have two such reports on hand now. For some PRLs that expired in 1981 or 1982, a review was also conducted as early as four or even five years before their expiry in 1977, followed by the publication of a report in 1979, and I also have such report on hand. What we are talking about now is PRLs which will expire at the end of this year or early next year, but the Government still has not yet conducted a review. Secretary TSANG Tak-sing took office on 1 July 2007 but up till today, he still has not carried out a review and this is so distressing to many club members. The authorities have dealt with these leases by adopting the arrangement of sending "holding over" letters to the lessees, and this has indeed made many members of the public or members of these clubs feel distressed and at a loss as to what to do.*

May I ask the Secretary for how long this "holding over" arrangement will last? How can the ensuing review match this arrangement in terms of timing, and for how long is the review expected to take? Because in his reply the Secretary said that it is worthwhile to work with relevant Policy Bureaux and departments to conduct a full-scale review. How much time does he plan to spend on conducting this full-scale review and when will there be an outcome?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I think Miss CHAN is confused on two points. The "holding over" letters are issued to the lessees by the Lands Department, and the holding over period is nine months. The purpose is to enable staff of the Home Affairs Bureau to negotiate with each club whose lease has expired, in order to look into how their sports facilities can be further opened up for use by eligible outside bodies. If an agreement can be reached speedily between both sides on the conditions of opening up within the holding-over period, it will not take nine months to renew the lease.

As I said in the main reply earlier, after consideration, we came to the view that the existing clubs are still necessary for the sports development in Hong Kong and therefore, we intend to renew their leases. As regards the arrangement for a review in the longer term, we will consider it from the angle of the overall land demand in collaboration with various departments within the Government. Therefore, there is no question of renewing their leases for nine months only and hence causing the public and club members to feel distressed.

Some time ago when we submitted our report to the Panel on Home Affairs, Miss Tanya CHAN proposed a motion calling for the renewal of these leases for three or five years. On this issue, we have discussed with various sports clubs

MISS TANYA CHAN (in Cantonese): *Will the Secretary please look up the relevant records of this motion first?*

PRESIDENT (in Cantonese): Miss CHAN, please wait until the public officer has finished his reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, on 8 July this year, Miss Tanya CHAN moved a motion which reads, "That this Panel calls on the Government to renew PRLs for three to five years, and in the meantime, to consult the public". We have discussed this with various clubs and they considered that if their leases were renewed for only three to five years, it would be difficult for the clubs to continue with their operation because there would be huge problems in membership recruitment, staff recruitment, club development, and in undertaking renovation and even extension works. Therefore, if their leases were renewed for only three to five years, that would really be distressing to members of these clubs.

MISS TANYA CHAN (in Cantonese): *President, the Secretary has not answered my question He did not answer my supplementary question. My supplementary question is very simple. I asked him when a review would be conducted and for how long it would take. This is a point made by him in his main reply, and I was just following it up.*

PRESIDENT (in Cantonese): Miss CHAN, you can only repeat the part of your supplementary question that you think the Secretary has not answered.

MISS TANYA CHAN (in Cantonese): *I have repeated it.*

PRESIDENT (in Cantonese): In that case, please sit down. Secretary, please.

SECRETARY FOR HOME AFFAIRS (in Cantonese): She asked about the "holding over" arrangement, President, and my reply is

PRESIDENT (in Cantonese): Miss CHAN asked about the timetable of the review.

SECRETARY FOR HOME AFFAIRS (in Cantonese): I have already stated that according to our review at the present stage, we confirm that the leases of these clubs will be renewed.

MR ALAN LEONG (in Cantonese): *President, I noticed that towards the end of part (a) of the main reply the Secretary said, "With the long-term policy review in mind, when handling lease renewals we will advise lessees that there should be no expectation that their leases would be further renewed upon expiry and that even if the leases are further renewed, they might not be renewed on the same terms and conditions as the renewed leases." Were I a member of these private clubs or clubs affected by the policy on PRLs, I would feel gravely concerned.*

Most of these members know nothing about the policy on PRLs mentioned by the Secretary earlier; nor do they know that these private clubs have the responsibility to open up certain facilities to outside bodies. May I ask the Government what measures will be taken to ensure that private clubs will enhance their transparency, so that due explanations can be given to their members, thereby allaying their concern.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, during the period when the "holding over" arrangement is in force, the staff of the Home Affairs Bureau will actually negotiate with these clubs the leases of which will soon expire one by one. They will visit these clubs to inspect their facilities and discuss with them which facilities can be further opened up for use by eligible outside bodies.

We also encourage these clubs not only to inform their members of the arrangement of opening up the club facilities but also explain to the public how these facilities will be opened up. After a lease is renewed, the relevant information will be uploaded onto the website of the Bureau, and the clubs are also required to clearly display such information on their respective websites.

MS AUDREY EU (in Cantonese): *President, let me make a declaration first. I am a member of one of these clubs that we are talking about here. I am going to ask this supplementary question entirely from the angle of a club member,*

especially as the Secretary has stated that "with the long-term policy review in mind", the lease may not be further renewed upon expiry, just as Mr Alan LEONG said earlier on. I believe the Secretary will understand that many clubs have been recruiting members, and there are new members joining these clubs every day. They all need to pay a considerable amount of membership fee. In his main reply the Secretary only said that this would be discussed with the lessees and then he said that the lessees would be encouraged to inform their members of the relevant arrangement.

Many members or prospective members of these clubs basically have no idea about these leases, particularly the "holding over" arrangement and the "long-term policy review" that we are talking about now. They simply do not know when the review will be completed. Miss Tanya CHAN put a supplementary question to the Secretary earlier about how long the long-term review will take, but the Secretary did not answer it at all. However, many clubs do need to carry out renovation works regularly and the costs incurred are huge. Can the Secretary expressly tell Hong Kong people how these members and prospective members can know how long this long-term review will take, what the contents of the review will be and whether it will affect the existing policy of the Government? This is what many members and prospective members of these clubs would wish to know.

SECRETARY FOR HOME AFFAIRS (in Cantonese): The position of the Bureau is that while we support the renewal of leases of these clubs, we will clearly tell the clubs that our support for the current renewal does not mean that their leases can continue to be renewed in future. In other words, while their leases are renewed for 15 years currently, they cannot expect to have their leases renewed for another 15 years upon expiry. In the coming 15 years, the authorities will have ample time to conduct the long-term policy review mentioned earlier on.

MR ABRAHAM SHEK (in Cantonese): *President, I have to make a declaration. I am a member of a number of clubs. As a member of these clubs, I understand that it is the long-term policy of the Government to ultimately recover the sites one day, because none of the clubs in Hong Kong owns private*

land and all clubs operate on leased land. Therefore, in this respect, I think the Secretary has given a very clear explanation and a very clear reply just now.

May I ask the Secretary whether, in conducting the review, the Government will face great political pressure in that the long-term review of these leases will be prejudiced by the influences of these many clubs on the overall development of Hong Kong, such as financial development, economic development and the development of Hong Kong into an international centre?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, as I mentioned in the main reply, we fully recognize the contribution made by these clubs to Hong Kong's sports development. While they can perform certain functions, they also meet the demand of some Hong Kong people and have even become a component of the lifestyle of Hong Kong people. In this respect, they do have our full recognition. This is why at this stage, we consider it necessary to renew their leases and provide support to them in the Government's land policy.

Certainly, we also have regard to the wish of the public to use the facilities of these clubs. In fact, these clubs have, for some time, opened up their facilities for public use and for organizing various activities with participation from members of the public. As regards how their facilities can be further opened up for public use, we will further discuss it with these clubs in the lease renewal exercise.

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

Various Funds Set up by Government

3. **MR PAUL CHAN** (in Cantonese): *President, the Government has made provisions in its policy address or budget to set up a number of funds for specific purposes, some of which are segregated from the public account, and it has often earmarked funding in the budget for injection into such funds, with a view to providing subsidies to different targets, projects or pilot schemes through such*

funds. The revenue and expenditure of some of these funds are not listed under the annual account of the Government, making it difficult for members of the public to fully understand the actual financial situation of these funds as well as their uses in public expenditure. In this connection, will the Government inform this Council:

- (a) in respect of the aforesaid funds which are still in operation at present, of the dates, purposes and modes of setting up the funds (for example, set up under the law or the relevant trust legislation, and so on), the amounts of start-up funding and donations from various sectors at the time of the establishment of the fund, the audited net assets as at 1 July 1997 and 31 March this year respectively, and the total amounts of audited revenue and expenditure in each financial year during this period (broken down by government funding account and non-government funding account), together with a breakdown in table form listing the names of the funds and itemized figures by Policy Bureau responsible for managing the funds;*
- (b) since the setting up of the funds in part (a), of the respective numbers of times and justifications for government injections into individual funds; the respective names and numbers of projects that had received allocations from such funds in the past five years, together with the amounts involved; and*
- (c) whether the authorities have conducted regular reviews on the effectiveness of the aforesaid funds (for example, formulation of indicators for assessing whether the purposes for setting up the funds are met, as well as timetables for accomplishing such indicators, and so on), and whether they have updated the purposes for setting up the funds, the indicators for assessing whether the purposes for setting up the funds are met, as well as the timetables for accomplishing such indicators; if they have, of the time when they have conducted the reviews as well as the latest positions; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, government injections into funds have to be approved in

accordance with established procedures. Generally speaking, the responsible bureau will first consult the relevant panel of the Legislative Council on the proposed injection before seeking funding approval from the Finance Committee. Injections will only be made after the proposals are examined and approved by the Finance Committee. In addition, all government injections into funds are recorded in the government cash-based accounts in the year of injection. The accounts are audited by the Director of Audit. The audited government accounts are submitted to Legislative Council on an annual basis as prescribed under the relevant ordinance. In other words, injections into funds are transparent and subject to monitoring.

As at the end of March 2011, outside the scope of the cash-based accounts, there are a total of 34 funds set up by the Government for specific purposes and receiving government injection. Mr Paul CHAN asked for a wide range of information, including the dates, purposes and modes of setting up the funds, the amounts of start-up funding and donations from various sectors at the time of fund establishment, the amounts of net assets, the responsible Policy Bureaux, and the number and amount of government injections into respective funds, and the justifications for such injections. The reply covered a number of Policy Bureaux and funds. For easy understanding of the voluminous data, I have tabulated the contribution from relevant bureaux in Annexes 1 to 7, and shall give examples in the main reply for illustration.

- (a) Of the 34 funds which are still in operation, the Samaritan Fund established in 1950 has the longest history. The Community Care Fund established in 2011 is the most recent. These funds were set up for specific purposes, serving different client groups and areas. For example, the Cantonese Opera Development Fund was set up to support and fund studies, projects and activities aimed to promote and sustain the development of Cantonese opera, while the Consumer Legal Action Fund provides financial and legal assistance to consumers in cases involving significant consumer interests.

As regards the mode of fund establishment, some were established by law, such as the Sir David Trench Fund for Recreation set up under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128). Some are trust funds, for example, the Education Development Fund is held in trust under the Permanent Secretary for

Education Incorporation Ordinance (Cap. 1098) (formerly Permanent Secretary for Education and Manpower Incorporation Ordinance).

The income of the funds may come from the following sources:

- (1) Government injection. For example, through three injections, the Government injected \$9 billion into the Trust Fund in Support of Reconstruction in the Sichuan Earthquake Stricken Areas;
- (2) Private donation. For example, \$5 million of the Elder Academy Development Foundation came from private donations;
- (3) Levies and charges collected under various ordinances. For example, levies from vehicle owners and driving licence holders are the major contributions to the Traffic Accident Victims Assistance Fund;
- (4) Investment income. For example, the Research Endowment Fund mainly makes use of the investment return generated from the capital to meet its operational needs.

The dates, purposes and modes of setting up the 34 funds, the amounts of government injection and other donations at the time of their establishment, the audited net assets value as at 1 July 1997 and 31 March 2011, and the amounts of revenue and expenditure during this period are set out in Annexes 1 to 7 by the Policy Bureau responsible for managing the funds.

- (b) The number of government injections received by individual funds varies from case to case. For example, the Health Care and Promotion Fund was only granted a sum by the Government when it was established, while a number of injections were made by the Government into the Language Fund at its establishment and afterwards to meet its service needs. We have, where possible, listed in Annexes 1 to 7 the number of and justifications for

government injections into these 34 funds, and the names and number of projects which received allocations from such funds in the past five years, together with the amounts involved, by Policy Bureau and fund. Since some of the funds, such as the Environment and Conservation Fund which has approved over 2 000 projects, granted allocations to quite a number of projects in the past five years, only the 10 projects receiving the highest funding in 2010-2011 are listed for reference.

- (c) Relevant bureaux/departments are responsible for the administration and operation of the funds. Generally speaking, the bureaux/departments concerned and the fund steering/executive committees will oversee the operation of the funds on an ongoing basis, and conduct regular reviews on the use and effectiveness of the funds. The details of the 34 funds as provided by the relevant bureaux are set out in Annexes 1 to 7.

Annex 1

Home Affairs Bureau

- (a) Funds established by the Government for specific purposes

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
1 Sir David Trench Fund for Recreation (SDTFR) — Main Fund	1970	For provision of, or assistance in the provision of facilities for recreational, sporting, cultural and social activities.	Established under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128)	0	3.2	Not Available	156.994

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
2 SDTFR — Sports Aid for the Disabled Fund	1985	To promote sport for disabled people.	Established under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128)	1.5	0	Not Available	7.52
3 SDTFR — Sports Aid Foundation Fund	1987	To assist financially needy athletes in their pursuit of excellence.	Established under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128)	5	0	Not Available	61.606
4 SDTFR — Arts Development Fund	1993	To fund outbound cultural exchange activities by local artists and art groups, in particular, the small and budding artists and art groups.	Established under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128)	30	0	Not Available	16.842
5 SDTFR — Hong Kong Athletes Fund	1996	To provide grants for educational and other academic training to individual athletes to allow them to pursue excellence in their chosen sport and to provide them with the opportunity to develop alternative careers upon retirement from competitive sport.	Established under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128)	8	5.171	Not Available	26.797

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
6 SDTFR — Arts and Sport Development Fund	1997	To provide funding for the key initiatives of the Hong Kong Arts Development Council and the then Hong Kong Sports Development Board in their respective five-year strategic plans, and other projects that, in the Secretary for Home Affairs' opinion, will make significant contribution to the further development of the arts and sport in the community.	Established under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128)	300	0	Not Available	3,265.2
7 Supplementary Legal Aid Scheme (SLAS) Fund	1984	SLAS aims at providing legal aid to the middle class. SLAS is applicable for claims arising from	Established under the Legal Aid Ordinance (Cap. 91)	1	0	Not available	89.51

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
		personal injuries or death or medical, dental and legal professional negligence claims with claim amounts exceeding \$60,000. SLAS also covers claims under the Employees Compensation Ordinance irrespective of the claim amounts.					
8 Hong Kong Arts Development Council Fund	1994	To provide seed money for the Hong Kong Arts Development Council to promote the development of the arts.	Established under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128) ⁽¹⁾	100	0	Not available	1.95
9 Cantonese Opera Development Fund	2005	To support and fund studies, projects and activities aimed to promote and sustain the development of Cantonese opera.	Established under the Declaration of Trust	0	3.55 from fund-raising (before deduction of fund-raising related expenses)	Fund not yet established	89.30

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
10 Trust Fund in Support of Reconstruction in the Sichuan Earthquake Stricken Areas	2008	Support the reconstruction in the Sichuan earthquake affected areas for the relieving and rehabilitation of victim.	Established under the Declaration of Trust	2,000 ⁽²⁾	Public donations were received after the establishment of the Trust Fund	Fund not yet established	124.286
11 Community Care Fund (CCF)	2011	To provide assistance to people facing economic difficulties, in particular those who fall outside the social safety net or those within the safety net but have special circumstances that are not covered.	Established under the Declaration of Trust	5,000 ⁽³⁾	⁽⁴⁾	Fund not yet established	300 ⁽⁵⁾

Notes:

Hong Kong Arts Development Council Fund

- (1) All balances of the fund was transferred to the HKADC for management when it became a statutory body in 1995.

Trust Fund in Support of Reconstruction in the Sichuan Earthquake Stricken Areas

- (2) The Legislative Council has injected thrice to the Trust Fund at a total of \$9 billion. The first injection was on 18 July 2008 amounted \$2 billion. The second and third time injections were on 20 February 2009 and 3 July 2009, the amounts were \$4 billion and \$3 billion respectively.

Community Care Fund

- (3) After the establishment of the CCF, the Finance Committee of the Legislative Council approved an injection of \$5 billion into the CCF in May 2011.
- (4) Excluding donations from various sources.
- (5) Donations from various sources (including interest).

Funds established by the Government for specific purposes — Revenue and expenditure from 1997-1998 to 2010-2011

Name of Fund	2010-	2009-	2008-	2007-	2006-	2005-	2004-	2003-	2002-	2001-	2000-	1999-	1998-	1997-
	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998
	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
1 SDTFR - Main Fund														
Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other revenue	13.521	38.460	5.350	13.788	25.892	19.632	9.492	35.546	5.432	5.994	13.547	21.589	4.385	7.055
Total expenditure	7.599	17.059	52.793	4.595	29.719	4.984	3.097	2.506	22.239	19.304	22.979	7.326	6.479	4.487
2 SDTFR - Sports Aid for the Disabled Fund														
Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other revenue	0.096	0.125	0.176	0.291	0.327	0.244	0.346	0.417	0.250	0.974	1.590	0.470	0.503	0.492
Total expenditure	0.001	0.004	0.025	-	0.200	0.230	0.572	0.212	0.194	1.631	1.045	0.599	0.327	0.434
3 SDTFR - Sports Aid Foundation Fund														
Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other revenue	2.951	7.739	1.798	4.582	4.547	2.829	2.265	5.735	2.322	3.090	3.853	4.607	2.732	3.155
Total expenditure	0.014	0.206	5.321	0.018	1.213	1.210	2.691	1.218	1.848	8.844	6.462	2.635	2.987	4.072
4 SDTFR - Arts Development Fund														
Government injection	-	-	-	-	20.000	-	-	-	-	-	-	-	-	-
Other revenue	0.245	0.303	0.554	1.126	0.439	0.281	0.461	0.146	0.231	0.419	0.828	0.949	1.040	0.702
Total expenditure	1.924	1.383	3.047	4.554	1.747	3.109	4.051	1.154	0.291	0.180	-	0.199	-	-
5 SDTFR - Hong Kong Athletes Fund														
Government injection	-	-	5.000	-	-	-	-	-	-	-	-	-	-	-
Other revenue	1.674	3.944	0.664	1.569	1.998	1.208	1.011	1.007	2.069	1.060	2.381	1.082	1.069	0.983
Total expenditure	0.479	1.201	4.392	0.538	0.606	0.942	1.730	0.370	0.327	0.537	0.444	0.942	0.566	0.461
6 SDTFR - Arts and Sport Development Fund														
Government injection	3,000.000	-	150.000	-	80.000	-	-	-	-	-	-	-	-	-
Other revenue	154.128	7.840	12.937	5.560	3.992	3.258	5.562	10.092	9.836	13.302	14.966	19.802	23.148	21.107
Total expenditure	50.422	63.742	48.027	39.128	40.246	24.757	36.129	18.181	27.362	47.190	50.068	64.129	27.886	33.667

Name of Fund	2010-	2009-	2008-	2007-	2006-	2005-	2004-	2003-	2002-	2001-	2000-	1999-	1998-	1997-
	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998
	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
7 Supplementary Legal Aid Scheme Fund ^(Note 6)														
Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other revenue	4.63	3.90	4.53	7.26	6.90	9.76	4.53	21.71	32.53	36.91	35.45	33.37	21.16	21.49
Total expenditure	2.31	4.61	4.34	21.42	5.84	2.28	3.12	17.02	24.80	27.49	24.76	24.82	15.78	15.22
8 Hong Kong Arts Development Council Fund														
Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other revenue	0.003	0.001	0.055	0.134	0.131	1.880	0.008	0.008	0.021	0.040	1.832	13.112	9.224	2.824
Total expenditure	0.902	0.902	-	-	-	-	-	-	-	-	44.947	-	-	23.010
9 Cantonese Opera Development Fund														
Government injection	69.00	-	5.00	-	-	-	-	-	-	-	-	-	-	-
Other revenue	3.28	6.65	15.26	4.83	14.67	0.50	-	-	-	-	-	-	-	-
Total expenditure	8.55	8.65	4.44	4.82	2.93	0.50	-	-	-	-	-	-	-	-
10 Trust Fund in Support of Reconstruction in the Sichuan Earthquake Stricken Areas														
Government injection	-	3,000	6,000	-	-	-	-	-	-	-	-	-	-	-
Other revenue	92,399	1,815	18,022	-	-	-	-	-	-	-	-	-	-	-
Total expenditure	3,985,629	1,338,974	798,819	-	-	-	-	-	-	-	-	-	-	-
11 Community Care Fund														
Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other revenue	300 ^(Note 5)	-	-	-	-	-	-	-	-	-	-	-	-	-
Total expenditure	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Community Care Fund

Note 5: Donations from various sources (including interest).

Supplementary Legal Aid Scheme Fund

Note 6: The financial year of the Fund is from 1 October to 30 September.

Home Affairs Bureau — Sir David Trench Fund for Recreation (SDTFR)

Sir David Trench Fund for Recreation — Main Fund

- (b) Since the setting up of this Fund, the Government has made one injection to replenish the Fund's capital to ensure that sufficient investment income could be generated to meet calls on the Fund.

During the period from 2006-2007 to 2010-2011, the Fund approved 1 536 projects, involving about \$94 million. In 2010-2011, a total of 281 projects amounting to about \$15.3 million were approved. Of the approved projects, 266 (amounting to about \$2.3 million) were funded under Non-Capital Works Projects, six (amounting to \$2 million) were funded under Capital Works Projects and nine (amounting to about \$11 million) were funded under Special Projects. Details of the nine Special Projects are as follows:

<i>Name of Projects Approved</i>	
1	Hong Kong Canoe Union — purchase of canoe training equipment
2	Hong Kong Life Saving Society — improvement works to its training headquarters building
3	Hong Kong Shooting Association — construction of a 25 meter shooting range
4	Kwun Tong Sports Promotion Association — construction of a Tug-of-war centre
5	Hong Kong Cricket Association — construction of a cricket pitch
6	Hong Kong Cycling Association — improvement works to the Hong Kong Jockey Club BMX Park
7	Hong Kong Equestrian Federation — purchase of competition equipment
8	Hong Kong Ten Pin Bowling Congress — purchase of venue equipment for competitions
9	South China Athletic Association — improvement works to the tennis courts

- (c) We have regularly reviewed the effectiveness of the Fund. The Sir David Trench Fund Committee (the Committee) oversees the review of all matters

pertaining to the Fund, and would make recommendations on the use of the Fund when necessary.

There is no target or time schedule for the Fund. However, the number of applications processed and grants approved are shown in the annual Expenditure Analysis by Head in the General Revenue Account.

Since its establishment, there has been no change its purpose.

Sir David Trench Fund for Recreation — Sports Aid for the Disabled Fund (SADF)

- (b) Since the setting up of the SADF, there has been no further injection from the Government.

In 2006-2007, 36 applications were approved under the SADF, with the approved funding amounting to \$1.2 million. In 2007-2008, the Hong Kong Sports Institute Limited (HKSIL) introduced the Sports Aid for the Disabled Grant which replaced the SADF. We are considering the possibility of dissolving the SADF to plough back the resources into the Main Fund of the SDTFR to support other worthwhile projects.

- (c) As the SADF has been replaced by the newly introduced scheme, we have not regularly reviewed its effectiveness, and there is no target or time schedule for the SADF. There has been no change to the purpose of the SADF since its establishment.

Sir David Trench Fund for Recreation — Sports Aid Foundation Fund (SAFF)

- (b) Since the setting up of the SAFF, the Government has made one injection to replenish the Fund's capital.

In 2006-2007, 219 applications were approved under the SAFF, with the approved funding amounting to \$9.3 million. In 2007-2008, the HKSIL introduced the Elite Training Grant which replaced the SAFF. We are considering the possibility of dissolving the SAFF to plough back the

resources into the Main Fund of the SDTFR to support other worthwhile projects.

- (c) As the SAFF has been replaced by the newly introduced scheme, we have not regularly reviewed its effectiveness, and there is no target or time schedule for the SAFF. There has been no change to the purpose of the SAFF since its establishment.

Sir David Trench Fund for Recreation — Arts Development Fund (ADF)

- (b) Since the setting up of this Fund, the Government has made one injection of \$20 million in 2007 to continue the support for outbound cultural exchanges.

During the period from 2006-2007 to 2010-2011, the Fund approved 177 projects, involving \$17.1 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Hong Kong Chinese Orchestra — Performance in Norway, Switzerland, Germany and Czech
2	Hong Kong Sinfonietta — Performance in Brazil, Uruguay and Argentina
3	Perry Chiu Experimental Theatre — Performance in Beijing and Shanghai
4	The Absolutely Fabulous Theatre Connection — Performance in Shanghai
5	Fredric Mao Theatre Projects Limited — Performance in Beijing and Shenzhen
6	Hong Kong Association of Theatre Technicians & Scenographers — Participation in the Prague Quadrennial 2011 in Prague
7	Hong Kong Arts Festival Society Limited — Performance in Singapore
8	Y Space — Participation in The 17 Annual International Contemporary Dance Conference and Performance Festival 2010 in Poland
9	The Chinese Artists Association of Hong Kong — Performance in Australia
10	Jingkun Theatre — Performance in Australia

- (c) Arts Development Fund (Fund) is open for application from arts groups and practitioners upon invitation of non-local organizations/groups for cultural exchange activities. ADF does not direct such cultural exchange and has not set any target and timetable. We have not regularly reviewed the effectiveness of the Fund.

Sir David Trench Fund for Recreation — Hong Kong Athletes Fund (HKAF)

- (b) Since the setting up of the HKAF, the Government has made one injection in order to implement a new scheme to reward young athletes who win medals at major international youth games with educational subsidies.

During the period from 2006-2007 to 2010-2011, the HKAF approved 42 projects, involving \$3.9 million. Ten applications were approved in 2010-2011 mainly to support the athletes in pursuing full-time or part-time courses.

- (c) We have regularly reviewed the effectiveness of the HKAF. The Elite Training and Athletes Affairs Committee of the HKSIL reviewed its effectiveness in 2009 and 2010, and considered that the HKAF was useful in providing educational assistance to young athletes.

As the number of grants in a particular year depends on the applications submitted by athletes and their eligibility, there is no target or time schedule for the HKAF.

Since its establishment, there has been no change to its purpose.

Sir David Trench Fund for Recreation — Arts and Sport Development Fund (ASDF)

- (b) Since the setting up of the ASDF, the Government has made three injections. The first two injections were for replenishing the capital of the Fund. The third injection was used as seed money to generate stable investment returns to support existing and new worthwhile arts, culture and sports initiatives on a sustainable and long-term basis.

During the period from 2006-2007 to 2010-2011, the ASDF approved 160 projects, involving \$269 million. The 10 projects approved in 2010-2011 with the largest amount are listed as follows:

<i>Name of Projects Approved</i>	
Arts Portion	
1	2011-13 Multi-project Grants
2	Fresh Wave 2011
3	3rd Arts Ambassadors-in-school School Scheme
4	The 3rd Large Scale Interactive Media Arts Exhibition
5	Hong Kong Arts Development Awards 2010
Sports Portion	
6	Participation Fund for Hong Kong athletes taking part in the 16th Asian Games in Guangzhou
7	2nd Supplementary Fund for Hong Kong athletes to prepare for the 2010 Asian Games
8	Proposed bid to host the 2023 Asian Games — Public consultation exercise and preparation for Hong Kong's bid to host the 2023 Asian Games
9	Participation fund for Hong Kong athletes taking part in the Guangzhou 2010 Asian Para Games
10	Participation fund for Hong Kong athletes taking part in the 4th All China Games 2010

- (c) We have regularly reviewed the effectiveness of the ASDF. The Home Affairs Bureau has been closely monitoring the approved grants of the ASDF. Applicants must set out clearly in its funding applications the targets and expected benefits of the proposed projects. They are required to submit a report and the full accounts of the approved project with an evaluation of its effectiveness within eight months upon the project's completion.

There is no target or time schedule for the ASDF. However, the number of grants awarded is shown in the annual Expenditure Analysis by Head in the General Revenue Account.

Since its establishment, there has been no change to its purpose.

Home Affairs Bureau — Supplementary Legal Aid Scheme Fund

- (b) The Supplementary Legal Aid Scheme (SLAS) Fund was set up in 1984 and is self-financing. The source of the SLAS Fund comes from the contribution deducted from the compensation claimed by the aided person, the legal costs received from successful cases and the application fee paid by the applicants. SLAS was set up with a loan facility of \$1 million provided by the Lotteries Fund in Hong Kong. The loan was fully repaid in 1988-1989. SLAS was first introduced in 1984 and only covered cases involving personal injury and death at its inception. SLAS was further extended in 1995 to include cases arising from medical, dental and legal professional negligence where the claims are likely to exceed \$60,000 and to claims under the Employees Compensation Ordinance irrespective of the amount of claims. Because of this, the Finance Committee (FC) of the Legislative Council approved a one-off provision of \$27 million to the scheme in 1995 in order to expand its scope.
- (c) The Chief Executive announced in the 2010-2011 Policy Address that the Government has earmarked \$100 million for injection into the SLAS Fund when necessary to expand the coverage of the scheme to provide legal aid for more types of cases, for example, extending claims against professional negligence to more different professions and covering employees' claims on appeals from the Labour Tribunal. The Administration is now drafting the legislation to further expand the applicable scope of the scheme. The Administration plans to brief the Legislative Council Panel on Administration of Justice and Legal Services at its meeting in December 2011 on the progress of legislative work, and submit the legislative amendments to the Legislative Council and seek FC's approval for the injection of \$100 million to the SLAS Fund within the legislative year of 2011-2012.

Home Affairs Bureau — The Hong Kong Arts Development Council Fund

- (b) The Hong Kong Arts Development Council (HKADC) Fund was established mainly to provide the start-up costs for the HKADC. When the operation of the HKADC came on track, the purpose of the Fund had been achieved. The Government injected \$100 million for establishment

of the Fund in 1994. Since then, the Fund has not required injection of additional funds from the Government.

- (c) The HKADC used a total of \$1.8 million from the HKADC Fund in 2009-2010 and 2010-2011 to support the first two years' operation cost of the Hong Kong Arts Community Fund⁽¹⁾. There are no other expenditure items under the HKADC Fund during the last five years.

Home Affairs Bureau — Cantonese Opera Development Fund

- (b) Since the setting up of this Fund, the Government has made two injections. The Administration injected \$5 million and \$69 million respectively into the Fund in 2009 and 2010 to enable it to continue sponsoring projects and activities relating to the study, promotion and sustainable development of Cantonese opera, as well as to provide room for greater support for the development of Cantonese opera in Hong Kong.

During the period from 2006-2007 to 2010-2011, the Fund approved a total of around 370 projects, involving approximately \$37 million (including the amount of funds granted but not yet released). The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Sunbeam Theatre Rental Support Scheme (providing subsidies through private donations) — Hong Kong United Arts Entertainment Company Limited
2	The first "Hong Kong Cantonese Opera Troupe for New Talent Three-Year Grant Scheme" (the third year's grant) — Hong Kong Young Talent Cantonese Opera Troupe
3	Cantonese Opera Promotion Project — Hong Kong Academy for Performing Arts
4	Partnership Project on Teaching and Learning of Cantonese Opera — Chinese Artists Association of Hong Kong
5	Interdisciplinary Partnership Project on the Teaching of Cantonese Opera cum Joint Performance "縱橫四海工尺合土上" — Rainbow Opera

⁽¹⁾ The Hong Kong Arts Community Fund (HKACF) was set up in July 2008 with an objective to raise funds from the community for supporting arts development. The HKADC is a trustee of the HKACF. The Government did not inject any funds to the HKACF.

<i>Name of Projects Approved</i>	
6	Bus Services for the Community — Hong Kong Cantonese Opera Chamber of Commerce Limited
7	Audience Building Project for Students — Hong Kong Cantonese Opera Chamber of Commerce Limited
8	New Cantonese Operas including In Love with a Beautiful Youth, Red Cherries and a Broken Heart (Cantonese Opera Performances) — Choi Fung Ming Cantonese Opera Troupe
9	The Ten-Year Dream, Under the Sword Blade was My Wife, The Beauty and the General (Cantonese Opera Performances) — Fung Ngai Cantonese Opera Troupe
10	Dik Ching Crashing Through Three Passes, The Chivalrous Thief and His Beloved Princess, Wong Fei-fu's Rebellion (Cantonese Opera Performances) — Kim Sun Sing Cantonese Opera Troupe
11	The Flames of War, The Story of the Lute, The Impetuous Generals (Cantonese Opera Performances) — Kim Sun Sing Cantonese Opera Troupe
(The amount of funds granted to Items 7 to 11 are the same)	

(c) We have regularly reviewed the effectiveness of the Fund.

Established in 2005, the Fund aims to raise funds to support projects and activities relating to the study, promotion and sustainable development of Cantonese opera. To tie in with its objective, the Fund will mainly be used for supporting the following high priority projects or activities:

- (i) Cantonese opera performances aimed at nurturing budding artists or those that are experimental/innovative or highly worthy of preservation;
- (ii) Researches and studies, seminars, talks or workshops in relation to the development and preservation of Cantonese opera;
- (iii) Collecting, preserving, compiling or publishing literature on Cantonese opera in Hong Kong, Cantonese opera scripts or other related materials worthy of preservation, including oral history of Cantonese opera and audio-visual materials, and so on;

- (iv) Promoting and sustaining the development of Cantonese opera in the community or among the disadvantaged;
- (v) Developing educational resources on Cantonese opera and Cantonese opera education programmes for schools;
- (vi) Building young audience and encouraging participation in Cantonese opera;
- (vii) Professional training programmes for Cantonese opera practitioners;
- (viii) Exchange visits or outbound exchange programmes (especially cultural exchanges with the Mainland) aimed at creating exchange platforms or fostering the development of Cantonese opera; and
- (ix) Other new projects in sustaining the development of Cantonese opera.

The Fund Committee (the Committee) reviews the effectiveness of the Fund from time to time. To map out the way forward for the Fund, the Committee also conducts briefings and consultation meetings to gauge the views of the sector in order to meet the overall development needs of Cantonese opera. Major organizations in the sector such as the Chinese Artists Association of Hong Kong, the Hong Kong Cantonese Opera Chamber of Commerce, the Hong Kong Cantonese Opera Promotion Association and the Hong Kong Academy for Performing Arts have been consulted.

After receiving the government injection of \$69 million in 2010, the Committee, in consultation with the Cantonese opera sector, set out the following major areas and directions of development for the Fund:

- (i) Enhancing the effort in nurturing budding artists and professional training;
- (ii) Broadening the audience base and promoting the creation of new scripts;

- (iii) Preserving and onpassing the artistic skills and performance experiences of senior artists, such as to encourage and support the video-recording of highlight performances of maestros and the publication of related literary documents;
- (iv) Strengthening research and preservation work; and
- (v) Raising the qualifications of trainers.

Home Affairs Bureau — Trust Fund in Support of Reconstruction in the Sichuan Earthquake Stricken Areas

- (b) Since the establishment of the Trust Fund, the Legislative Council has approved a total of HK\$9 billion in three stages to the Trust Fund to take forward the reconstruction work in Support of Reconstruction in the Sichuan Earthquake Stricken Areas.

Since the establishment of the Trust Fund in Support of Reconstruction in the Sichuan Earthquake Stricken Areas (2008 to 2011-2012), the Trust Fund has approved a total commitment of RMB 7.503 billion (around HK\$8.593 billion) for 151 HKSAR's reconstruction projects. Reconstruction project grants applied by the NGOs accounted for around HK\$270 million for 33 projects.

- (c) We have regularly reviewed the effectiveness of the Fund. The project and funding management mechanisms put in place by HKSAR Government and Sichuan side have been operating smoothly. Relevant departments of both sides continue to keep close liaison, with a view to ensuring the quality of the HKSAR reconstruction projects and the proper, effective and efficient use of support funds. The HKSAR Government submits regular reports to the Legislative Council to report on the progress of projects and use of funding.

Home Affairs Bureau — Community Care Fund

- (b) Since the setting up of this Fund, the Government has made two injections. The first injection of \$5 billion was made for launching programmes to provide assistance to people facing economic difficulties, in particular those who fall outside the social safety net or those within the safety net but have special circumstances that are not covered. The second injection of

\$1.5 billion was made for launching a programme to provide a one-off allowance of \$6,000 to new arrivals from low-income families who are aged 18 or above and have entered Hong Kong for settlement.

During the period from 2006-2007 to 2010-2011, the Fund has not approved any programme. Since April 2011, the Fund has launched over 10 programmes in phases.

- (c) We have regularly reviewed the effectiveness of the Fund.

As the Fund's programmes are rolled out in phases, its Steering Committee will, on the advice of the Executive Committee and the Sub-committees, continue to monitor the implementation of the assistance programmes. Government departments and other organizations entrusted to implement the programmes will be required to submit periodic progress and financial reports to the relevant Sub-committee under the Fund for review of the programmes on a continual basis. The Government will, taking into account the effectiveness of the programmes and the advice of the Steering Committee, consider whether and how a relevant programme should be incorporated into the Government's regular assistance and service, and will conduct a more systematic evaluation of the long-term effectiveness of the Fund in due course. The Fund will also commission an independent consultant (for example, an academic institution) to advise on the evaluation of assistance programmes, which will help the Government consider which programmes should be regularized in future. The Fund has not changed its objective.

Annex 2

Security Bureau

- (a) Funds established by the Government for specific purposes

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
1 Beat Drugs Fund	1996	To support worthwhile community-initiated anti-drug projects	Under the Companies Ordinance (Cap. 32), the Beat Drugs Fund Association was established to manage the BDF.	350	-	Not Available	3,536

Funds established by the Government for specific purposes — Revenue and expenditure from 1997-1998 to 2010-2011

<i>Name of Fund</i>			2010-	2009-	2008-	2007-	2006-	2005-	2004-	2003-	2002-	2001-	2000-	1999-	1998-	1997-
			2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	2000	1999
			(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
1	Beat Drugs Fund	Government injection	3,000	0	0	0	0	0	0	0	0	0	0	0	0	0
		Other revenue	55.3	98.4	(114.6)	58.5	69.8	51.0	29.1	88.7	(25.2)	(13.3)	(37.4)	85.9	24.8	25.3
		Total expenditure	49.8	26.2	12.0	10.8	10.0	9.9	7.5	11.8	15.6	20.9	17.5	15.1	15.7	9.2

Note:

"Other revenue" includes fluctuation in fair value of investment in equity and debt securities.

Security Bureau — Beat Drugs Fund

- (b) Since the setting up of this Fund, the Government has made one injection to raise its capital base from \$350 million to \$3.35 billion in order to generate an enhanced level of investment returns to support anti-drug projects organized by different sectors of the community. The Administration will consult Action Committee Against Narcotics (ACAN) on the use and operation of the Fund.

During the period from 2006-2007 to 2010-2011, the Fund approved 299 projects, involving \$216.6 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Life Architect 2
2	"網上禁毒通通識 攜手創造健康校園" (No English name is available)
3	The Path-finding Adventure Project (PAP) — a pilot integrated non-labeling secondary prevention program for high-risk substance users among secondary school students using a screening questionnaire

<i>Name of Projects Approved</i>	
4	Surveillance of emerging drugs of abuse in substance abusers
5	The Sunflower Bed
6	"Family Guardian Angel" Project
7	Provision of an activity room and vocational training for Wu Oi Christian Centre at Long Ke
8	TV programme "Drug Battle"
9	A target urological treatment program for secondary school students abusing psychotropic substance and a territory-wide school-based survey of bladder dysfunction symptoms associated with psychotropic substance abuse
10	Let's face it: a Life Skills Based Education Campaign on Facebook and Social Media Platforms that beat drugs before it starts

- (c) We have regularly reviewed the effectiveness of the Fund. The Fund does not set funding targets or timetable. The Fund is a capital preservation fund, which uses its investment return to support worthwhile community-initiated anti-drug projects. The actual level of grant approved will depend on various factors including number and quality of the applications, prevailing drug scene, and views of ACAN, and so on.

The Fund attaches great importance to the evaluation of project effectiveness to ensure an appropriate use of resources to support the anti-drug campaign. All approved projects are required to be evaluated on their effectiveness having regard to their project contents, targeted services and participants. Grantees have to submit progress reports. ACAN or its subcommittees will also invite grantees to report at meetings, and invite two or three members to monitor projects which receive a significant amount of grant or have a long funding duration in order to facilitate an understanding of project progress and effectiveness.

Food and Health Bureau

(a) Funds established by the Government for specific purposes

	Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
					Government (\$M)	Other (\$M)		
1	Samaritan Fund	1950	To provide financial assistance to needy patients who meet the specified clinical criteria and passed the means test to meet expenses on self-financed drugs or privately purchased medical items needed in the course of medical treatment but are not covered by the standard fees and charges in public hospitals and clinics	By resolution of the Legislative Council	Not available*	Not available*	Not available	1,053.0 [#]
2	J.E. Joseph Trust Fund	1954	To provide loans to farmers' co-operative societies and farmers for agricultural production purposes	Established under J. E. Joseph Trust Fund Ordinance (Cap. 1067)	-	0.5	Not available	18.6
3	AIDS Trust Fund	1993	To finance ex gratia payments for persons infected with the HIV through the transfusion in Hong Kong of blood products prior to August 1985, medical and support services for HIV-infected patients and publicity and public education on AIDS	Established under the Declaration of Trust, with the Financial Secretary Incorporated as the Trustee in accordance with the Financial Secretary Incorporation Ordinance (Cap. 1015)	350.0	-	Not available	144.3 [#]
4	Health Care and Promotion Fund	1995	To fund health promotion projects to help people adopt healthier lifestyles by enhancing awareness, changing behaviour or creating an environment that supports good health practices	See note [◇]	80.0	-	Not available	53.1

Notes:

* We do not have records of the initial injection at establishment in 1950.

Representing unspent balance of Government Grant received in previous years being captured in the Deferred Income Account.

φ Non-audited net asset value as at 31 March 2011.

◇ The Legislative Council Finance Committee approved \$80 million for the former Secretary for Health and Welfare to set up the Fund under the Hospital Authority.

Funds established by the Government for specific purposes — Revenue and expenditure from 1997-1998 to 2010-2011

<i>Name of Fund</i>		<i>2010-2011</i>	<i>2009-2010</i>	<i>2008-2009</i>	<i>2007-2008</i>	<i>2006-2007</i>	<i>2005-2006</i>	<i>2004-2005</i>	<i>2003-2004</i>	<i>2002-2003</i>	<i>2001-2002</i>	<i>2000-2001</i>	<i>1999-2000</i>	<i>1998-1999</i>	<i>1997-1998</i>	
		<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	<i>(\$M)</i>	
1	Samaritan Fund	Government injection	-	-	1,000.0	-	350.0	160.0	-	-	9.0	-	8.0	-	-	4.7
		Other revenue	72.4	76.3	64.7	77.2	70.1	59.0	47.8	40.4	48.0	36.2	40.7	33.1	35.5	27.9
		Total expenditure	227.4	141.6	129.0	119.6	113.0	111.0	97.5	48.5	48.6	41.6	36.1	32.8	42.8	36.3
2	J.E. Joseph Trust Fund	Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Other revenue	0.1	0.1	0.3	0.6	0.5	0.3	0.1	0.1	0.2	0.4	0.8	0.8	1.0	0.9
		Total expenditure	-	-	-	-	0.2	-	-	-	-	-	-	-	-	-
3	AIDS Trust Fund	Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Other revenue	2.1	3.9	4.4	10.7	12.7	9.8	3.3	3.0	6.2	12.8	21.1	22.1	28.9	23.4
		Total expenditure	21.5	22.7	41.4	20.6	49.4	39.3	6.2	39.9	21.2	22.6	19.3	19.9	18.4	17.1
4	Health Care and Promotion Fund	Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Other revenue	0.3	0.7	1.6	2.3	2.5	1.7	0.2	0.5	1.3	2.9	6.5	7.0	7.0	6.5
		Total expenditure	4.0	3.1	3.3	3.4	4.1	3.2	4.2	7.9	10.9	9.7	9.2	7.0	3.9	3.2

Food and Health Bureau — Samaritan Fund

- (b) We do not have records of the initial injection at the establishment of the Samaritan Fund in 1950. During the period from 2006-2007 to 2010-2011, the Government made two injections to the Samaritan Fund. Details are as follows:

<i>Year</i>	<i>Amount</i>
2006-2007	\$350 million
2008-2009	\$1 billion

The operation of the Samaritan Fund mainly relies on private donations and Government funding.

During the period from 2006-2007 to 2010-2011, the Samaritan Fund approved 22 778 applications involving \$821 million. In 2010-2011, the

average subsidies granted on drug and non-drug items is \$111,000 and \$22,000 respectively.

- (c) We have regularly reviewed the effectiveness of the Fund. The Samaritan Fund does not have indicators and timetables for assessing whether the purpose for setting up the fund is met. The purpose of setting up the Samaritan Fund has not changed. The Samaritan Fund is administered by the Hospital Authority. The Hospital Authority will continue to review the funding scope and the assessment criteria for the means test through the established mechanism.

Food and Health Bureau — J. E. Joseph Trust Fund

- (b) The J. E. Joseph Trust Fund was established in 1954. The Government has injected \$750,000 to the Fund in 1957 to ensure that it has sufficient fund to meet the financial needs of farmers' co-operative societies and farmers relating to agricultural production.

During the period from 2006-2007 to 2010-2011, the Fund approved 136 loans, involving \$20.24 million.

- (c) Since its establishment, the Fund has been effectively providing financial assistance to the trade. The Director of Agriculture, Fisheries and Conservation is the trustee of the Fund. Under the assistance of the committee of the Kadoorie Agricultural Aid Loan Fund, the Director has been monitoring the operation of the Fund. The audited annual report and financial statement of the Fund are submitted to the Legislative Council for perusal every year.

Food and Health Bureau — AIDS Trust Fund

- (b) Since the setting up of this Fund, the Government has no further injection to it.

During the period from 2006-2007 to 2010-2011, the Fund approved 99 projects on Medical and Support Services and Publicity and Public Education, and 153 claims on Additional Ex-gratia Payment, involving

\$156 million. The 10 projects approved in 2010-2011 are listed as follows:

<i>Name of Projects Approved</i>	
1	Surveillance and monitoring of HIV drug resistance in Hong Kong
2	Establishment of a rapid, high-throughput, cost-effective HIV-1 drug resistance testing system
3	Joint Forces Action — the continuation
4	Study on the contribution of HIV-1 CRF-01_AE specific pol polymorphisms to the antiretroviral drug resistance through the use of an in-house phenotypic resistance assay
5	Assessing HIV risk in donated blood and blood products in Hong Kong
6	Behavioural surveillance surveys of the male clients of female sex workers population in Hong Kong
7	Sponsorship to attend the 2010 MSM Pre-conference and XVIII International AIDS Conference held in Austria
8	Intensive Support and Preventive Programme for AIDS and Blood-borne Diseases
9	Understand and Connect Them (UCT)
10	Additional Ex-gratia Payments (29 patients' applications)

- (c) We have regularly reviewed the effectiveness of the Fund. The Council for the Fund will review the resource allocation among projects focused on the high risk groups during the two Council meetings each year. The Council will follow up the progress and indicators of the funded projects to ensure that the objectives are achieved.

Food and Health Bureau — Health Care and Promotion Fund

- (b) Since the establishment of the Health Care and Promotion Fund (HCPF) with an injection of \$80 million, the Government has no further injection to it.

Applications for funding support from the HCPF are open to local health promotion organizations. All eligible applications are subject to stringent review by independent health promotion experts of the Promotion

Sub-committee of the HCPF Committee (PSC). The PSC makes funding recommendation to the HCPF Committee. Approved projects should be completed within two years. From 2006-2007 to 2010-2011, a total of 86 projects, worth about \$20 million, have been approved. The annual approved amount is about \$3 million to \$5 million. The distribution of the fund for projects will depend on their merit on local health promotion and there are no pre-determined annual funding amount and number of projects set. As the HCPF aims to increase health promotion and disease prevention, there is no timetable set for utilization of the fund. Titles of all approved projects and other relevant information have been uploaded on the Food and Health Bureau's website <<http://www.fhb.gov.hk/grants>> for public access.

- (c) We have regularly reviewed the effectiveness of the Fund. In this September, an evaluation has been conducted to assess the medium and long term impact on health promotion of completed projects. The reach of beneficiaries, the effectiveness of the project, the level of adoption by other organizations (service providers), the degree of implementation and maintenance have been assessed. Moreover, the outstanding project teams have been acknowledged.

Annex 4

Education Bureau

- (a) Funds established by the Government for specific purposes

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value	Audited Net Asset Value
				Government (\$M)	Other (\$M)	as at 1.7.1997 (\$M)	as at 31.3.2011 (\$M)
1 Language Fund	1994	To support, directly and indirectly, proficiency in the use of Chinese (including Putonghua) and English languages by the people of Hong Kong; and to fund programmes, projects, research, textbooks, reference materials, teaching aids, language teachers, language experts, educationalists, education and training institutions, courses, training, publications and publicity	Held in trust under Permanent Secretary for Education Incorporation Ordinance (Cap. 1098) (formerly Director of Education Incorporation Ordinance)	300	-	Not available	1,981 (as at 31.8.2010)

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
		directed towards the enhancement in the use of Chinese (including Putonghua) and English languages by people of Hong Kong					
2 Quality Education Fund	1998	To finance projects for the promotion of quality education in Hong Kong	Held in trust under the Permanent Secretary for Education Incorporation Ordinance (Cap. 1098) (formerly Director of Education Incorporation Ordinance)	5,000	-	Not Applicable	6,423 (as at 31.8.2010)
3 Education Development Fund	2004	To provide differentiated school-based professional support to enable schools to build capacity to take forward education reform measures.	Held in trust under the Permanent Secretary for Education Incorporation Ordinance (Cap. 1098) (formerly Permanent Secretary for Education and Manpower Incorporation Ordinance)	550	-	Not Applicable	230 (as at 31.8.2010)
4 Early Retirement Ex-gratia Payment Fund for Aided Secondary School Teachers	2005	Ease the problem of surplus teachers, assist schools to resolve the subject mismatch of teachers arising from implementation of the new senior secondary curriculum, and make available teaching posts to fresh graduates, thereby maintaining a healthy turnover in the teaching profession.	Held in trust under Permanent Secretary for Education Incorporation Ordinance (Cap. 1098) (formerly Permanent Secretary for Education and Manpower Incorporation Ordinance)	520	-	Not Applicable	244 (as at 31.8.2010)
5 HKSAR Government Scholarship Fund	2008	The Fund is to provide government scholarships to outstanding local and non-local students studying in full-time publicly-funded degree or above level programmes in Hong Kong, so as to: <ul style="list-style-type: none"> (i) attract outstanding non-local students to study in publicly-funded degree or above level programmes in Hong Kong; (ii) reward outstanding local students who choose to pursue their studies in such programmes in Hong Kong; (iii) recognize the achievements of outstanding local and non-local students, with a view to attracting them to stay in Hong Kong after graduation; and 	Held in trust under Permanent Secretary for Education Incorporation Ordinance (Cap. 1098)	1,000	-	Not Applicable	1,000 (as at 31.8.2010)

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
		(iv) promote the further development of Hong Kong as a regional education hub and enhance Hong Kong's competitiveness in the long run. From the 2011-2012 academic year onwards, the Fund also provides government scholarships to outstanding local and non-local students studying full-time publicly-funded sub-degree programmes in Hong Kong.					
6 Research Endowment Fund	2009	The Research Endowment Fund was established in February 2009 with a view to providing a stable source of research funding to the eight UGC-funded institutions (including the provision of funding for the Theme-based Research Scheme). Starting from 2010-2011 academic year, the investment income of the Research Endowment Fund had replaced the bulk of the recurrent subvention from the Government to the Research Grants Council and provided the major source of funding for the Earmarked Research Grants distributed by the Research Grants Council.	Established under the Declaration of Trust, with the Permanent Secretary for Education Incorporated as the Trustee in accordance with the Permanent Secretary for Education Incorporation Ordinance (Cap. 1098)	18,000	-	Not Applicable	19,764

Funds established by the Government for specific purposes — Revenue and expenditure from 1997-1998 to 2010-2011

Name of Fund		2010-2011	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006	2004-2005	2003-2004	2002-2003	2001-2002	2000-2001	1999-2000	1998-1999	1997-1998
		(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
1 Language Fund ⁽¹⁾	Government injection	-	500	-	-	-	1,100	500	-	400	-	200	-	-	-
	Other revenue	21	17	43	70	88	58	20	10	8	9	14	12	18	22
	Total expenditure	493	209	238	309	256	70	57	33	32	14	21	24	77	39
2 Quality Education Fund ⁽¹⁾	Government injection	-	-	-	-	-	-	-	-	-	-	-	-	-	5,000
	Other revenue	428	433	(40)	27	977	633	682	572	408	164	226	760	1,562	278
	Total expenditure	117	130	121	186	181	159	120	85	115	1,205	1,839	299	344	475

Name of Fund			2010- 2011	2009- 2010	2008- 2009	2007- 2008	2006- 2007	2005- 2006	2004- 2005	2003- 2004	2002- 2003	2001- 2002	2000- 2001	1999- 2000	1998- 1999	1997- 1998	
			(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	
3	Education Development Fund ⁽¹⁾	Government injection	-	-	-	-	-	-	550								
		Other revenue	2	2	6	16	18	10	11								
		Total expenditure	69	88	73	92	64	37	26								
4	Early Retirement Ex-gratia Payment Fund for Aided Secondary School Teachers ⁽¹⁾	Government injection	-	-	-	-	-	520									
		Other revenue	3	3	11	18	21	21									
		Total expenditure	32	71	59	64	75	79									
5	HKSAR Government Scholarship Fund ⁽¹⁾	Government injection	250	-	-	1,000											
		Other revenue	68	17	12	8											
		Total expenditure	33	25	12	-											
6	Research Endowment Fund	Government injection	-	-	18,000												
		Other revenue	1,161	1,053	40												
		Total expenditure	474	0	15												

Note:

(1) The revenue and expenditure figures are based on the fund's financial year ended on 31 August.

Education Bureau — Language Fund

(b) Since the setting up of this Fund, the Government has made five injections to:

1. continue to support research and development projects aimed at raising local language standards (2001);
2. implement the final recommendations of the Standing Committee on Language Education and Research (SCOLAR)'s Action Plan to Raise Language Standards in Hong Kong (2003);

3. provide additional funding for the Professional Development Incentive Grant Scheme (PDIGS); and for measures to strengthen support to language education at the pre-primary and primary levels (2005);
4. strengthen the teaching and learning of English in secondary schools; and support the wider use of Putonghua to teach the Chinese Language Subject in primary and secondary schools (2006); and
5. (i) strengthen the teaching and learning of English in secondary schools; (ii) enhance the after-school support for learning Chinese Language for non-Chinese speaking (NCS) students; (iii) create a facilitating language learning environment (including English and Putonghua) for students in schools; (iv) strengthen research and development on language education to facilitate the formulation of language education policies; and (v) raise language (English and Putonghua) of Hong Kong's workforce (2010).

There is no change in the objective since the setting up of the fund.

During the period from 2006-2007 to 2010-2011, the Fund approved 90 projects, involving \$1,329 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Refined English Enhancement Scheme
2	Project of After-school Extended Chinese Learning for NCS Students
3	Workplace English Campaign in 2011
4	English Alliance — Stories Alive (Writing Competition)
5	Promotion of Putonghua in 2010 (TVB)
6	English Alliance — Stories Alive (Key Stage 1 — Storytelling)
7	Creating English Language Environment for Students in Hong Kong Project (Programme by Ocean Park)
8	English Alliance — Stories Alive (Key Stage 2 — Readers' Theatre)
9	Sponsorship of the 26th Sing Tao Inter-School Debating Competition
10	Creating English Language Environment for Students in Hong Kong Project (Programme by Treasure House of Noah's Ark)

- (c) We have regularly reviewed the effectiveness of the Fund. Language Fund Agreement or Performance Contract will be signed between the Trustee of the Language Fund and the grantees/programme organizers. Progress reports, financial reports and final report will be submitted by the grantees or programme organizers to the SCOLAR Secretariat for ensuring the quality and effectiveness of the programme. Besides, working groups are formed under SCOLAR and members are responsible for monitoring the progress of the programmes.

Education Bureau — Quality Education Fund

- (b) The Quality Education Fund (the Fund) finances projects which contribute towards promoting quality education in Hong Kong. On the basis of experience, the Fund implemented a year-round mode of application since 2006. Assessment for applications with grant sought not exceeding \$300,000 will be completed normally within three months and those above \$300,000, within six months. As the Fund has been able to generate sufficient incomes from investment to pay for grant payments, no application for injection has been made since the setting up of the Fund.

During the period from 2006-2007 to 2010-2011, the Fund approved 2 184 projects, involving \$653 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Pedagogical Use of IT and Outcomes of Students' Computer and Information Literacy — Hong Kong Participation in ICILS
2	Project on Accessible E-learning Support
3	Enhancing School Engagement: Further Exploration in the Facts and Interventions
4	The Effectiveness of Literacy Intervention Program for Secondary Students with Dyslexia and Specific Reading and Writing Difficulties and Significant Underachievement
5	Interactive Sensory Program for Affective Learning (InSPAL) — Using SMART Ambience Environment to Establish Basic Generic Skills for SEN Students

<i>Name of Projects Approved</i>	
6	Six Dimensions of Wellness
7	A-Kids
8	Promoting Healthy Lifestyle and Biopsychosocial Wellness of Teachers in Hong Kong
9	A Survey on Humanities Education: Traditional Culture in Hong Kong as a Typical Case
10	Multi-function Chinese Character Database: An Infra-structure for Future Chinese Education

- (c) The Quality Education Fund Steering Committee (QEFSC) takes heed of the developmental direction and policy of the Fund and compiles a three-year work plan for implementation by its two sub-committees, *viz* the Assessment and Monitoring Sub-committee and the Dissemination and Promotion Sub-committee. The sub-committees will report to the QEFSC on a regular basis for review and adjustment of the work plan at the end of each year. Starting from the 2010-2011 school year, the Fund will conduct questionnaire surveys to collect feedback from grantees on the efficacy of project implementation and outcomes upon completion of their projects with a view to informing QEF's performance. The Fund will also upload the yearly audited account onto the QEF website for perusal of the stakeholders and the public.

Education Bureau — Education Development Fund

- (b) Education Development Fund (EDF) was established in the 2004-2005 school year. The purpose of EDF is to provide differentiated school-based professional support to enable schools to build capacity to take forward education reform measures. Every year, the Education Bureau would issue circular to schools to invite schools to apply school-based professional support services (SBPS). No injection has been made since the setting up of the Fund.

During the period from the 2006-2007 to 2010-2011 school years, the Fund approved 128 projects, involving \$386 million. The 10 projects approved in the 2010-2011 school year with the highest amount are listed below:

<i>Name of Projects Approved</i>	
1	University-School Support Programmes Quality School Improvement Project
2	University-School Support Programmes Quality School Improvement Project: Support for Learning Diversity
3	School Support Partners Scheme (Seconded Teacher Scheme) Mainland-Hong Kong Teachers Exchange and Collaboration Programme (Chinese Language and Putonghua)
4	University-School Support Programmes Supporting Secondary Schools in the Teaching and Learning of Chinese for Non-native Learners
5	School Support Partners Scheme (Seconded Teacher Scheme) Mainland-Hong Kong Teachers Exchange and Collaboration Programme (Mathematics)
6	University-School Support Programmes Professional Development Network for Knowledge Building in Schools
7	School Support Partners Scheme (Seconded Teacher Scheme) Mainland-Hong Kong Teachers Exchange and Collaboration Programme (Pre-primary)
8	University-School Support Programmes Empowering Early Childhood Institutions in Implementing Effective School-based Curriculum
9	University-School Support Programmes Partnership for Promoting Whole Child Development Project
10	School Support Partners Scheme (Seconded Teacher Scheme) Pilot Scheme on Hong Kong Teachers' Exchange Activities to the Mainland

- (c) The Advisory Committee on EDF (ACEDF), comprising front-line teachers, principals, academics and community members, is set up to advise on the operation of the Fund and the implementation of the SBPS Programmes. The Education Bureau monitors the implementation and effectiveness of SBPS on a regular basis by various means including surveys and school visits, and reports progress to the ACEDF. Besides, in 2009, EDF commissioned Policy 21 Limited, the University of Hong Kong, to conduct an evaluation study on the efficacy of EDF's SBPS

programmes to inform enhancement to the implementation of school support services.

Education Bureau — Early Retirement Ex-gratia Payment Fund for Aided Secondary School Teachers

- (b) No injection has been made since the establishment of the Early Retirement Ex-gratia Payment Fund for Aided Secondary School Teachers (the Fund).

The establishment of the Fund is for implementing the Early Retirement Scheme for Aided Secondary School Teachers and no other use. During the period from 2006-2007 to 2010-2011, the number of aided secondary school teachers approved to early retire is 702 and total ex gratia payment made from the Fund amounted to \$349 million.

- (c) The Education Bureau regularly reviews the effectiveness of the Fund and has set a time frame for implementing the Early Retirement Scheme for Aided Secondary School Teachers. Other than that, the Education Bureau would also conduct internal review each year. As a statutory requirement under the Permanent Secretary for Education Incorporation Ordinance (Cap. 1098), the Education Bureau tables the audited financial statements of the Fund before the Legislative Council (around May) after the closing of accounts at the end of each financial year. The Education Bureau also informs the Panel on Education of the Legislative Council annually of the operation of the Fund via an information note.

Education Bureau — HKSAR Government Scholarship Fund

- (b) Since the setting up of this Fund, the Government has made one injection into the Fund to provide scholarships to students of full-time publicly-funded sub-degree programmes offered by five institutions (the City University of Hong Kong, The Hong Kong Institute of Education, The Hong Kong Polytechnic University, Hong Kong Academy for Performing Arts and the Vocational Training Council) from 2011-2012 academic year onwards.

The Fund is only used for providing government scholarships to outstanding local and non-local students studying in full-time publicly-funded degree or above level programmes and full-time publicly-funded sub-degree programmes in Hong Kong. During the period from 2008-2009 to 2010-2011, the Fund has disbursed \$64,840,000 scholarships to outstanding full-time publicly-funded degree or above level local and non-local students enrolled in the eight University Grants Committee-funded institutions and Hong Kong Academy for Performing Arts. In 2010-2011, the amount of scholarships distributed was \$29,280,000.

- (c) We have regularly reviewed the effectiveness of the Fund. The Steering Committee under the Fund is responsible for reviewing the effectiveness of the Fund. The next Committee meeting would be held in January 2012. An annual report on the operation of the Fund will be submitted to the Committee for endorsement.

Education Bureau — Research Endowment Fund

- (b) The \$18 billion Research Endowment Fund (REF) was established in 2009 to provide a steady flow of research funding for the institutions. Out of the \$18 billion, the investment income of at least \$14 billion will be used to replace, from the 2010-2011 academic year onwards, the bulk of the existing earmarked research grants distributed annually to the Research Grant Council, thus providing greater funding stability and certainty of funding to support institutions' research projects. In addition, the investment income from up to \$4 billion of the REF will be deployed to support theme-based research, thus allowing the institutions to work on research proposals on themes of a longer-term nature and strategically beneficial to the development of Hong Kong. Since the setting up of this Fund, the Government has not made any subsequent injection.

In the 2010-2011 academic year, the REF mainly funded the approved projects under the General Research Fund (GRF). GRF has approved 764 projects, involving grant of \$626 million, in that academic year. The 10 projects approved in the 2010-2011 academic year with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Elucidating the role of Cdk5 and endophilin B1 in Parkinson's disease pathology
2	Using a unique recombinant inbred population and genomic sequencing information to map loci controlling important agronomic traits of soybean
3	Non-cell autonomous directed maturation of developmentally arrested hESC/iPSC-derived cardiomyocytes
4	Remedying deep pressure ulcer by targeting muscle cell death pathway
5	Identify neuroligin associated proteins and investigate their roles in neuroligin-mediated synaptogenesis
6	Autologous Induced Pluripotent Stem Cells Derived Cardiomyocytes for Cardiac Repair in Porcine Ischemic Cardiomyopathy
7	Renin-angiotensin system within the podocytes in IgA nephropathy
8	Functional Characterization of Dusp27 in myogenic differentiation
9	Functional characterization of a redox-sensitive Anamorsin family protein in Arabidopsis
10	Effect of allogeneic human mesenchymal stem cells on alveolar fluid clearance and protein permeability in human alveolar epithelial cells injured by influenza H5N1 virus infection

- (c) The main objective of the fund is to provide a steady flow of research funding for the institutions. We review the effectiveness of the Fund in February each year.

Annex 5

Commerce and Economic Development Bureau

- (a) Funds established by the Government for specific purposes

<i>Name of Fund</i>	<i>Year of Establishment</i>	<i>Purpose</i>	<i>Establishment Instrument</i>	<i>Initial Injection at Establishment</i>		<i>Audited Net Asset Value as at 1.7.1997 (\$M)</i>	<i>Audited Net Asset Value as at 31.3.2011 (\$M)</i>
				<i>Government (\$M)</i>	<i>Other (\$M)</i>		
1 The Consumer Legal Action Fund	1994	The Consumer Legal Action Fund aims to	The Consumer Council is the trustee of the	10	-	Not Available	19.434

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value	Audited Net Asset Value
				Government (\$M)	Other (\$M)	as at 1.7.1997 (\$M)	as at 31.3.2011 (\$M)
		facilitate consumer access to legal remedies by providing financial and legal assistance to consumers in cases involving significant consumer interests.	Consumer Legal Action Fund. The Fund was established through a Declaration of Trust on 30 November 1994. The Government provided \$10 million to establish the Fund and further injected \$10 million in 2010 so as to ensure sufficient funding.				

Funds established by the Government for specific purposes — Revenue and expenditure from 1997-1998 to 2010-2011

Name of Fund			2010-2011	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006	2004-2005	2003-2004	2002-2003	2001-2002	2000-2001	1999-2000	1998-1999	1997-1998
			(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
1	The Consumer Legal Action Fund	Government injection	10.000	0	0	0	0	0	0	0	0	0	0	0	0	0
		Other revenue	0.313	0.463	0.577	0.991	1.298	0.797	0.607	0.418	0.188	0.573	1.075	0.716	0.967	0.830
		Total expenditure	2.976	2.725	2.293	0.405	0.663	0.876	0.085	0.288	0.145	0.337	0.224	0.242	0.370	0.129

Commerce and Economic Development Bureau — the Consumer Legal Action Fund

(b) The Government injected \$10 million to the Fund when it was established in 1994, and further injected \$10 million in 2010 such that there are

sufficient provisions in the Fund for providing legal assistance to meritorious cases.

From 2006-2007 to 2010-2011, the Fund resolved to provide legal assistance to 10 groups of cases involving some \$3.68 million. In 2010-2011, the Fund resolved to provide legal assistance to two cases related to the sale of financial products and time-sharing products.

- (c) The Government and the trustee of the Fund (that is, the Consumer Council) have kept in regular review the operation and effectiveness of the Fund. Since the establishment of the Fund in 1994, five reviews have been conducted. The Fund aims to provide legal assistance to consumers in cases involving significant consumer interests. The Fund does not set any hard performance targets.

Annex 6

Labour and Welfare Bureau

- (a) Funds established by the Government for specific purposes

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
1 Queen Elizabeth Foundation for the Mentally Handicapped	1988	To improve the welfare, education and training of persons with intellectual disabilities in Hong Kong, and the promotion of their employment prospects	The Queen Elizabeth Foundation for the Mentally Handicapped is established under the Queen Elizabeth Foundation for the Mentally Handicapped Ordinance (Cap. 399)	30	61	Not available	207.70
2 Elder Academy Development Foundation	2009	To support the sustainable development of the Elder Academy Scheme	Director of Social Welfare Incorporated Ordinance (Cap. 1096)	10	5	Not applicable	14.217
3 Employees Retraining Fund	1992	To make provision for the payment of retraining allowances in respect of trainees attending the relevant training of the Employees Retraining Board and the costs of the related courses and programmes	Set up under the Employees Retraining Ordinance	300	-	Not available	3,541

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
4 New Technology Training Fund	1992	To provide subsidy under the New Technology Training Scheme to local employers, with a view to encouraging them to have their staff trained in a new technology that will be useful to their businesses. Under the Scheme, new technologies refer to those which are not yet widely applied in Hong Kong, and the absorption and application of which will significantly benefit Hong Kong	The Finance Committee of the Legislative Council approved the Government's allocation of funding to the Vocational Training Council, which established the Fund and holds the money on trust.	55	-	Not available	112
5 Emergency Relief Fund	1962	Provide financial assistance to persons who are in need of urgent relief as a result of fire, flooding, tempest, landslide, typhoon or other natural disasters	Emergency Relief Fund Ordinance, Cap. 1103 of the Laws of Hong Kong	Not applicable	Not applicable	Not available	82.2
6 Traffic Accident Victims Assistance Fund	1979	Provide speedy financial assistance to road traffic accident victims (or to their surviving dependants in cases of death)	Traffic Accident Victims (Assistance Fund) Ordinance, Cap. 229 of the Laws of Hong Kong	15	-	Not available	1,176.5
7 Trust Fund for Severe Acute Respiratory Syndrome	2003	Provide special ex gratia relief payment or financial assistance on compassionate grounds to families of deceased SARS patients, and recovered and suspected SARS patients. Specifically, the Trust Fund provides: (a) special one-off ex gratia relief payments for eligible family members of the deceased SARS patients; and (b) special monthly ex gratia financial assistance for recovered or suspected SARS patients treated with steroids suffering from longer term effects attributable to SARS, subject to proof of medical and financial needs	Director of Social Welfare Incorporation Ordinance, Cap. 1096	150	-	Not applicable	25.2

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
8 Hong Kong Paralympians Fund	2001	The Fund disburses grants to the following categories of programmes with a view to providing different levels of financial support to athletes with disabilities during all stages of their sporting career and thereafter: (a) Development of target sports; (b) Subsistence grant to athletes with disabilities; and (c) Employment facilitating grant for retired athletes with disabilities	The Director of Social Welfare Incorporation Ordinance, Cap. 1096	50	-	Not applicable	36.9
9 Occupational Deafness Compensation Fund	1995	To provide compensation for persons employed in specified noisy occupations who suffer hearing loss as a result of prolonged exposure to excessive noise at work, the reimbursement of expenses on hearing assistive devices, and for conducting and financing of relevant educational, publicity and rehabilitation programmes.	Occupational Deafness (Compensation) Ordinance (Cap. 469)	100	-	Not available	569.0
10 Pneumoconiosis Ex Gratia Fund	1993	To provide compensation for persons who were diagnosed before 1 January 1981 to have contracted pneumoconiosis	An administrative scheme introduced by the Government ⁽¹⁾	175	-	Not available	63.8 (not yet audited)

Note:

- (1) The Government set up the Pneumoconiosis Ex Gratia Fund in 1993 to provide enhanced benefits to persons who were diagnosed before 1 January 1981 to have contracted pneumoconiosis, in line with the improvements made to the then Pneumoconiosis (Compensation) Ordinance (Cap. 360) in the compensation package for persons who were diagnosed on or after 1 January 1981 to be suffering from pneumoconiosis.

Funds established by the Government for specific purposes — Revenue and expenditure from 1997-1998 to 2010-2011

Name of Fund		2010-2011 (\$M)	2009-2010 (\$M)	2008-2009 (\$M)	2007-2008 (\$M)	2006-2007 (\$M)	2005-2006 (\$M)	2004-2005 (\$M)	2003-2004 (\$M)	2002-2003 (\$M)	2001-2002 (\$M)	2000-2001 (\$M)	1999-2000 (\$M)	1998-1999 (\$M)	1997-1998 (\$M)
1 Queen Elizabeth Foundation for the Mentally Handicapped	Government injection	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other revenue	21.29	43.18	3.32	22.00	22.42	20.62	10.51	37.64	3.61	6.12	8.35	40.83	24.12	22.15
	Total expenditure	8.57	5.38	51.17	6.74	6.57	4.54	4.37	3.75	15.76	13.46	44.39	8.29	6.21	12.28
2 Elder Academy Development Foundation	Government injection	0	10.00	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
	Other revenue	0.07	5.007												
	Total expenditure	0.86	0												
3 Employees Retraining Fund	Government injection	0	0	0	384	379	379	374	385	396	400	0	0	500	0
	Other revenue	43	256	888	4,391	15	15	12	12	16	27	46	62	84	100
	Total expenditure	758	784	571	393	378	398	393	418	483	453	388	385	365	232
4 New Technology Training Fund	Government injection	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other revenue	1.0	1.8	2.2	4.7	5.0	3.4	0.7	0.9	2.1	5.3	7.3	7.9	10.9	10.6
	Total expenditure	1.9	3.0	3.5	2.8	1.1	0.5	0.5	4.2	10.6	8.1	5.2	7.4	16.1	16.6
5 Emergency Relief Fund	Government injection	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	27.00	9.00
	Other revenue	0.30	0.18	0.98	2.53	2.47	1.99	0.22	0.36	0.58	0.71	1.19	1.03	1.01	0.60
	Total expenditure	4.69	3.91	9.22	7.41	4.83	4.30	0.92	5.62	1.14	6.74	6.55	10.52	18.76	6.43
6 Traffic Accident Victims Assistance Fund	Government injection	29.95	73.51	50.87	52.61	24.37	20.71	20.93	23.01	24.17	15.20	43.49	58.63	83.07	22.02
	Other revenue	240.47	283.86	301.18	310.44	167.06	154.53	145.68	144.85	149.94	157.02	190.05	275.42	268.59	276.34
	Total expenditure	203.81	209.15	192.52	184.98	173.24	182.42	170.06	175.08	168.83	158.79	145.86	149.15	181.22	153.51
7 Trust Fund for Severe Acute Respiratory Syndrome	Government injection	0	0	0	0	50.00	0	0	150.00	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
	Other revenue	1.95	0.25	1.17	2.25	0.91	0.92	0.16	0.01						
	Total expenditure	9.44	9.18	11.16	12.83	15.14	14.83	33.63	76.22						
8 Hong Kong Paralympians Fund	Government injection	0	3.50	0	0	0	0	0	0	0	50.00	N.A.	N.A.	N.A.	N.A.
	Other revenue	1.43	1.42	1.83	1.99	2.12	1.67	1.76	2.30	1.74	0.60				
	Total expenditure	3.89	3.96	4.05	5.33	3.44	2.79	4.47	2.72	2.61	0.21				
9 Occupational Deafness Compensation Fund	Government injection	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other revenue	57.5	62.2	65.3	61.2	53.2	46.6	41.4	55.1	80.0	80.1	74.9	61.1	60.8	56.7
	Total expenditure	44.9	25.3	19.9	19.4	17.2	18.7	19.0	18.8	17.9	21.9	24.6	28.2	62.9	66.8
10 Pneumoconiosis Ex Gratia Fund	Government injection	0	0	0	89.0	0	9.8	0	0	0	0	0	0	0	27.0
	Other revenue	1.0*	1.5	3.5	2.8	0.7	0.6	0.8	2.5	3.1	5.0	7.2	8.5	11.1	9.4
	Total expenditure	9.5*	10.7	11.9	14.1	13.5	15.7	17.0	20.0	20.9	21.9	23.3	24.7	25.0	21.0

Note:

* Not yet audited

Labour and Welfare Bureau — Queen Elizabeth Foundation for the Mentally Handicapped

- (b) Since the setting up of this Fund, the Government has not made additional injection to the Queen Elizabeth Foundation for the Mentally Handicapped (QEFMH).

During the period from 2006-2007 to 2010-2011, the Fund approved a total of 422 projects, involving \$35 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Interactive teaching and learning resources on sexuality education for the mentally challenged
2	Multi-Functional Rehabilitation Bathroom
3	Community College for the Mentally Handicapped Adult — Lifelong Learning Courses and Development Activities
4	Mobile Combined Clinic (MCC) for ageing persons with intellectual disabilities
5	Hands on my own task — Hand Function Training Programme for severe grade mentally handicapped students
6	Sunny Smiles — The Dental and Oral Hygiene Project for Adults with Intellectual Disabilities
7	Sensory-Motor Development Scheme
8	<Hand in Hand> Project
9	"The Dance Moves Life" Life Ambassador Promotion Scheme
10	Sensory Integration Room for Mentally Handicapped Students

- (c) The Council of the QEFMH regularly reviews the effectiveness of the Fund in accordance with the QEFMH Ordinance (Cap. 399), including monitoring its operation, applying its income and assets, scrutinizing applications for grants, and determining and performing all matters in this regard. The purpose of the QEFMH under the Ordinance is still valid and adequately covers the welfare needs of persons with mental disabilities. Therefore, the purpose of the QEFMH has not been updated since its establishment.

Labour and Welfare Bureau — Elder Academy Development Foundation

- (b) Since the establishment of the Fund in 2009, there has not been any further injection by the Government. The Fund was granted for the first time in the 2010-2011 financial year to subsidize a total of nine projects, involving \$860,000. The names of these projects are set out below:

<i>Name of Projects Approved</i>	
1	Establishment of the M&H Elder Academy
2	Establishment of the Kiangsu-Chekiang (Shatin) Elder Academy
3	Establishment of the Buddhist Yip Kei Nam Memorial College Elder Academy
4	Establishment of the San Wui Commercial Society Secondary School Elder Academy
5	Establishment of the Lok Yi Elder Academy
6	Establishment of the Pui Shing Elder Academy
7	Establishment of the Sik Sik Yuen Ho Dao Elder Academy
8	Establishment of the YLCSS Caritas Elder Academy
9	Elder Academy Athletics Meet 2010

- (c) We have regularly reviewed the effectiveness of the Fund. To monitor the operation of the approved funding and evaluate the effectiveness of the projects, all funded organizations are required to submit reports on the work and financial position of their projects during the funding period and/or upon completion of the projects for the Committee on Elder Academy Development Foundation's perusal.

Labour and Welfare Bureau — Employees Retraining Fund

- (b) The Fund receives income in accordance with the Employees Retraining Ordinance (the Ordinance). Besides, since the Fund's establishment, the Government has also made necessary injections on four occasions to the Fund which amounted to a total of \$1.6 billion. Furthermore, between 2001-2002 and 2007-2008, an annual recurrent subvention of about \$400 million was granted to the Employees Retraining Board (ERB) to support its expenses. The Fund has ceased to receive Government subvention since 2008-2009.

Operationally, the Fund does not approve the projects of individual organizations. ERB provides retraining services under its "Manpower Development Scheme" (or "Employees Retraining Scheme" before July 2008). This includes the allocation of necessary training places and funding to its appointed training bodies to facilitate their provision of ERB courses and services, instead of granting different projects to individual organizations.

- (c) The Fund is established under the Ordinance to make provision for the payment of retraining allowances in respect of trainees attending the relevant training of ERB and the costs of the related courses and programmes. The Fund is administered by ERB in accordance with the requirements of the Ordinance. ERB will plan the number and allocation of training places, as well as the courses, and so on, annually having regard to the prevailing market situation.

The Government and ERB review and enhance the operation of ERB from time to time. For instance, ERB completed a strategic review on its future directions in 2009, the recommendations of which were endorsed by the Government. ERB is in the process of implementing the recommendations in phases, endeavouring to provide more comprehensive and diversified training and retraining services for the local labour force through enhancing course contents, promoting certification to fortify recognition of its courses and improving course quality. This in turn strengthens the employability and competitiveness of ERB's trainees.

Labour and Welfare Bureau — New Technology Training Fund

- (b) The Fund was established in 1992 with a capital injection of \$55 million by the Government. Subsequently, the Government injected an additional amount of \$50 million to the Fund in 1993 with a view to raising the interest income of the Fund in order to provide more training opportunities under NTTS.

During the period from 2006-2007 to 2010-2011, a total of 2 775 training places amounting to a total of \$13.1 million in subsidies were approved for employers under NTTS.

For example, the 10 training courses with the highest amount of subsidy approved in 2010-2011 are listed as follows:

- 1 Advanced Mould Automated Manufacturing Technology and Flexible Manufacturing Cell
- 2 Process Validation
- 3 Certified Lean Manager Training Program
- 4 Advanced Technologies of Manufacturing, Processing and Chronometer Quality Control for Watch
- 5 Advanced Liquid Silicone Rubber Injection Moulding
- 6 ISO 14064 Carbon Auditor Training
- 7 Plastics Recycling Technology
- 8 Good Distribution Practices for Pharmaceutical Industry
- 9 Advanced 3D Interactive Technologies
- 10 B777 Aircraft Maintenance

- (c) The New Technology Training Scheme (NTTS) aims to provide subsidy annually to local employers who wish to have their staff trained in a new technology that will be useful to their businesses. The operation of NTTS is supported by the interest income of the New Technology Training Fund. The amount of subsidy that may be provided for the year depends on the prevailing amount of usable funds. In the context of NTTS, new technologies refer to those which are not yet widely applied in Hong Kong, and the absorption and application of which will significantly benefit Hong Kong.

NTTS is administered by the Vocational Training Council (VTC). VTC's Committee on Technologist Training and its Sub-Committee on Training in New Technologies review the progress of NTTS annually, usually after the end of each financial year. Based on the operating conditions of NTTS,

its targets, including the number of training places and the amount of subsidies to be provided, in the following year will be devised.

Labour and Welfare Bureau — Emergency Relief Fund

- (b) Since 1973, the Government has made contribution every year to provide financial assistance to persons who are in need of urgent relief as a result of fire, flooding, tempest, landslide, typhoon or other natural disasters.

During the period from 2006-2007 to 2010-2011, payments totalling \$30.05 million were made from the Fund.

- (c) We have regularly reviewed the effectiveness of the Fund. The objects of the fund are set out in section 4 of the Emergency Relief Fund Ordinance (Cap. 1103). Emergency Relief Fund Committee (including non-official members appointed by the Chief Executive) advises the Trustee on matters relating to the administration of the Fund and the attainment of the objects thereof.

Labour and Welfare Bureau — Traffic Accident Victims Assistance Fund

- (b) Since the setting up of this Fund, the Government has made contribution every year to assist road traffic accident victims and their dependants.

During the period from 2006-2007 to 2010-2011, payments totalling \$875.3 million were made from the Fund.

- (c) We have regularly reviewed the effectiveness of the Fund. The objects of the fund are set out in section 4 of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229). Traffic Accident Victims Assistance (TAVA) Advisory Committee (including non-official members appointed by the Chief Executive) holds two regular meetings each year to advise the Director of Social Welfare on all matters connected with the administration of the TAVA Scheme and the administration of the TAVA Fund.

Labour and Welfare Bureau — Trust Fund for Severe Acute Respiratory Syndrome

- (b) Since the setting up of this Fund, the Government injected twice into the Fund in 2007 and 2011 for \$50 million each time so that it can continue to provide financial assistance to patients who have not yet recovered from SARS-related dysfunctions and are still in need of assistance from the Fund. Starting from the set up of this Fund in November 2003 up to the end of March 2011, a total of 890 applications for Fund assistance had been approved, involving 822 patients at \$187 million.
- (c) This Fund was established in November 2003 with a commitment of \$150 million for approving the applications of special ex gratia financial assistance for recovered and suspected SARS patients, with no specific target and time schedule set. The objective of this Fund remains the same all these years. We have regularly reviewed the effectiveness of the Fund. This Fund has been operating smoothly since its establishment. All the existing arrangements under the Fund, including the requirement of periodic financial reviews and medical assessments for the beneficiaries will remain the same.

Labour and Welfare Bureau — Hong Kong Paralympians Fund

- (b) The Fund was set up in 2001 with a \$50 million grant from the General Revenue. It is stated at the Fund's set up that a reserve of \$30 million is to be maintained at all times. Since the setting up of this Fund, the Government has injected \$3.5 million to the Fund in 2009 through deploying Departmental internal saving with a view to providing sufficient resources for meeting the funding demand in the following two years, that is, 2010-2011 and 2011-2012.

The Fund disburses grants to the following categories: (i) development of target sports; (ii) subsistence grant to athletes with disabilities; (iii) employment facilitating grant for retired athletes with disabilities with a view to providing different levels of financial support to athletes with disabilities during all stages of their sporting career and thereafter. In the past five years, the Fund had approved 53 applications from four sporting associations for their development of 17 target sports, with grants

amounting to \$10.5 million. Moreover, the Fund has also approved 476 applications for the subsistence grant to athletes with disabilities and four retired athletes with disabilities for the employment facilitating grant, involving a total grant amount of \$8.4 million.

- (c) The Fund does not have pre-set specific indicator and time-table. It has all along maintained its objectives. The Social Welfare Department (SWD) has formed a Management Committee and Grants Sub-committee for the Fund which advise on the Fund's allocation amount and usage while these two committees also assess and approve the applications. In addition, with a view to ensuring the effective mobilization of the Fund resources for supporting the sporting career of the athletes with disabilities, the SWD has set up a Working Group in 2010 to review the Fund's usage.

Labour and Welfare Bureau — Occupational Deafness Compensation Fund

- (b) Immediately after the commencement of the Occupational Deafness (Compensation) Ordinance (Cap. 469) (ODCO) in 1995, the Government provided a grant of \$100 million to set up the Occupational Deafness Compensation Scheme.

During the period from 2006-2007 to 2010-2011, the Fund approved 936 compensation applications and paid out \$53 million. In 2010-2011, 695 compensation applications were approved, amounting to \$27 million.

- (c) We have regularly reviewed the effectiveness of the Fund. The Government has all along been improving the protection to persons employed in specified noisy occupations who suffer hearing loss as a result of prolonged exposure to excessive noise at work through the ODCO. Because of this, since the commencement of the ODCO in 1995, the Government has reviewed and amended the ODCO in 1996, 1998, 2003 and 2010 in order to enhance its scope of protection and compensation level. In future, the Government will conduct a biennial review of the compensation items under the ODCO so as to maintain their values in line with the wage movement during the intervening period.

Labour and Welfare Bureau — Pneumoconiosis Ex Gratia Fund

- (b) Since its inception, the Government has made four capital injections into the Fund in 1993, 1997, 2006 and 2007, amounting to a total of \$300.8 million, in order to maintain the operation of the Fund.

The Pneumoconiosis Ex Gratia Fund only provides benefits to pneumoconiotics who were diagnosed before 1981 as suffering from pneumoconiosis. During the period from 2006-2007 to 2010-2011, no item outside the scope of the Pneumoconiosis Ex Gratia Fund has been approved.

- (c) We have regularly reviewed the effectiveness of the Fund. While no target and schedule for the attainment of any goal are set for the Pneumoconiosis Ex Gratia Fund, the Government has reviewed and enhanced the scope and levels of benefits of the Fund on numerous occasions over the years. The Government will continue to conduct regular review of the benefit items provided under the Fund so as to maintain their values in line with the price movement during the intervening period.

Annex 7

Environment Bureau

- (a) Funds established by the Government for specific purposes

Name of Fund	Year of Establishment	Purpose	Establishment Instrument	Initial Injection at Establishment		Audited Net Asset Value as at 1.7.1997 (\$M)	Audited Net Asset Value as at 31.3.2011 (\$M)
				Government (\$M)	Other (\$M)		
1 Environment and Conservation Fund	1994	To provide funding support to programmes and activities in relation to environmental protection and nature conservation	Environment and Conservation Fund Ordinance (Cap. 450)	50.00	-	Not available	852.44

Funds established by the Government for specific purposes — Revenue and expenditure from 1997-1998 to 2010-2011

<i>Name of Fund</i>		2010-2011 (\$M)	2009-2010 (\$M)	2008-2009 (\$M)	2007-2008 (\$M)	2006-2007 (\$M)	2005-2006 (\$M)	2004-2005 (\$M)	2003-2004 (\$M)	2002-2003 (\$M)	2001-2002 (\$M)	2000-2001 (\$M)	1999-2000 (\$M)	1998-1999 (\$M)	1997-1998 (\$M)
1	Environment and Conservation Fund	0	0	0	1,000.00	0	35.00	0	0	100.00	0	0	0	0	50.00
	Government injection														
	Other revenue	6.64	9.56	14.54	3.90	3.65	2.19	0.40	0.93	1.41	0.98	2.68	3.05	5.50	2.36
	Total expenditure	143.42	85.33	26.01	11.27	11.22	7.72	16.55	17.73	22.68	25.49	10.38	22.27	13.16	10.02

Environment Bureau — Environment and Conservation Fund (ECF)

- (b) Since the setting up of this Fund, the Government has made five injections. Other than the one-off injection of \$1 billion in 2008 which expanded the scope of programmes supported, the other injections mainly sought to continue to provide funding under the ECF.

During the period from 2006-2007 to 2010-2011, the ECF approved 2 051 projects, involving \$943.1 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	"Urban Oasis" Project by Christine Family Service Centre to set up an organic farm Environmental Education and Community Action Projects (Minor Works Projects)
2	Environmental Protection Scheme in Po Leung Kuk Holiday Camp (Po Leung Kuk Steven Lo Kit Sing Pak Tam Chung Holiday Camp) Environmental Education and Community Action Projects (Minor Works Projects)
3	Environmental Protection Scheme in Po Leung Kuk Holiday Camp (Po Leung Kuk Jockey Club Tai Tong Holiday Camp) Environmental Education and Community Action Projects (Minor Works Projects)
4	Tung Wah Group of Hospitals to Move Towards a Green Organization — Photovoltaic Panels Environmental Education and Community Action Projects (Minor Works Projects)

<i>Name of Projects Approved</i>	
5	Demonstration of an Environmentally Friendly Paper Artifacts Furnace for Traditional Funeral Service and Data Analysis of Particulate Removal Efficiency of the Furnace Environmental Research, Technology Demonstration and Conference Projects
6	Environmental Education and Organic Farm by China Holiness Church Living Spirit College to implement organic farm Environmental Education and Community Action Projects (Minor Works Projects)
7	Tung Wah Group of Hospitals — Energy Improvement Works Energy Conservation Projects for Non-government Organizations
8	Kai Tak River Green Corridor — Community Education Project Environmental Education and Community Action Projects (General Projects)
9	Building Energy Efficiency Funding Projects
10	On-site Meal Portioning Projects in Schools

- (c) We have regularly reviewed the effectiveness of the Fund. The fund does not set indicators and timetable for reaching targets. Since the injection in 2008, the ECF has expanded the scope of programmes supported, identified key programme areas and broadened the base of applicant groups and audience of green campaigns. The various ECF projects come under a range of environmental themes which have helped the public to appreciate emerging priorities of environmental matters and government initiatives under key policy areas. More importantly, the ECF has provided resources to empower various strategic partners, whether established charitable organizations, district-based NGOs, schools, and so on, in undertaking environmental projects, enhanced the capacity at the community level in initiating projects complementary to various policy initiatives, and engaged more stakeholders in the community in active participation in these initiatives. The Environmental Protection Department will, in consultation with the ECF Committee, review the operation and the programme areas from time to time in light of the current environmental issues that the community attaches priority to and having regard to the Government's policy initiatives.

MR PAUL CHAN (in Cantonese): *President, my main question only covers various funds in the government cash-based accounts. But in his main reply, the Secretary has set out all funds outside this system, giving us very detailed information.*

President, could the Government furnish us with some supplementary information on other funds in the accounts listed by year in the same manner so that we can grasp a fuller picture?

PRESIDENT (in Cantonese): Secretary, can you provide the information requested by Mr CHAN?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, thanks to Mr CHAN. I will compile the information back in my office. (Appendix I)

MS CYD HO (in Cantonese): *President, some funds have been set up for a long time. But given that society has changed and the financial capacity of the Government itself has also changed, has the Government reviewed the operation of these funds in the light of such social changes? For example, the Queen Elizabeth Foundation for the Mentally Handicapped which was established in 1988 with a start-up funding of \$30 million has accumulated assets valued at \$200 million. Besides, the Traffic Accident Victims Assistance Fund, which was established in 1979 with a start-up funding of \$15 million, is authorized to collect levies of a certain rate from driving licence and vehicle licence holders annually as its operating expenses. The amount of its accumulated assets has reached \$1.176 billion. Even though so many assets have been accumulated by these government funds, they are being left idle. Have the authorities relaxed the criteria of granting subsidies to the recipients with due regard to the current social changes and reviewed the revenue models of these funds? If yes, will the Government conduct a comprehensive review of those funds which have been in operation for more than 10 years?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, as I mentioned in the main reply, according to the information, many funds were established for different policy purposes after consideration and approval by the Legislative Council or the former Legislative Council in the British colonial era. The situation of each fund is different.

However, such matters as government injections, sources of income or operations of these funds are monitored by the Legislative Council generally. Regarding certain funds under a particular Policy Bureau, the Legislative Council can ask questions and hold discussions through the relevant panels. We will surely relay the views of Members to the relevant Policy Bureau for consideration.

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

MS CYD HO (in Cantonese): *Yes, President. My supplementary question was: Given that some funds are still harsh on the recipients despite their huge accumulated assets, have the authorities addressed the problem squarely? The Legislative Council certainly has addressed the problem squarely, but we cannot push the Government to do so.*

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

MS CYD HO (in Cantonese): *My question is: Have the authorities addressed the problem squarely? Will the authorities conduct a review of the provisions that govern the funding of those funds which have been in operation for more than 10 years?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, individual funds are certainly monitored by the relevant Policy Bureaux, and the relevant steering committees are responsible for the management of these funds. As for the discussion on the operation of various funds and the policy objectives, I believe it should be dealt with by the relevant

Policy Bureaux. It will also be more appropriate to hold such discussions in the relevant panels. We will by all means relay these views to the authorities concerned.

PRESIDENT (in Cantonese): Fourth question.

Non-renewal of Contracts of Two Programme Hosts of Radio Television Hong Kong

4. **MR FRED LI** (in Cantonese): *President, the contracts of two current affairs programme hosts, Robert CHOW Yung and NG Chi-sum, of Radio Television of Hong Kong (RTHK) will not be renewed by the Government next year, giving rise to extensive discussions in the community and some views query that the Government's decision has political considerations, which aim to remove programme hosts who have independent viewpoints and criticize the Government and also to suppress the freedom of speech. Some views also query that the Government's explanation, which states that the reason for the removal of the two hosts is to tie in with programme reforms, is illogical. In this connection, will the Government inform this Council:*

- (a) who made the decision not to renew the contracts of Robert CHOW Yung and NG Chi-sum; of the respective listener ratings of the programmes hosted by Robert CHOW Yung and NG Chi-sum in the past five years; whether it knows, how the listener ratings of such programmes compare with those of the current affairs programmes of Commercial Radio aired in the same time slots;*
- (b) of the respective numbers of written complaints against Robert CHOW Yung and NG Chi-sum in hosting programmes received by the authorities in the past three years and the contents of such complaints; and*
- (c) whether the two hosts are removed for the sake of allowing more time for the public to express their opinions in the programmes; whether the two hosts are removed because of their style of hosting the programmes and their personal viewpoints; whether it will*

redeploy programme hosts in the light of listener ratings and public views after the implementation of programme reforms?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, paragraph 4 of the Charter of Radio Television Hong Kong (the Charter) states that RTHK should fulfil the public mission of, among others, providing an open platform for the free exchange of views on public policies without fear or favour. RTHK should be impartial in the views it reflects, and even-handed with all those who seek to express their views via the public service broadcasting platform.

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

While the Commerce and Economic Development Bureau will provide RTHK with policy guidance and support under paragraph 11 of the Charter, it is stipulated in paragraph 6 of the Charter that RTHK enjoys editorial independence. The question raised by Mr Fred LI involves the contents and hosts of individual programmes of RTHK, which are matters falling under its internal programme adjustment arrangements. I would like to stress that the Commerce and Economic Development Bureau respects the editorial independence of RTHK and has not played any part in the decision concerned.

I have consulted RTHK on Mr LI's question. RTHK has informed me that in response to social development and public needs, its public affairs phone-in programmes will adopt a new format starting from early January next year. Changes will include the introduction of "outreach interview" to tap the views of the public on social issues at the scene; more participation by post-secondary students in producing special programmes on current affairs; continued production of special features on topical issues; simplification of the hosting arrangement by having a single host so as to allow more time for new programme segments and for listeners to voice their views.

My reply to the three-part question based on the information provided by RTHK is as follows:

- (a) In September 2010, the Public Affairs Unit (PAU) of RTHK conducted an internal review of its phone-in programmes. Subsequently, the PAU proceeded to plan and experiment with a number of new programme ideas, which include special features for topical issues, "outreach interview" to tap the views of the public on social issues at the scene and inviting representatives from political parties to debate on public policies in "The Five Flagposts".

In view of these developments, the PAU decided on the broad framework of the new programme format in mid-2011. With the support of the management, the PAU proceeded with the preparatory work for implementing the new programme format with effect from 2 January 2012. When the new Director of Broadcasting (DoB) assumed office in September 2011, the PAU briefed him on the impending changes. The DoB supported the decision of the PAU on the new programme format.

According to the annual listenership survey, the average highest number of listeners of "Talkabout" (hosted by LEUNG Ka-wing and Robert CHOW Yung) ranged from 130 000 to 230 000, while that of "Open Line Open View" (hosted by NG Chi-sum, Ada WONG Ying-kay, LAU Pui-king and Lisa LEUNG Yuk-ming) ranged from 70 000 to 130 000 in the past five years. As regards the comparison of the listener ratings of the current affairs programmes of RTHK and Commercial Radio aired in the same time slots, we do not have the relevant information.

- (b) In the past three years, RTHK received a total of 63 and 78 written complaints against "Talkabout" and "Open Line Open View" respectively, which mainly concern whether the programme contents and comments are impartial, whether the information provided is sufficient and accurate, whether the listeners have sufficient time to voice their opinions, and so on.
- (c) The format of "Talkabout" and "Open Line Open View" has remained unchanged for over 10 years. The production team hopes to introduce new elements to the programmes, including simplification of the hosting arrangement by having a single host so

as to allow more time for new programme segments and for listeners to voice their views. RTHK emphasizes that the relevant changes have nothing to do with the style, viewpoints and performance of the hosts of the two programmes (namely, Robert CHOW Yung and NG Chi-sum).

The PAU production team will ensure that the opinion platform will continue to be open to all after the programme change. RTHK will continue to invite experienced media professionals and experts from all walks of life to provide quality commentaries with a view to providing listeners with a wide range of information and opinions. RTHK will also actively introduce and nurture a new generation of public affairs programme hosts.

After implementing the new programme format, RTHK will continue to closely monitor the performance of programmes and listen to public views, so as to make timely adjustments to the programmes concerned.

DEPUTY PRESIDENT (in Cantonese): Mr Albert HO.

MR ALBERT HO (in Cantonese): *Deputy President, the changes in RTHK programming*

DEPUTY PRESIDENT (in Cantonese): I am sorry. Mr Fred LI should ask a supplementary question first.

MR ALBERT HO (in Cantonese): *I had purposely slowed down in asking my question.*

MR FRED LI (in Cantonese): *Deputy President, even though he is the Chairman of my party, I should ask a follow-up question ahead of him. (Laughter) Thank you, Deputy President.*

According to the Secretary's main reply, it turned out that the Government does not know the situation of Commercial Radio, the major competitor of RTHK in programming. If that is the case, I wonder how RTHK makes decisions on programme arrangements and enhancement in order to compete with its rival, as there is always competition in the market. This is very much questionable. But I am not following up this point. The Secretary said that RTHK had told him that the programme changes are made in response to social development and public needs. My question is: Can the Secretary tell me, with the experienced commentators from outside RTHK dismissed, leaving behind only the civil servants who will host all morning and night-time programmes from Monday to Friday, how can RTHK be seen as capable of playing the roles of a critic, a watchdog and an overseer impartially?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I thank Mr LI for his question. In fact, RTHK is staffed by many front-stage and back-stage talents, and both RTHK employees and talents employed from outside RTHK will distribute their work in the light of the needs of the programmes. Where manpower resources permit, deploying RTHK staff to host programmes on the front stage is an appropriate arrangement for achieving optimal use of manpower resources. The programme adjustments have also provided room for a new generation of young hosts to gain exposure and experience. All radio programme hosts will abide by the Charter and Producers' Guidelines to uphold the freedom of speech and enable the public to freely express views on public policies without fear or favour. This will not be affected by whether or not the host is a civil servant. Mr LI mentioned competition just now. These programme reforms of RTHK are in line with or leading the trend, and in response to the needs of the development and changes of the times, these reforms are meant to regularly update and reform the contents of programmes to meet the needs of society, thereby achieving a certain degree of competitiveness.

MR ALBERT HO (in Cantonese): *Deputy President, the changes made by RTHK to these two programmes, namely, "Talkabout" and "Open Line Open View", were announced very suddenly. As far as I know, not many people in RTHK could take part in the discussion of the programme reforms prior to their announcement, and even these two persons who have taken part in producing and*

hosting the programmes were denied opportunities to express their views and excluded from the discussion. They are the people who are most affected and yet, they do not have the right to voice their views. What is more, no prior consultation was conducted on these arrangements and this is why the public was greatly shocked.

Besides, what is more important is that these changes have great implications on the future development of programmes. With the dismissal of these guest hosts from outside RTHK now, this may continue to be a trend of development in the future and as a result, the programme hosting may become civil servants-led and the public can only hear the voice of civil servants. Of course, I am not saying that all civil servants definitely have just one voice and one look. This is not what I mean. But members of the public are concerned that they, being civil servants, will be easily "harmonized". We all know the meaning of "being harmonized". It means that when they are under pressure in the future, they cannot express their views; nor can they criticize the Government and monitor those in power.

My question is: As this announcement has aroused grave concern among RTHK staff at all levels who are not in the know, especially staff in the Television Section, will the Secretary tell us whether there is any plan, which is currently under study and has yet been announced, of making changes to television programmes, including "Hong Kong Connection", "Headliner", and even "City Forum", which are very popular programmes with many voices from outside RTHK? Does RTHK have any plan to make changes to these programmes? Can the Secretary undertake to thoroughly discuss any such changes with people in RTHK as well as the stakeholders involved and conduct outsider consultations, rather than making decisions and acting arbitrarily of its own will and engaging in "black box operation"?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, in fact, these programme adjustments were proposed by the PAU production team. These adjustments are an internal editorial decision of RTHK and involve the daily operation of RTHK. The Charter has expressly stated that RTHK enjoys editorial independence. Paragraphs 1 and 6 of the Charter clearly stipulated that RTHK enjoys editorial independence. Also, under paragraph 15 of the Charter (I am only citing one

example here), the Board will not be involved in the day-to-day operation or staffing matters of RTHK. In this connection, we can see that editorial independence is explicitly provided for in the Charter. Regarding the deployment of programme hosts in RTHK, Mr HO asked us to give an undertaking as to what mechanism will be put in place, but I think this falls under the internal work arrangement of RTHK and so, I will not undertake to tell RTHK how it should work in the future. I think it is very important not to intervene in the internal operation of RTHK.

These programme adjustments have nothing to do with the performance or style of the hosts. They are purely changes made by RTHK to meet the needs of the programmes and to progress with the times. Certainly, we must recognize the contribution made by these hosts to RTHK in their past work. In this incident, the adjustments were made not because of their performance but out of a need for programme adjustments.

MR ALBERT HO (in Cantonese): *Deputy President, he only answered the part of my question about giving an undertaking but not the part on whether the authorities have conducted studies on making adjustments to television programmes and whether an internal consultation has been conducted.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, these are certainly related to the internal operation of RTHK. From the information that I have gathered, RTHK has no plans to do so. This only concerns adjustments to public affairs phone-in radio programmes and it has nothing to do with other programmes.

MR ABRAHAM SHEK (in Cantonese): *Deputy President, I declare that I would listen to Robert CHOW Yung's programme every morning. I am very disappointed with all these changes, but this is not my supplementary question.*

In reply to Mr LI's question earlier, the Secretary said that the new programmes are introduced to lead the trend. As more than 100 000 people will tune in to this programme, does it mean that these listeners have failed to catch up with the trend and so, the Secretary has to create a new trend? Has the

Secretary or the Government indirectly or directly exerted influence on these two programmes of RTHK?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I wish to point out that my reply today is entirely based on the information provided by RTHK, for these are matters concerning the internal operation of RTHK. With regard to the needs of the programmes, according to what RTHK has told us, RTHK will consider from time to time how continuous improvement can be made in line with the trend or even to lead the trend. It does not mean that the Secretary should lead the trend, but RTHK will lead the trend in the production of programmes to meet the needs of the development and changes of the times by updating and reforming the contents of its programmes from time to time to cope with the needs of society.

I understand that RTHK collects the views of listeners every year through various channels, such as the Head's Hotline, focus group discussion and surveys, as well as telephone calls and e-mails from listeners. RTHK also pays attention to the relevant comments expressed in online forums. As reflected by many different channels, the listeners wish that there can be more channels and time for them to express their views and it is for this reason that RTHK carried out the reforms.

DEPUTY PRESIDENT (in Cantonese): Mr Abraham SHEK, which part of your supplementary question has not been answered?

MR ABRAHAM SHEK (in Cantonese): *He has not answered the part of my question on the "trend". More than 100 000 people listen to this programme every morning. He pointed out earlier that he did not know that the other radio station*

DEPUTY PRESIDENT (in Cantonese): Mr Abraham SHEK, just now you only asked the Secretary whether he had exerted influence on the two radio programmes and he has given an answer.

MR ABRAHAM SHEK (in Cantonese): *Deputy President, I asked him whether he had indirectly or directly influenced the programmes. He did not give an answer.*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I have clearly stated that I have not indirectly or directly influenced the decision on these reforms.

MR LAU KONG-WAH (in Cantonese): *Deputy President, while the public are concerned about whether the two hosts will stay or leave, they are also concerned about the programme reforms. The Secretary used a certain word several times. He said that there would be a new programme format with effect from 2 January next year and mentioned that new programme elements will be introduced, and he went further to say that a new generation of public affairs programme hosts will be nurtured. He used the word "new" thrice. Can the Secretary tell us specifically what new reforms will be carried out? Meanwhile, regarding the nurturing of a new generation of successors, how can they fulfill the requirement for an ideal host that Mr LEUNG Ka-wing has mentioned to us, that is, what should be done to nurture a new generation of programme hosts having the breadth of mind to accommodate different opinions?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I thank Mr LAU for his question. In fact, the information was provided to me by RTHK, for these are matters related to their internal planning. Indeed, at a meeting of the relevant panel, we did discuss these several issues. These new elements to be introduced to the programmes include the arrangement for "outreach interview" to tap the views of the public on social issues at the scene, and inclusion of more participation by post-secondary students, especially those who are interested in joining the media profession, and simplification of the hosting arrangement by having a single host so as to allow more time for listeners to voice their opinions, as well as ongoing production of special features on topical issues. Lastly, RTHK will continue to invite experts

and opinion leaders from all sectors to provide in-depth commentaries and analyses.

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

MR LAU KONG-WAH (in Cantonese): *I asked him about three things that are "new" but he gave an answer to only one of them.*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I did not catch the question that he just asked.

DEPUTY PRESIDENT (in Cantonese): He said that you had given an answer to only one of the things that are "new", falling short of explaining the other two.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, according to the information on hand, these five new programme elements are RTHK's future What I have said are just part of them, and I believe RTHK will pursue diversified development and inject new elements into its programmes. I certainly believe RTHK will progress with the times and where necessary, introduce other new elements.

MS CYD HO (in Cantonese): *Deputy President, an experienced commentator who is well-versed in the history of social changes and constitutional development in Hong Kong over the past three to four decades is irreplaceable. So, the sacking of these two experienced commentators by the RTHK management against the wish of the people is heartrending.*

The Secretary mentioned earlier that RTHK would not allow wastage of talents and that it would assign jobs to its own staff. But do you know how many time slots have been wasted by RTHK? Do you know that many time slots of Radio 1 and Radio 2 are merged, which means that no programme is aired during these time slots? Digital broadcasting will be introduced in the future and there will be even more time slots available. So, we cannot say that these two old hosts should be sacked in order to let the new hosts come on the stage and try the new programme format. They can actually co-exist, and only in such a way can the baton be passed. This should not be competition between two generations. Rather, there should be harmony between the two generations and they should be working in concert.

I have this question for the Secretary. Some people in RTHK told me the reason why they cannot produce more programmes for airing during the merged slots. It is because of a shortage of funds. But I know that the cost for engaging these two experienced commentators to host a programme in which personal opinions are expressed for five hours weekly is only around \$600,000 per year. But under the Community Broadcasting Involvement Fund now, it costs \$3.5 million for a newcomer or an inexperienced host to do the same job for one year. Will the Secretary monitor the operation in this respect? Besides, if it is really because of a shortage of only \$600,000 in funding that these two experienced commentators have to be sacked, will the Government provide funding for this purpose?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, Ms HO seems to think that these programme adjustments are made as a result of a shortage of resources. I must say that I entirely take exception to this point.

MS CYD HO (in Cantonese): *I was told this piece of information by the senior management of RTHK.*

DEPUTY PRESIDENT (in Cantonese): Thank you for the supplementary information. Secretary, please go on.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I will not speculate who in the senior management of RTHK has told Ms HO this. The RTHK's position is consistent with that of the Government. These programme adjustments are made because there is a need to reform the programmes. Of course, these two programmes were very popular, and given the increasing voices from the community and the increasing demand for public debate and discussion, RTHK will certainly continue to explore ways on how best to continuously improve the production of programmes in order to lead the trend, and also to respond to and take forward the trend, while making changes in line with the development of the times. Therefore, I think this decision made internally by RTHK is appropriate, and it was made after careful consideration.

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

MS CYD HO (in Cantonese): *Deputy President, the former part of my question mainly asked him whether he knows that there are many joint broadcast programmes in Radio 1 and Radio 2, which means wasting many time slots, and whether he will provide additional resources for the production of more programmes in order to utilize these time slots effectively.*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, this bears little direct relevance to the issue under discussion today, but I will convey Ms HO's view to the relevant people in RTHK for their information.

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

Vote-rigging in District Council Elections

5. **MR ALBERT HO** (in Cantonese): *Deputy President, recently, there has been widespread media coverage that there were quite a number of suspected vote-rigging cases in the District Council (DC) Election held on 6th of last month. The Audit Commission stated in the Report No. 47 of the Director of Audit published in October 2006 that "without verifying the residential addresses of electors, there is insufficient evidence to ensure the accuracy of the GC (geographical constituencies) final registers. In extreme cases, the fairness of an election may be impaired due to possible vote planting", and recommended that the Registration and Electoral Office (REO) should implement a checking system to verify the residential addresses of registered electors recorded in the electoral register on a sampling basis. The REO responded that a checking system would have resource implications, and that assessment would be made before deciding on the appropriate way to take forward the audit recommendation. Further, the REO would match the elector records with the information kept by the Immigration Department and the Housing Department for address updating purpose, and it had approached quite a number of government departments to explore the feasibility of concerted efforts in data matching. Those government departments had expressed concerns that the transfer of personal data might contravene the privacy law and other legal provisions, but the REO would continue to study such possibilities in data matching. In this connection, will the Executive Authorities inform this Council:*

- (a) *of the number of complaints on suspected vote-rigging received since the DC Election last month; the number of written enquiries issued by the REO; the respective numbers of investigations made by the police and the Independent Commission Against Corruption, as well as the progress of such investigations;*
- (b) *whether it has implemented the recommendation made by the Audit Commission five years ago to verify the residential addresses of registered electors on a sampling basis; if it has, of the details and resources involved; if not, the reasons for that; and*
- (c) *whether it has assessed how the REO and other government departments could avoid contravening the privacy law and other legal provisions in matching the data of electors; of the progress of*

the assessment; whether it has conducted the aforesaid data matching exercise; if not, the reasons for that?

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

- (a) Since the 2011 DC Election until 9 December 2011, the Electoral Registration Officer (ERO) had received around 50 direct complaints. After preliminary investigation, the complaints involved around 1 800 electors. No further action could be taken to around 650 electors because no *prima facie* evidence was found indicating that they do not reside in the registered addresses, or because the information provided in the complaint was not sufficient for follow up. During the same period, the ERO issued a total of 885 letters of inquiry requesting the electors concerned to provide address proof, and to prove that they still reside in the registered addresses. If the letters cannot be delivered and returned, or the electors concerned do not provide valid address proof before the deadline specified in the letters, the ERO will refer the cases to law-enforcement agencies for investigation.

According to section 22(1) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation, any person who, when applying for registration as an elector, makes any statement which the person knows to be false in a material particular or recklessly makes any statement which is incorrect in a material particular or knowingly omits any material particular from such an application, response, reply, request or notice commits an offence. According to section 16(1)(b) of the Elections (Corrupt and Illegal Conduct) Ordinance, a person engages in corrupt conduct at an election if the person votes at the election after having given to an electoral officer information that the person knew to be materially false or misleading, or knowingly omitted to give material information to an electoral officer, recklessly given to an electoral officer information that was materially false or misleading.

As at 6 December 2011, the police have received 38 complaints on breach of the relevant legislation, and arrested eight persons. As at 5 December 2011, the Independent Commission Against Corruption (ICAC) has received 27 complaints on breach of the relevant legislation, and arrested 23 persons.

- (b) In response to the recommendations in the Report No. 47 of the Director of Audit, the ERO examines the final register every year and identifies all the registered addresses with seven or more electors. Except for justified and verified cases such as elderly homes, the ERO will make telephone or written enquiries to the electors concerned requesting them to confirm their address records. If an elector confirms that he has already moved out of the address or the letter issued to him cannot be delivered, the ERO will include the elector in the inquiry process in the voter registration cycle. If the elector fails to provide such written confirmation or update his residential address before the deadline specified in the inquiry letter, his name will be put on the omissions list to be published in the voter registration cycle.

Since 2006-2007, the ERO has checked a total of 2 250 addresses with seven or more electors, involving around 29 000 electors. At present, the REO carries out the checking and investigation work with the existing resources and staff.

- (c) According to section 6(1) of the Regulation that I mentioned earlier, for the purpose of preparing a register, the ERO may require a public authority to furnish such information as that ERO may specify.

According to section 30(1)(a) and (b) of the Personal Data (Privacy) Ordinance, a data user shall not carry out a matching procedure unless and until each individual who is a data subject of the personal data the subject of that procedure has given his prescribed consent to the procedure being carried out, or unless and until the Commissioner has consented under section 32 to the procedure being carried out.

The ERO has explored the possibility of carrying out cross-matching of information with a number of government departments. At present, with the consent of the Privacy Commissioner for Personal Data (PCPD), the ERO conducts a cross-matching exercise with the Housing Department (HD), Housing Society (HKHS) and Home Affairs Department (HAD) every year concerning the addresses of registered electors. Also, as a standing arrangement with the Immigration Department, the ERO matches the addresses of registered electors with addresses of the applicants for the smart identity cards, with the consent of the individuals concerned.

In making these arrangements, the ERO has observed the requirement of the Personal Data (Privacy) Ordinance.

MR ALBERT HO (in Cantonese): *Deputy President, I will particularly focus on part (c) of the Secretary's main reply in which it is stated that the REO conducts a matching exercise with the HD, the HKHS, and so on.*

May I ask the Secretary how the matching exercise is conducted and what the scope of such data matching is? According to what he has said, the current arrangement only targets households who have newly moved in by requiring them to register but no particular attention has been paid to tenants who have moved out.

In fact, my question is simple. If data matching has been conducted, and put it in other words, as long as the addresses of electors are cross checked by computer against the list of tenants provided by the HD or the HKHS, there is actually no reason — I stress, there is just no reason — for non-tenants to be able to use the addresses of these flats as their registered addresses for voter registration purposes.

May I ask the Secretary, if matching has been conducted, why there are so many people who seem to be non-tenants — especially in cases involving several electors of different surnames having registered under one address or those involving 17 or 18 electors being registered under one address — being able to

use the same flat as their registered addresses? Why have these cases happened?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I thank Mr HO for his supplementary question. Perhaps let me explain in brief here how the several departments that I have just mentioned match the data with the REO. Firstly, as I said earlier, the consent of the PCPD is required before the matching exercise can be conducted. What the HD and the HKHS will do is that if the REO finds that the address of a certain registered voter is not consistent with the information provided by the HD or the HKHS, they will check the date when the information was last updated to ascertain which data are most up to date. If the data of the HD and the HKHS are the most up to date, meaning that the elector has moved to a new address, the REO will issue a notice to the elector at the new address to inform the elector that the REO will update his or her registered address in accordance with the information of the HD or the HKHS.

In the meantime, the REO will send by registered mail the same notice to the old address of the elector. If the elector does not agree on the updated data specified in the notice, the elector can lodge objection with the REO before the specified date. The REO will further follow up the case and when necessary, launch the inquiry process.

As regards the HAD, the REO will, after obtaining the consent of the PCPD, carry out data matching with the information in the Existing Villages register of the HAD and information concerning residents' representatives, and so on. As the situation concerning the addresses of village electors is more complicated in that the information may be incomplete or there is no door-to-door mail delivery service, and so on, if there is inconsistency between the data of the REO and those kept by the HAD, the REO will issue a letter to the electors concerned, asking them to confirm their address records in reply.

Lastly, regarding the Immigration Department, if an applicant for smart identity card indicates on the application form his consent to the provision of his registered address to the REO, the Department will provide the relevant information to the REO. The REO will then update the data accordingly and issue a notice of confirmation to the elector.

Deputy President, this is how the matching of data is carried out with the several departments.

MR ALBERT HO (in Cantonese): *He did not answer the most important part of my supplementary question and that is, while the Government has put in so much effort to carry out data matching before, why are there still so many cases involving many electors being registered under one address — in some cases, as many as a dozen electors are registered under one address — and also cases involving several electors of different surnames being registered under one address? Many of these people are obviously not tenants of units developed by the HKHS or public rental housing units, but the Secretary has failed to explain why these cases have happened.*

DEPUTY PRESIDENT (in Cantonese): I see. Secretary, please.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I believe a main reason is that in the course of updating the final register every year, there will be a time lag in the process, such that we may not be able to immediately proceed with the matching procedure. This may be one of the reasons. To address this point and other concerns, we proposed some measures yesterday to require that address proof be provided for voter registration and for updating the address. We believe these new measures will address the concern raised by the Honourable Member just now.

MR FREDERICK FUNG (in Cantonese): *Deputy President, this incident has given people the impression that the problem is more serious than before, and it also involved more cases of suspected breaches of the law. In view of this incident, has the Government actually considered providing additional resources to enable the relevant department to double or increase by two times or three times the number of electors to be covered by random sampling checks, or even conduct checks on all electors across the board? Moreover, as also suggested in the community, should the provision of address proof be also required for the purpose of voter registration for the Legislative Council Election to be held in September next year?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I thank Mr Frederick FUNG for his question. With regard to resources, in order to give effect to the several measures proposed by us yesterday, the REO will indeed require additional manpower and resources. In this connection, the Government has taken the lead to set up a special team with an initial establishment of about 26 staff headed by a Deputy Chief Electoral Officer. It is hoped that these measures concerning the provision of address proof, random sampling checks and data verification can be implemented next year.

Meanwhile, it is agreed in principle within the Government that where there is a need for additional manpower and financial resources, we will not hesitate to increase such provision to the REO. Of course, if a substantial increase in quantity or number is involved, we will further seek funding from the Finance Committee of the Legislative Council when necessary. But under the present circumstances, we should be able to meet the needs by internal resource deployment for the time being.

MR KAM NAI-WAI (in Cantonese): *Deputy President, in the last paragraph of part (b) of his main reply the Secretary said that since 2006-2007, the REO has checked 2 250 addresses with seven or more electors, involving 29 000 electors. By doing some simple calculation, we can find out that there are actually 12.8 people living in one address, which is very similar to the case that we have heard of recently in which 13 electors of seven different surnames are registered under one address. I have this question for the Secretary this. In conducting the random sampling checks, did these 2 200-odd addresses already cover all addresses with seven or more electors? If such checks were conducted, did the REO conduct random checks on the address involved in the problem case revealed recently? If it did, why has it failed to detect the problem but taken prosecution action all of a sudden only now? The Secretary has recently said that changes would be made by requiring electors to provide address proof randomly. If only 2 000-odd addresses will need to be checked, why does it not conduct household visits to all of these addresses? As only 2 000-odd addresses will need to be checked, what exactly is the difficulty involved?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I thank Mr KAM for his question. First, the 2 250 cases mentioned in the last paragraph of part (b) of the main reply are cases involving seven or more electors registered under the same address, involving a total of about 29 000 electors. Investigation has found that in most cases, it is because these addresses are residential care homes for the elderly, and there are many elderly people living in these elderly homes. This is the background or reason in most of the cases.

Besides, Mr KAM asked whether checks will be conducted on all of these addresses. We will actually follow up all cases involving seven or more electors registered under the same address. As I said earlier on, one of the reasons is that there might be a time lag when the REO was following up the cases. Under the measures that we have now proposed, checks will be conducted comprehensively before the publication of the provisional register. Other than cases in which seven or more electors are registered under the same address, we will also conduct checks on all cases involving electors of four or more different surnames registered under the same address.

Third, on top of the two measures that I have just explained, we will further introduce a comprehensive measure of conducting random sampling checks on all 3.56 million electors in Hong Kong. Our preliminary proposal is to conduct random sampling tests on 3% to 5% of the electors, involving around 100 000 to 180 000 registered electors. We will ask these electors to provide address proof. I believe these measures can basically balance the address proof requirement by ensuring accuracy and credibility of the addresses on the final register on the one hand without causing too much nuisance to electors on the other. Certainly, these are just proposed measures and we still need to further listen to the views of Members at the meeting of the Legislative Council panel next Monday.

MR KAM NAI-WAI (in Cantonese): *Deputy President, in my supplementary question just now, I asked whether the authorities would conduct household visits to these 2 250 flats. In my supplementary question just now, I asked them whether they would do this or not.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, the REO will conduct household visits when they consider these cases suspicious or when they see a need to conduct such visits. In fact, they have conducted household visits before.

MR ALAN LEONG (in Cantonese): *Deputy President, an elected candidate in the last DC Election has become the focus of attention in the community. The name of this gentleman is WONG Chun-ping. I believe members of the public, like me, do not question his eligibility for candidacy but what they question is how he can become eligible for candidacy. Deputy President, as you may recall — I will give the Secretary a chance to explain, if he can explain it — amendments to the Immigration Ordinance were passed in this Council in 2002 which provided that Mainland personnel stationing in Hong Kong are not considered as ordinarily residents during their stay in Hong Kong. Summing up reports in the press, Mr WONG left the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region only in 2003 and at that time, the Immigration Ordinance had already been enacted*

DEPUTY PRESIDENT (in Cantonese): Mr LEONG, Mr Albert HO's main question is mainly about the registered addresses of electors and whether there is a problem of vote-rigging, but from what I have heard so far, I think your supplementary question has deviated from the scope of the question.

MR ALAN LEONG (in Cantonese): *Deputy President, I think the reason why Mr HO asked this main question is that the public are concerned about whether the DCs*

DEPUTY PRESIDENT (in Cantonese): I understand your concern but insofar as this supplementary question of yours is concerned, perhaps it can be dealt with only through another main question involving a different scope of discussion. What we are discussing now is whether the addresses used by the general public for voter registration are accurate and whether there is any element of vote-rigging. Please ask a supplementary question within the scope of the question.

MR ALAN LEONG (in Cantonese): *Does it mean that I can only ask a supplementary question relating to addresses?*

DEPUTY PRESIDENT (in Cantonese): Yes.

MR ALAN LEONG (in Cantonese): *In that case, I withdraw my supplementary question.*

DEPUTY PRESIDENT (in Cantonese): Alright. Ms Emily LAU is the next to ask a supplementary question.

MS EMILY LAU (in Cantonese): *Deputy President, the Secretary pointed out that as at 6 December, the police have received 36 complaints and arrested eight persons, while the ICAC has received 27 complaints and arrested 23 persons. The Democratic Party has lodged a few hundreds of complaints with the authorities but they are merely treated as one complaint. I really must ask how this could be the case. Because the relevant people in the Democratic Party who lodged the complaints are dumbfounded by this. They all have misgivings about this because in any case, the ICAC could not have just received 27 complaints.*

Besides, are the authorities going to straighten out everything before the Legislative Council Election in September next year? We have now become the focus of international attention. The Wall Street Journal has discussed this incident in its editorial today. In order to process these complaints, how much time and resource will be required to accomplish the task? The Democratic Party alone has already lodged a few hundreds of complaints, and some other political parties may even lodge thousands of complaints. The number is huge. What should be done? And the Secretary even said that the REO will process the complaints with its existing resources, Deputy President, and do you have the confidence? Will the Secretary please tell us how much time and resource is needed? For the purpose of the election to be held in September next year, the provisional register will have to be published in April or May. How much time does the Government have to deal with this problem? Will the Government

undertake to settle all the problems properly before proceeding with the Legislative Council Election?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I thank Ms Emily LAU for her question. The Legislative Council Election will certainly be held next year as scheduled. Our work objective is certainly to implement the improvement measures before the election. As I said when I presented the papers yesterday and also on other public occasions, some follow-up measures will commence on 1 January next year the earliest, and in implementing these measures, we will certainly work at full speed.

What I have said in the main reply is just the number of cases, stating the number of complaints received by the two law-enforcement agencies respectively. Of course, these cases aside, the REO has also referred cases about which it has reasonable doubts to these two law-enforcement agencies for follow-up, especially complaints received recently via two channels — media reports and the REO, and also complaints referred to us by Members of various political parties. We have followed up each of these cases and will make written enquiries, asking the persons concerned to give us a reply within one week. If we do not receive their replies or if their replies are unsatisfactory or may even arouse reasonable doubts, we will refer these cases to the police and the ICAC. In fact, many of the cases handled by us have been referred to law-enforcement agencies for follow-up. I believe the law-enforcement agencies will further take arrest actions when necessary and as corroborated by their evidence collection.

MS EMILY LAU (in Cantonese): *Deputy President, my supplementary question is about resources. Do the authorities have sufficient resources to process these hundreds of complaints and is it necessary to expeditiously provide additional resources to them?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, on the question of resources, as I said in my reply earlier, colleagues in the senior echelons of the Government attach great importance to this issue and also to the resources and manpower required to

provide the necessary support. We also have the consent of the Secretary for the Civil Service and the Secretary for Financial Services and the Treasury to provide full support to us. If we need additional resources and manpower, they will make the utmost effort to ensure that we are provided with adequate resources to process these cases expeditiously.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 25 minutes on this question. Last oral question.

Measures to Assist SMEs Amidst Global Financial Turmoil

6. **DR LAM TAI-FAI** (in Cantonese): *Deputy President, under the impact of the debt crises in Europe and the economic downturn in the United States, the external trade of Hong Kong bears the brunt and its performance deteriorated substantially. The Financial Secretary has also predicted that Hong Kong's export in the fourth quarter will continue to decrease and further hamper economic growth; there is little sign of optimism from exports to overall economic performance of Hong Kong early next year, and considerable uncertainties still cloud over economic performance in the latter half of the year. Indeed, many operators of small and medium enterprises (SMEs) have relayed to me that they are facing a series of problems in operations such as drastic decreases in orders, difficulties in financing, arrears from clients in payments for goods, high risks, high costs and high inflation, and so on, and that the crisis at present is even more acute than that during the financial tsunami. In this connection, will the Government inform this Council:*

- (a) *given that the Special Loan Guarantee Scheme (the Scheme) launched during the financial tsunami had effectively mitigated the financing difficulties of SMEs, and the sector has strongly requested the Government to relaunch the Scheme, but the Government has so far not agreed to respond to their request, of the situation of Hong Kong's overall economic performance which the Government expects to prevail before it is prepared to relaunch the Scheme;*
- (b) *whether it will consider allowing more SMEs to defer prepayment of profits tax and offering concessionary tax rates to SMEs with*

turnovers or profits below a certain threshold, so as to facilitate their capital flow and assist them in dealing with the economic difficulties at present; if it will, of the details; if not, the reasons for that; and

- (c) *given that the authorities indicated in their reply to a question raised by me on 9 November this year that they had already proposed six amendments to the Competition Bill (Bill) to give practical responses to the major concerns of various sectors, especially SMEs, but some SMEs have reflected that the six amendments still fail to alleviate the worries of SMEs and effectively resolve the numerous contentions, resulting in SMEs having to face even more uncertainties, whether the Government will, in response to the continuous deterioration of the global economic environment, consider afresh not to insist on completing the legislative exercise for the Bill within the current legislative session; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President,

- (a) The Government introduced the "Special Loan Guarantee Scheme" (the SpGS) in December 2008. It was an exceptional measure introduced during exceptional times to help enterprises tide over the credit crunch problem arising from the global financial crisis effectively. With the recent sharp downturn in the external economy, Hong Kong's economy will face greater downside risks next year.

In face of the gloomy macroeconomic outlook, we understand the requests from the trade seeking the Government to introduce effective support measures, such as relaunching the SpGS. In face of the risks of economic downturn, just as how we tackled the financial crisis in 2008, the Government would introduce effective support measures in a timely manner according to the situation to tide the trade over the difficult times. Firstly, the Hong Kong Mortgage Corporation Limited has launched a series of

enhancements to the SME Financing Guarantee Scheme (SFGS) in October this year, which include allowing the SFGS's refinancing of revolving facilities previously guaranteed by the SpGS of the Trade and Industry Department upon expiry of such guarantee; and increasing the total loan limit of high interest rate loans (that is, loans with interest rate over 10%) from HK\$50 million to HK\$100 million per financing bank, and so on. These enhancements should help encourage banks to make effective use of the SFGS to meet the financing needs of the enterprises including SMEs, especially during times of credit market stress and adverse economic climate.

In addition, the Hong Kong Export Credit Insurance Corporation (ECIC) has launched three enhanced measures earlier this month, that is, waiver of annual policy fee for one year, offering three free credit assessments of buyers and expediting the processing time of credit limit applications, so as to assist Hong Kong exporters in coping with the challenges amidst the difficult trading environment.

We will continue to closely monitor the changes in the economic situation and financial markets and introduce enhanced support measures when necessary.

- (b) The existing single profits tax rate has already reflected the fairness principle of "earning more, paying more; earning less, paying less". In the year of assessment 2009-2010, only about 83 000 corporations, accounting for 12% of registered corporations, paid profits tax. Nearly 90% of the corporations do not pay any tax. The majority of the SMEs either do not have to pay any tax or pay very small amount of tax. Nevertheless, in formulating the 2012-2013 Budget, the Financial Secretary will consider carefully appropriate measures to help enterprises rise to the prevailing challenges, having regard to the economic situation and the Government's fiscal position.

As regards holdover of provisional tax, the existing Inland Revenue Ordinance has already made flexible arrangement to cater for changes in taxpayers' income or profits. If taxpayers (including SMEs) expect that their income or profits for the current year would

be less than 90% of that of the previous year, they may lodge, not later than 28 days before the due date for tax payment, applications to the Inland Revenue Department (IRD) for holding over the whole or part of the provisional tax accordingly. In addition, if individual taxpayers are unable to pay tax on time due to financial difficulties, they may apply to the IRD for paying tax in instalments. We believe that the existing well-established arrangement can help those SMEs, whose profits are expected to decrease due to adverse economic circumstances, to arrange tax payment in a more flexible manner.

- (c) As regards the Bill, the Bills Committee of the Legislative Council has deliberated on the Government's six proposed amendments which seek to address the concerns raised by the stakeholders, in particular SMEs. Members' overall feedback is positive and the direction of these amendments is much welcomed. The Government will continue to listen to the views of Members and the general public.

The need for the enactment of a cross-sectoral competition law is manifested by the public concerns, including those of the SME operators, over the recent incidents of suspected anti-competitive conduct in certain sectors. To meet the aspiration of the community, we will continue to work closely with the Bills Committee on its scrutiny of the Bill to forge consensus and strive for the enactment of the Bill within the 2011-2012 legislative year.

DR LAM TAI-FAI (in Cantonese): *Deputy President, I believe you will also agree that government policies should be prioritized according to the actual situation. In the face of a tough economic environment, the Government should adopt a more proactive attitude and decisively roll out effective measures to help SMEs take precautions and tide over the difficulties.*

Deputy President, many SMEs have also told me that the Government should not at this time focus all its efforts and time on hard selling this controversial Bill which causes great unrest among SMEs. As a result, they are even more worried, more concerned and bear a greater pressure. In their

opinion, the Government should introduce effective relief measures during times of economic difficulty.

Therefore, in apart (a) of today's oral question, I asked, "..... of the situation of Hong Kong's overall economic performance which the Government expects to prevail before it is prepared to intends to relaunch the Scheme?" But what is the Government's reply? The Government only said that "we understand the requests from the trade" and "the Government would introduce effective support measures in a timely manner". Finally it added, "we will introduce enhanced support measures where necessary."

Deputy President, you fully understand the situation of SMEs as well as the current economic problems. So, you should know whether or not the Government has answered my main question. Certainly, you must agree that he has not. I would like to lead the Secretary to answer my supplementary question. What did he mean by "when necessary" and "in a timely manner"? Does "in a timely manner" and "when necessary" refer to a situation where the banks have entirely refused to provide loans, or when the volume of exports has dropped by double digits to a level which is even lower than that of the same period in the previous year? I hope he can tell me specifically the meaning of "in a timely manner" and "when necessary" in relation to relaunching the SpGS?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to Dr LAM for his supplementary question. In fact, from the macro perspective, the Government has provided a favorable business environment and appropriate support to the industrial and commercial sector. Given that economic conditions and prospects are three-dimensional matters, it is unrealistic to launch enhanced measures on the basis of simple indicators. We will continue to closely monitor changes in the economy and financial market in order to make three-dimensional analysis and base our decision on the market situation and the aspirations of the industry. As I mentioned earlier, we have provided a macro environment which is conducive to business operation, including a simple tax regime, low tax rates and sound infrastructure. These are all conducive to the development of Hong Kong enterprises and maintaining our international competitiveness.

Deputy President, by means of a multi-pronged approach, we have provided support in three areas including credit financing, market development and upgraded competitiveness. The three SME funding schemes, including the SME Loan Guarantee Scheme, SME Export Marketing Fund and SME Development Fund, launched by the Trade and Industry Department also aims at helping the development of local enterprises in these three aspects.

Besides, as we all know, the Supplement VIII to CEPA signed yesterday covers 301 liberalization measures so that Hong Kong service suppliers can enter the Mainland market under preferential arrangement in 47 service sectors. In fact, as I mentioned in the main reply, the ECIC has also launched new measures to help the industry expand their business to overseas markets. In this connection, the ECIC has provided a myriad of new measures such as the three measures in early December this year in response to the needs of the industry.

Deputy President, the Innovation and Technology Commission has also set up a number of funds, including the Innovation and Technology Fund, Research and Development Cash Rebate Scheme and the CreateSmart Initiative to help the industry develop in the direction of high value-addedness and high technology. As Members may also know, we have announced the setting up of a dedicated fund to support the industry in brand development, promoting domestic sales and upgrading and restructuring their operation. In fact, given the macroeconomic environment, a myriad of targeted support measures can help the industry tide over the difficult times. Certainly, we will also introduce, in view of the actual situation, special measures to support the industry in due course. We will make proper preparations and closely monitor the external changes, with particular attention paid to the difficulties faced by SMEs. We will introduce effective measures in a continuous effort to help the industry tide over the difficult times when necessary.

DR LAM TAI-FAI (in Cantonese): *Deputy President, I very much agree with the Secretary that economic problems are three-dimensional but the thinking of the Secretary is one-sided. My supplementary question is very simple. I just asked him the meaning of "when necessary" and "in a timely manner". In a lengthy reply, he has not answered my question. Could the Chair please ask the Secretary the meaning of "when necessary" and "in a timely manner" on my behalf?*

DEPUTY PRESIDENT (in Cantonese): Dr LAM, please sit down. Secretary, Dr LAM really wants to know the definition of "in a timely manner". When will that be?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, as I said just now, we will closely monitor changes in the market and the economy and introduce special measures in response to the needs. Just now I mentioned that the ECIC has introduced various measures to help the industry in this month and this year. Taking the development of the domestic market as an example, the ECIC has, starting from March, extended the insurance coverage to Hong Kong enterprises' wholly-owned subsidiaries in the Mainland and overseas as well as transactions between Hong Kong enterprises and their buyers. These measures have provided targeted assistance in response to the needs of market to help the industry tide over the difficulties.

MR ABRAHAM SHEK (in Cantonese): *Deputy President, the Secretary is not leading us in "a tour of garden", but "a tour of hell." Dr LAM's supplementary question is very clear, but the Secretary has not answered it. Although the survival of SMEs is now at stake, the Secretary maintains that he has to take a look at the situation before deciding how to deal with the problem.*

The Government in 2008, which is also the current Government, had solved the economic problems facing us and bailed out many SMEs. At present, 90% of Hong Kong people are working in SMEs. Should the Government wait until the whole building, metaphorically, has been burnt down before it is willing to bail them out? The problems confronting us now and in the future will be more serious than those in 2008.

Dr LAM's supplementary question just now is related to the overall development of Hong Kong. Perhaps other people may not understand it, but the Secretary should know better. In answering Mr Fred LI's supplementary question, the Secretary said that innovative leadership thinking is needed in a new era. We are now precisely facing the collapse of the whole economy, why does the Secretary not face the current problems in a more proactive manner so that SMEs can survive instead of bailing them out until they have demised? It

will be too late by then. Deputy President, could the Secretary answer Dr LAM Tai-fai's supplementary question?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to Mr SHEK for his supplementary question. In my reply just now, I in fact wanted to spend a little more time to explain that the Government has taken macro measures to create a favorable business environment. In citing a series of targeted support measures just now, I only wanted to tell Members that the Government will closely monitor the market developments and economic changes so that measures can be introduced in a timely manner.

In my response to the supplementary question by Dr LAM Tai-fai, I mentioned that our analysis should be three-dimensional rather than based on very simple indicators. This is a clear reply as to when more effective measures would be introduced. We have to consider a wide range of factors before making any decision. Of course, we cannot say when and what measures will be introduced at this stage. We will closely monitor the market developments and introduce timely and effective measures to support the industry in their development.

MR ABRAHAM SHEK (in Cantonese): *He has not answered my question. Does he mean that the present moment is not the timely moment, Deputy President?*

DEPUTY PRESIDENT (in Cantonese): Are you asking the Secretary whether he will be more proactive? Secretary, do you have anything to add?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, in my reply just now, I said that we will explore it in a proactive manner and follow the market closely to observe its changes in order to introduce measures proactively with a view to supporting the industry in their development.

MR PAUL TSE (in Cantonese): *Deputy President, the Secretary has reiterated three-dimensional analysis. Would the Secretary please tell us what three-dimensional analysis is? Turning to the external environment, the economy of the United States has not yet recovered while the European economy is also in distress, apart from a popular saying of the return of the United States to Asia now. Therefore, on the whole, the economic outlook is gloomy. Regarding the question on the Competition Bill by Dr LAM, it seems that the Secretary has not answered it and it seems that he will take it forward.*

I hope the Secretary can provide a three-dimensional analysis in respect of the present or next year's economic outlook. Does he think that it will be better off or worse off compared with that in December 2008? What are the reasons for his analysis?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to Mr TSE for his supplementary question. In fact, I would like to add that the Government has adopted a multi-pronged approach in implementing its measures. On the business environment, it is certainly necessary for us to introduce targeted measures which are conducive to the business environment as a whole. We will not, as Dr LAM said earlier, focus all our time and energy on the introduction of the Bill alone. The Bill is only one of the initiatives of our multi-pronged approach with the objective of helping enterprises compete in a fair business environment and preventing enterprises from being affected by unfair and anti-competitive behaviour. So, this is only one of our initiatives.

As I mentioned just now, various factors will be included in our three-dimensional analysis and we will certainly pay attention to market conditions, apart from giving consideration to the industry's aspirations. In the example I cited just now, the ECIC will introduce special measures targeted at difficulties encountered in export trade as well as loans and financing in order to alleviate the industry's export costs and provide incentives during this period of time. Decisions as to when and what measures should be introduced will depend on the macro trend of market.

Given that Hong Kong's economy as a whole is greatly affected by external factors, data for the coming year may not give us an optimistic outlook. Under

such circumstances, we will closely monitor the market situation and introduce effective measures in a timely manner.

MR PAUL TSE (in Cantonese): *Deputy President, the Secretary has not answered my question at all. I simply asked him to use a three-dimensional analysis to assess whether the situation we are facing now will be better off or worse off in comparison with that in December 2008 when the SpGS was launched and the reasons for that.*

The Secretary has only repeated his remarks. My supplementary question is very clear: How will he make the analysis? Or is it because he has no data and has not conducted any analysis?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, during this period of time, we will maintain close contact with various parties, including those who have participated in the existing loan schemes

DEPUTY PRESIDENT (in Cantonese): Secretary, have you listened carefully to Mr TSE's follow-up question? His question is in fact very simple. Is the present situation better off or worse off in comparison with that in 2008? What are the reasons? Have you made any analysis? If not, please simply say you have not.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I was going to say

DEPUTY PRESIDENT (in Cantonese): We will not be satisfied if you beat about the bush.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): We will make analysis on the basis of the economy, focus our

attention on the market situation, especially the loan schemes, apart from updating ourselves on the loans situation with the industry and the banking sector. At present, although the SpGS has not been relaunched, there are other relevant schemes, such as those introduced by the Hong Kong Mortgage Corporation Limited with the aim of providing financing guarantee to the industry. This will meet the needs of a certain aspect.

DEPUTY PRESIDENT (in Cantonese): Mr TSE, I am afraid you have to follow up the matter on other occasions.

DR LAM TAI-FAI (in Cantonese): *Deputy President, I have no intention to criticize the Secretary's ability to express himself or his disregard for SMEs. But obviously, as many Members have also heard, the Secretary has not answered our questions directly, be it my supplementary question or those of Mr Abraham SHEK and Mr TSE. He has been beating about the bush and reading from his script. I believe the public and SMEs will be very disappointed at the Secretary's way of answering Members' oral questions. Actually, we are talking not in the same wavelength, in different languages.*

I would like to ask the Secretary once again clearly and my question is very simple as it is a follow-up to his reply. He said, "We will introduce enhanced support measures when necessary." I just want him to explain the meaning of "when necessary". Does it mean when all banks have tightened credit and refused to lend money to SMEs such that all enterprises have closed down? Could he tell me clearly the meaning of "when necessary"?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I precisely want to respond to Dr LAM Tai-fai's question. We do not have any general method and criteria to determine when and what measures should be introduced. Certainly, we have to consider various factors and analyse the macro situation. At present, I cannot tell him when the timely moment is. Certainly, we will closely monitor the needs of market and introduce effective measures.

DR LAM TAI-FAI (in Cantonese): *"When necessary" does not mean the time. Does he know the meaning behind the words? "When necessary" does not mean in which year or on which day. It means under what circumstances it is "necessary" to do certain things.*

DEPUTY PRESIDENT (in Cantonese): Dr LAM, I am afraid you also have to follow up the issue on other occasions. The Secretary has in fact tried his best to answer your question, but it seems that his reply has failed you. We have spent more than 22 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Clean Fuels for Vessels

7. **MR JAMES TO** (in Chinese): *President, will the Government inform this Council:*

- (a) *given that the Government has earlier indicated that the pilot scheme for promoting the use of cleaner fuels for local ferries has been completed, of the expected time when it will submit the outcome of the pilot scheme to this Council and for public consultation; moreover, given that the Government has indicated that it has completed the consultation on regulating emissions from non-road mobile machinery which is widely used in places such as container terminals, and so on, and it plans to commence the work of enacting legislation in 2012, when the related legislative procedures are expected to complete; of the anticipated improvement in air quality of various districts across the territory upon implementation of the aforesaid scheme/plan;*
- (b) *given that the Chief Executive has proposed in his Policy Address of this year that the Government will explore with the Governments of Guangdong, Shenzhen and Macao proposals for requiring ocean-going vessels in Pearl River Delta (PRD) waters to switch to low sulphur diesel, and setting up an Emission Control Area in PRD waters, whether it knows how the existing regulatory controls over*

vessel fuels and their emission levels of Hong Kong, Macao and the Mainland compare with one another; whether liaison and meetings with the Mainland and Macao on the relevant subject matter have commenced; in addition, of the expected time when such proposal can be implemented;

- (c) *given that in response to my question in 2007, the Government indicated that "there is yet to be an internationally-recognized standard for shore power supply and facilities on board for the shipping industry", thus the proposal of providing shore power supply in public cargo working area or other berthing facilities was considered not practicable for the time being, whereas as far as I understand, there are already more than 15 ports around the world which provide shore power, among which the Port of Shanghai has provided shore power service since last year, and relevant planning has been underway in a number of ports in Taiwan, whether the Government has, in the light of the latest development in various places, started afresh any study in this regard, or liaised with Mainland, Taiwan or even international organizations of the trade to understand the relevant technological development as well as to discuss with them the formulation of trade standards; if it has, of the progress;*
- (d) *given that provisions have been made in the design of the Kai Tak Cruise Terminal for the use of shore power in future, whether the Government will consider making additional provisions of the same kind at the Kwai Chung Container Terminals, or initiating pilot schemes on the supply of shore power at various cargo working areas;*
- (e) *since the implementation of the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413M) (the Regulation) in 2008, whether there has been an increasing trend of merchant ships violating the Regulation; and up till now, of the number of spot checks conducted by the Marine Department each month, and the number of cases in which the owners concerned were convicted for excessive smoke emissions by their vessels, as well as the fines imposed; and*

- (f) *apart from the measures in parts (a) to (e), whether the Government has other plans to regulate the emission of pollutants by vessels and container terminal facilities; whether the Government will make reference to the "Green Port" policy introduced by the Mainland and neighbouring regions one after the other to reduce emissions and pollution, and initiate related studies and plans?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, with successive implementation of land-based control measures, we have seen improvement in the local air pollution. For example, from 2005 to 2010, our local air quality monitoring stations recorded a decrease in the concentrations of sulphur dioxide (SO₂) and respirable suspended particulate (RSP) by 45% and 18% respectively. Due to the increase in the maritime activities in Hong Kong and the PRD Region, emissions from the marine vessels have gradually become another source of air pollution. We need to step up our effort to reduce emissions from this source in order to further improve our air quality. The reply to the questions raised by Mr James TO is as follows:

- (a) At present, the light diesel supplied on the local market to marine vessels contains not more than 0.5% sulphur. If the sulphur content is capped at 0.1%, the territory-wide emissions of SO₂ and RSP will be reduced by 3%. We have thus completed a trial of powering local ferries with ultra low sulphur diesel and will report on the trial findings and consult the Panel about improving the quality of vessel fuels sold locally at the meeting of the Legislative Council Panel on Environmental Affairs (the Panel) on 21 December. Meanwhile, we have started seeking relevant stakeholders' views on this proposal.

As for the introduction of statutory control on the emissions of non-road mobile sources (including mobile machinery used at container terminals, airport, construction sites, and so on), we have consulted the trades on our proposal. We plan to report to the Panel on the outcome of the consultation and consult it on the final proposal in the first quarter of 2012. Subject to the Panel's support, we shall commence the necessary legislative procedures for

implementing the control proposal which is expected to complete within the 2012-2013 Legislative Session.

Emissions from non-road mobile machinery currently account for about 7% (6 800 tonnes) and 11% (600 tonnes) of the local emissions of nitrogen oxides (NOx) and RSP respectively. If all non-road mobile machinery in local use are replaced with ones meeting the proposed emission standards, local emissions of NOx and RSP can be reduced by 4.7% (4 500 tonnes) and 9% (500 tonnes) respectively. It will also help mitigate the environmental nuisance generated at container terminals and construction sites near the urban centres.

- (b) Hong Kong, Macao and the Mainland control marine emissions within their waters through implementing the requirements of the Annex VI to the International Convention for the Prevention of Pollution from Ships promulgated by the International Maritime Organization. These include restriction of fuel sulphur contents, control of emission of NOx and ozone-depleting substances, and regulation of shipboard incineration.

We have started discussion with the relevant authorities of Guangdong, Shenzhen and Macao on the regional co-operation initiatives on reducing marine emissions within the PRD waters set out in the 2011 Policy Address. We will jointly explore the feasibility of these initiatives and the way to take them forward. Meanwhile, we are also consulting the local stakeholders, including the oil companies, ship owners and the shipping industry about the proposed control initiatives, which would help us consider and work out the implementation timetable as soon as possible.

- (c) and (d)

The design of the Kai Tak Cruise Terminal has already made provisions for the use of onshore power supply (OPS) in future. We will keep closely monitoring the progress in the development of internationally harmonized technical standards for OPS and the trend

of other overseas ports in using OPS, with a view to installing relevant facilities in the cruise terminal as soon as possible.

As for container terminals, since container vessels have a shorter berthing time, switching to low sulphur diesel is more cost-effective than using OPS. We will continue to listen to the views of the industry and closely monitor the trend of overseas container terminals in using OPS to decide whether there is a need to require container terminals to install relevant facilities.

- (e) The Marine Department has not found any increasing trend of non-compliance cases of vessels since implementation of the Regulation in 2008. Dark smoke emission from ocean-going vessels is regulated under the Shipping and Port Control Ordinance, whereas that from local vessels is regulated under the Merchant Shipping (Local Vessels) Ordinance. As at November 2011, the Marine Department has carried out 3 600 surprise inspections (on average 330 inspections per month) on vessels in Hong Kong waters in relation to air pollution. Since 2008, the Marine Department has prosecuted five vessels for excessive emission of dark smoke causing nuisance. All of these vessels were convicted and the level of fine for each case ranged from HK\$500 to HK\$2,500.
- (f) The Chief Executive proposed the use of clean fuels for marine vessels in this year's Policy Address. The proposed measures include:
 - (i) explore with the governments of Guangdong, Shenzhen and Macao the feasibility of requiring ocean-going vessels to switch to low sulphur fuel while berthing at ports of Hong Kong and the PRD;
 - (ii) explore with the governments of Guangdong, Shenzhen and Macao setting up an Emission Control Area in PRD waters over the longer term; and

- (iii) study in collaboration with the relevant trades the feasibility of improving the quality of vessel fuels sold locally to reduce emissions from vessels.

We are actively following up the above proposed measures in order to reduce vessel emissions.

On the other hand, many major ship liners in Hong Kong signed up to the Fair Winds Charter (the Charter) in January this year, committing to switching to low sulphur fuel as far as possible when berthing in Hong Kong waters within 2011 and 2012. The Charter has not only reduced the emissions generated from the marine vessels around the port area, but also demonstrated the feasibility of fuel switch in Hong Kong waters, which would help us explore extending fuel switch to the whole PRD waters.

Regarding other measures to reduce emissions from container terminals, it is now a statutory requirement that the sulphur content of diesel used by non-road mobile sources (including mobile machinery and non-road vehicles) at container terminals must not exceed 50 ppm (that is, ultra low sulphur diesel). Emission reduction is also attained by switching most quay cranes to electric power, and converting more than half of the diesel-driven gantry cranes into electric or hybrid cranes. In addition, some non-road vehicles used at container terminals have been replaced by electric or hybrid models to help improve the air quality and environment of the port.

Review of Building Management Ordinance

8. **MRS REGINA IP** (in Chinese): *President, in recent years, the Government has all along been encouraging and assisting owners in multi-storey buildings to form owners' corporations (OCs) under the Building Management Ordinance (Cap. 344) (BMO) to represent all owners to deal with issues relating to the control, management or administration of the common parts of buildings under the corporate body status of OCs. The authorities have also indicated*

that they will soon conduct a review of the BMO. In this connection, will the Government inform this Council:

- (a) given that under section 40A of the BMO, the Authority or an authorized officer may, for the purpose of ascertaining the manner in which a building is being controlled, managed or administered, enter and inspect any common parts of a building, and attend meetings of an OC and inspect the records of account or other documents kept by an OC, of the number of times the authorities have invoked the powers under section 40A since 2005; and the factors that the authorities consider in deciding whether or not such powers should be invoked;*

- (b) given that Schedule 3 to the BMO stipulates that the chairman of the management committee (MC) of an OC shall convene a general meeting of the owners at the request of not less than 5% of the owners for the purposes specified by such owners, yet some owners have indicated that such general meetings are only convened when there is a dispute between the MC and the owners and when the advice offered by the District Offices regarding the dispute is not accepted or the mediation undertaken is not successful, thus such general meetings of the owners presided over by the chairmen of the MCs may inevitably invite suspicion that there may be favouritism towards one party to the dispute, whether the authorities will, when reviewing the BMO, consider introducing a statutory requirement that a general meeting of the owners shall be presided over by a third party, so as to increase fairness and transparency of the meetings and to address the owners' concerns; if they will not, of the reasons for that; and*

- (c) given that section 20 of the BMO stipulates that an OC shall establish and maintain a general fund to defray the cost of the exercise of its powers and the performance of its duties, and to pay Government rent, premiums, taxes and other outgoings in relation to any maintenance or repair work, and that an OC may also establish and maintain a contingency fund to provide for any expenditure of an unexpected or urgent nature, yet some residential property owners have complained to me that some OCs seek to reduce the*

amounts of such funds by resolutions passed at general meetings of owners, and have the shortfall of the funds in meeting the relevant expenses shared among owners according to their ownership shares, whereas at present the BMO neither restricts nor regulates the apportionment of such a shortfall, whether the authorities will, when reviewing the BMO, consider introducing provisions to plug the existing loopholes or specify the relevant arrangements; if they will not, of the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, management of private multi-storey buildings is the responsibility of all owners. Our policy objective is to encourage owners to organize themselves to effectively manage their properties. The BMO was enacted by the Government to provide a legal framework to facilitate owners to form OCs and to carry out the building management work properly in accordance with the requirements of the legislation.

To keep pace with changing circumstances since then and to address public concerns, the Home Affairs Bureau established in January 2011 the Review Committee on the Building Management Ordinance (Review Committee), which is now studying in detail common problems in building management and solutions to such problems. The Review Committee will examine if these problems should be resolved through amending the BMO. It will also make recommendations to the Government on measures to enhance the operation of OCs and protect the interests of owners. We expect that the Review Committee will submit an interim report to the Government by the first half of 2012.

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

- (a) Since 2005, there have been 11 cases of requests for the Authority (that is, the Secretary for Home Affairs) to invoke the powers under section 40A of the BMO. These cases involve conflicts between owners and OCs, as well as among owners. It is understandable that some owners would request the Government to intervene in their disputes as referees. From the Government's point of view, due consideration must be given and sufficient evidence must be

presented in exercising the power to intervene in conflicts among owners.

Staff of the Home Affairs Department (HAD) conducted in-depth investigations on each of the above cases. Upon scrutiny by the senior staff and seeking of legal advice, proposals on how the cases should be handled were made to the Secretary for Home Affairs. So far, none of the cases submitted by the HAD has recommended taking legal action. Having thoroughly weighed all relevant factors, the Secretary for Home Affairs agreed with each of the proposals and decided not to invoke the powers under the BMO.

There are prerequisites and limits on the powers vested in the Authority under the BMO. The applicability of the powers is not the same as what some owners may envisage. For instance, an owner said that there was financial problem of a building and requested the Authority to invoke section 40A of the BMO to inspect the financial statements of the OC. However, the prerequisite of exercising such power is that there must be major building management problems involved. The legislation has provided a threshold in exercising the power. Having further understanding the situation, we confirmed that the circumstance of the building did not warrant the invocation of the powers. Another example is that an owner requested the Authority to invoke section 40A to inspect the instrument for the appointment of a proxy so as to determine its validity. However, the BMO expressly provides that only the MC chairman or the person presiding at the meeting (in the absence of the chairman) has the power to make these decisions. Even if the Secretary for Home Affairs inspects the relevant proxy instruments, he does not have the authority to determine their validity. Any owner who disagrees with the decision of the MC chairman may apply to the Lands Tribunal for adjudication under section 45 and Schedule 10 of the BMO.

The powers vested in the Authority under the BMO should be exercised for the benefits of the public. Our policy objective is to encourage owners to form OCs to work together on building

management, so as to foster a harmonious living environment, ensure that the owners' interest is best protected and avoid aggravation of conflicts in the neighbourhood. Hence, we have endeavoured to resolve the disputes through communication and admonition. Nevertheless, if an OC deliberately violates the law, jeopardizes the owners' legal rights and does not take the District Office's advice, we are determined to invoke such powers.

- (b) Private buildings are owners' properties and owners have the responsibility to manage the common parts of their buildings and oversee the operation of their OCs. In this connection, owners are empowered and shall be responsible under the Ordinance to monitor whether their OC and its MC are performing their work according to the BMO. This includes if owners have any views on building management issues, a general meeting of the OC may be convened to discuss the issues within a specified time frame at the request of not less than 5% of the owners made to the chairman of the MC under paragraph 1(2) of Schedule 3 to the BMO.

An OC chairman is appointed by resolution moved by a majority of votes of the owners either voting personally or by proxy at an owners' general meeting convened under section 3, 3A or 4 of the BMO. The MC chairman, therefore, has a definite degree of representation. Moreover, all matters to be resolved at an owners' general meeting convened at the request of not less than 5% of the owners shall be decided by a majority of votes. The overall fairness and transparency of the meeting shall not be dampened by any individual persons or the person presiding at the meeting.

To further improve the procedures of OC meetings and to prevent any MC chairman from only giving notice of meeting while delaying the holding of a general meeting, an amendment to the BMO was made in 2007, with a new provision added to Schedule 3, providing that the MC chairman shall convene a general meeting of the OC at the request of not less than 5% of the owners for the purposes specified by such owners within 14 days of receipt of such a request,

and shall hold the general meeting within 45 days of receipt of such a request.

We understand the concern of some owners over the requirements in relation to the holding of OC meetings. We shall reflect their views to the Review Committee.

- (c) Financial management is important to building management. The BMO has thus made certain provisions on the financial management of OCs for their effective management of the financial matters. Under section 20 of the BMO, an OC shall establish and maintain a general fund to defray the cost of the exercise of its powers and the performance of its duties under the deed of mutual covenant and the BMO, as well as to meet the daily general expenses of the building. An OC may also establish and maintain a contingency fund for use in emergencies or when the general fund is insufficient. The amount to be contributed by the owners to both funds shall be determined according to section 21 of the Ordinance. Schedule 5 to the BMO stipulates that the MC shall draw up an annual budget for the OC in which the estimates of each expenditure item, whether paid by the general fund or contingency fund, shall be included.

It is the responsibility of the MC to prepare an annual budget based on the actual requirements of the building to ensure that the amount required to be contributed by owners is sufficient to cover the basic expenses and/or contingency of the OC and the building. If the MC is of the opinion that any sum set out in the budget is insufficient to meet the expenditure, a revised budget may be prepared. According to section 21(1A) of the BMO, if the subsequent amount determined by the MC increases by over 50% of the preceding amount, that subsequent amount shall be approved by the OC by a resolution passed at a general meeting of the OC.

We understand that some owners consider it necessary to enhance the requirements pertaining to the financial arrangements of OCs. We shall reflect their views to the Review Committee.

Progress of Retrofitting Euro II and III Buses with Catalytic Reduction Devices and Trial Run on Hybrid Buses

9. **MR JEFFREY LAM** (in Chinese): *President, in his 2010-2011 Policy Address, the Chief Executive proposed to retrofit the Euro II and Euro III buses of franchised bus companies with catalytic reduction devices to meet Euro IV nitrogen oxide (NOx) emission standards, and recommended the Government to fund the full cost of procuring six hybrid buses for use by franchised bus companies along the busy corridors in Hong Kong to test their operational efficiency. In this connection, will the Government inform this Council:*

- (a) whether it knows the respective numbers of Euro II and Euro III buses in the existing vehicle fleets of franchised bus companies in Hong Kong, and the number of buses already retrofitted with catalytic reduction devices;*
- (b) whether it has assessed the costs of retrofitting all the Euro II and Euro III buses currently in use with catalytic reduction devices; if it has, of the details, and the time required to complete retrofitting all such buses; if not, the reasons for that; and*
- (c) whether it knows the latest progress of the tests on hybrid buses; whether it has assessed when the tests will be completed; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, NOx emitted by franchised buses are one of the main reasons causing the exceedance of the Air Pollution Index at roadside. At present, over 60% of franchised buses are Euro II and Euro III vehicles which will only be completely replaced by 2019 and 2026 respectively. Since they are still in operation on the roads, if their emissions could be reduced as soon as possible, it would help improve the roadside air quality.

In some places in Europe, such as London and Belgium, they have retrofitted some of their buses with selective catalytic reduction (SCR) devices which reduce NOx emissions by about 60%. However, most public buses in these European cities are single-deckers whilst the majority of the franchised

buses in Hong Kong are double-deckers. Besides, the high operation frequency and hilly terrains in Hong Kong all cause a relative increase in the engine load of local buses. Air conditioning is also required during hot summer time. Therefore, we have to conduct a trial to retrofit Euro II and Euro III buses with SCR devices to assess the technical feasibility and its effectiveness in emission reduction. If the Euro II and Euro III buses which were already equipped with diesel particulate filters are retrofitted with SCR devices, their emission performance could be upgraded to Euro IV or Euro V level.

Our response to Mr Jeffrey LAM's questions is as follows:

(a) and (b)

As at late September 2011, the franchised bus companies owned a total of 3 906 Euro II or Euro III buses. The respective number of these buses owned by the franchised bus companies is tabulated at the Annex.

We have retrofitted three buses (comprising two Euro II and one Euro III buses) with SCR devices for trial in September 2011. We are now retrofitting the other three buses (also comprising two Euro II and one Euro III buses) for trial, and we expect the retrofit to be completed in February 2012. We shall review the initial results after the first six months of the trial to ascertain as soon as possible the feasibility of retrofitting Euro II and Euro III buses with SCR devices on a large scale and their effectiveness in reducing air pollutants. Subject to satisfactory trial results, the Government will fully subsidize the bus companies to retrofit Euro II and Euro III buses with SCR devices.

These six buses for trial involve three major bus models, representing about 1 800 Euro II and 450 Euro III buses. We have also started to look into the feasibility of retrofitting the other bus models with SCR devices with a view to launching a trial for these buses as soon as possible.

Given that some Euro II buses will retire in the next few years, we estimate that at the most about 3 700 Euro II and Euro III franchised

buses would be retrofitted with SCR devices. Based on preliminary information provided by suppliers, the cost of large-scale retrofit of Euro II and Euro III franchised buses with SCR devices is estimated to be about \$150,000 per bus. If all 3 700 buses were to be retrofitted with SCR devices, the total retrofit cost would be about \$555 million.

The time required for retrofitting all suitable buses with SCR devices depends on the number of such buses and the actual timetable for retrofit to be drawn up by the bus companies. Nevertheless, we aim to roll out the large-scale retrofit as soon as possible once the success of the trial is confirmed.

- (c) As for the hybrid bus trial, the franchised bus companies are procuring the buses. Allowing the time required for production and delivery, we expect that the hybrid bus trial in Hong Kong could commence in 2013 for a period of two years.

Annex

Breakdown Number of Euro II or III Buses
Owned by the Franchised Bus Companies
(As at late September 2011)

<i>Bus Model</i>	<i>Number of Buses</i>					<i>Total</i>
	<i>Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited</i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>New Lantao Bus Company (1973) Limited</i>	
Euro II	1 516	531	481	101	8	2 637
Euro III	1 099	10	75	18	67	1 269
Total	2 615	541	556	119	75	3 906

Verification of Addresses of Registered Electors for District Council Elections

10. **MS AUDREY EU** (in Chinese): *President, in the Report No. 47 of the Director of Audit (the Report) published in October 2006, the Audit Commission recommended the Registration and Electoral Office (REO) to explore the feasibility of requiring the applicants for voter registration (VR) or registered electors in doubtful cases to provide supporting evidence for verifying their residential addresses, and to consider verifying the residential addresses of registered electors recorded in the geographical constituencies final registers (FRs) on a sampling basis. In response to the recommendations of the Report, the Chief Electoral Officer (CEO) stated that as an established practice, the REO will clarify with the applicants by phone or in writing if the addresses in their application forms for VR are incomplete or doubtful. Furthermore, regarding those cases of more than 10 electors registered under the same address which were passed to the REO for further investigation as pointed out in the Report, CEO indicated that based on the information collected through checking the 2006 FR, making telephone enquiries, paying household visits and sending enquiry letters, the REO did not detect any suspected illegal conduct, and the staff of the REO had been vigilant in detecting any irregularities which appeared in VR forms. However, after the 2011 District Council Election, there have been extensive media reports on many suspected vote-rigging cases, including those cases involving several electors with different surnames registered under one particular address, incomplete or unspecific registered addresses, or electors who had used the addresses of residential buildings or floor levels in a building which do not exist, or of locations not for residential purposes (for example, schools, warehouses and general post office boxes, and so on) to register as their principal residence. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of cases where the registered addresses of electors were found to be incomplete or doubtful by the REO through checking the FR, making telephone enquiries, paying household visits and sending enquiry letters in each year since 2007 (with a breakdown set out in table form); whether the Government has conducted in-depth investigations into such cases; if it has, of the results (with a breakdown of the number of cases investigated in each year by investigation result and set out in table form); and*

- (b) *whether the REO will undertake to review afresh the particulars of all registered electors before publishing the 2012 provisional register to identify doubtful cases including those cases involving incomplete or unspecific registered addresses, several electors with different surnames registered under one particular address, and electors who had used the addresses of residential buildings or floor levels in a building which do not exist, or of locations not for residential purposes (for example, schools, warehouses and general post office boxes) to register as their principal residence, and so on, and to proactively investigate and follow up such cases to verify the identities of suspicious electors and applicants?*

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

- (a) At present, the Electoral Registration Officer (ERO) examines the FR every year and identifies all the registered addresses with seven or more electors. Except for justified and verified cases such as elderly homes, the ERO will make telephone or written enquiries to the electors concerned requesting them to confirm their address records. If an elector confirms that he has already moved out of the address or the letter issued to him cannot be delivered, the ERO will include the elector in the inquiry process in the VR cycle. If the elector fails to provide such written confirmation or update his residential address before the deadline specified in the inquiry letter, his name will be put on the omissions list (OL) to be published in the VR cycle.

The number of addresses checked under the above measure since 2006-2007 is set out below:

<i>Year</i>	<i>The number of addresses checked under the above measure</i>
2006-2007	287
2008	127
2009	577
2010	466
2011 (up to 9 December 2011)	793

According to the checking result of the above measure, the ERO did not identify any false declaration of the address, hence did not refer any case to the relevant law-enforcement agencies for investigation.

- (b) In the light of the recent public concerns that some electors may have made false declaration of their residential addresses, the Administration has conducted a review of the existing VR system, and has identified a number of possible measures to improve the existing VR system.

Firstly, we propose to introduce a requirement that address proofs should be provided as standard supporting evidence at the same time when a person applies for registration as a geographical constituency elector or when a registered elector applies for change in his residential address.

The Administration will need to lay down a standard as to what kind of address proofs would be accepted by the ERO, such as utility bills, and Government and bank correspondence issued within a certain period of time (say, the last three months).

Secondly, we will enhance the checking on VR. The ERO will improve the follow-up checks on undelivered poll cards by sending inquiry letters to the electors concerned by registered post to request for address proof after the electors have been contacted through telephone enquiries. If the inquiry letters cannot be delivered to the electors or the electors fails to provide the address proof before the deadline specified in the inquiry letter, their names will be included in the OL to be published in the VR cycle for public inspection.

On top of checking addresses with seven or more electors under the existing arrangements, the ERO will step up the checking based on additional parameters, such as when the number of surnames of electors in an address exceeds a certain figure. Random sampling checks on VR will also be performed and the ERO will require the electors in an address under checking to provide address proofs. Should there be any cases arising from these checking measures that

the ERO considers to be suspicious, he will refer these cases to the law-enforcement agencies without delay.

Under the existing arrangements, the checking mentioned in the previous paragraph is undertaken after the publication of the FR. To tighten control, there are merits in advancing these checks so that they can be completed before the publication of the FR. As a result, electors who have to be removed from the register could not vote at the elections following the publication of the FR. However, the statutory deadline for new registration and reporting change of addresses will need to be advanced to allow sufficient time for the ERO to complete the checking and the verification processes.

Thirdly, we will consider relevant legislative amendments. To keep the addresses in the FR up to date, we may consider legislative amendments to require registered electors to report change of registered addresses. However, since VR is voluntary and some registered electors may not report such changes if they do not plan to vote at elections, it may not be appropriate to impose sanction on them if they do not report change in registered addresses.

Another option is to introduce sanction under the electoral law for registered electors who fail to report change of addresses before the statutory deadline for reporting change of registered particulars and who vote in an election afterwards. This option can also help motivate electors to report change of addresses if they wish to vote in the election.

To complement the option mentioned in the previous paragraph and to allow time for the ERO to verify reports on change of registered addresses based on the address proofs, we will consider advancing the deadline for reporting change of addresses so that this exercise will precede that for new registrations.

Fourthly, we will enhance publicity. During election years, there will be territory-wide publicity campaigns promoting VR. With the assistance of the Independent Commission Against Corruption, the campaigns also feature messages relating to corrupt conducts in

elections, which include voting at an election after having furnished the ERO with false information. The Administration will consider allocating more resources in disseminating such messages.

We also plan to send a letter to all electors in the FR early next year to appeal to them to update their residential addresses if there is any change and explain to them the new requirement on address proof. It will be complemented by other publicity measures such as Announcements in the Public Interests and newspaper advertisements.

Furthermore, subject to the implementation of the suggestions mentioned above, the Administration will step up publicity measures as appropriate to promote public awareness of the new arrangements.

Fifthly, we will launch an additional measure, that the REO will liaise with the Buildings Department and the Rating and Valuation Department to conduct checking in the coming months on the list of buildings which have been demolished recently and buildings which will be demolished soon. This will help identify electors who may not have reported change in their addresses.

We will consult the Panel on Constitutional Affairs on 19 December 2011 on the details of the proposed improvement measures.

Hiring of Consultants by Offices of Secretaries, Policy Bureaux and Government Departments

11. **MR LAU WONG-FAT** (in Chinese): *President, will the Government inform this Council of the number of consultants hired by the offices of the Chief Secretary for Administration, the Financial Secretary and the Secretary for Justice (offices of the Secretaries), Policy Bureaux and government departments within their purview to assist their work and the expenditure incurred in each of the past 10 years, with a detailed breakdown by year and office of the Secretaries, Policy Bureau and government department?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, we do not have readily available information on the number of consultants hired by offices of the Secretaries, Policy Bureaux and government departments within their purview to assist their work and the expenditure incurred. If 10 years' information is to be collected from these government offices, substantial resources and much time would be required. Considering the time available, we have collated from various government offices the relevant information for each of the past three years as per Annex.

Annex

Hiring of consultants by government departments and Policy Bureaux

	<i>Bureau/Department</i>	<i>2008-2009</i>		<i>2009-2010</i>		<i>2010-2011</i>	
		<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>	<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>	<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>
1	Offices of the Chief Secretary for Administration and the Financial Secretary	21	8,753,246	24	9,166,050	26	9,951,000
2	Civil Service Bureau	2	1,630,600	-	-	-	-
3	Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service	-	-	2	543,500	1	723,840
4	Commerce and Economic Development Bureau	6	10,466,235.88	-	-	4	4,730,000
5	Innovation and Technology Commission	2	2,458,000	-	-	1	179,000
6	Office of the Government Chief Information Officer	6	4,318,300	12	8,043,900	4	2,434,000
7	Radio Television Hong Kong	5	2,249,619.96	2	1,187,040	10	1,566,196.50
8	Television and Entertainment Licensing Authority	9	4,730,000	4	1,108,000	13	4,540,000
9	Office of Telecommunications Authority	5	11,124,000	4	4,611,000	5	3,024,000
10	Overseas Economic and Trade Offices ⁽¹⁾	5	12,387,529	3	1,005,038	4	8,974,630

<i>Bureau/Department</i>		<i>2008-2009</i>		<i>2009-2010</i>		<i>2010-2011</i>	
		<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>	<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>	<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>
11	Trade and Industry Department	3	929,414	3	988,772	2	996,432
12	Invest Hong Kong	15	6,974,374	14	6,048,136	15	6,879,245
13	Intellectual Property Department	4	2,514,797	-	-	-	-
14	Hong Kong Post	1	272,000	3	1,898,000	5	2,598,000
15	Constitutional and Mainland Affairs Bureau	1	226,027	2	295,572	1	178,806
16	Registration and Electoral Office	-	-	-	-	-	-
17	Development Bureau (Planning and Lands Branch)	-	-	1	660,000	-	-
18	Buildings Department	64	45,153,740	32	41,597,572	24	33,790,168
19	Lands Department	4	34,198,480	10	36,198,293	12	42,249,784
20	Planning Department	15	20,054,759	7	22,539,520	15	20,637,532
21	Development Bureau (Works Branch)	5	2,031,456	3	3,495,432	4	6,526,797
22	Architectural Services Department	31	267,000,000	31	323,000,000	14	299,000,000
23	Civil Engineering and Development Department	29	187,783,910	34	268,210,148	19	262,685,233
24	Drainage Services Department	5	89,340,000	5	77,750,000	4	73,160,000
25	Electrical and Mechanical Services Department	3	7,381,524	3	5,472,649	-	3,532,989
26	Water Supplies Department	17	45,780,000	17	93,261,000	12	106,597,000
27	Education Bureau ⁽²⁾	2	1,370,052	4	2,308,429	3	3,009,700
28	Student Financial Assistance Agency	-	0	-	0	1	102,625
29	University Grants Committee	6	2,539,866	7	1,603,260	2	402,215
30	Environment Bureau	3	5,235,925	1	1,400,000	-	-
31	Environmental Protection Department	14	46,637,426	4	8,714,400	22	55,995,275
32	Financial Services and the Treasury Bureau	2	20,390,000	-	0	3	1,564,000
33	Companies Registry	1	45,800	1	43,200	2	813,529
34	Office of the Commissioner of Insurance	-	0	2	3,300,000	-	0
35	Official Receiver's Office	1	1,932,101	1	2,168,370	-	0
36	Audit Commission	1	99,699	-	0	-	0
37	Government Property Agency	1	684,000	-	0	-	0

	<i>Bureau/Department</i>	<i>2008-2009</i>		<i>2009-2010</i>		<i>2010-2011</i>	
		<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>	<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>	<i>Numbers of consultancy services contracts signed</i>	<i>Consultancy Fee (\$)</i>
38	Rating and Valuation Department	1	2,171,344	3	2,275,399	-	0
39	Treasury	3	1,262,428	6	3,062,144	2	798,448
40	Food and Health Bureau	9	4,062,686	18	14,831,739	12	6,848,539
41	Agriculture, Fisheries and Conservation Department	-	-	1	377,000	-	-
42	Food and Environmental Hygiene Department	5	2,461,000	1	41,000	2	184,000
43	Department of Health	5	1,121,260	4	956,455	7	3,654,320
44	Home Affairs Bureau	2	1,497,500	6	9,526,000	6	3,696,800
45	Home Affairs Department	7	62,530,000	1	810,000	8	77,850,000
46	Information Services Department	1	1,300,000	1	1,400,000	-	-
47	Leisure and Cultural Services Department	9	3,767,902	11	7,408,491	12	9,475,000
48	Labour and Welfare Bureau	3	6,059,588	-	0	4	3,552,643
49	Labour Department	1	1,000,000	2	840,000	-	0
50	Social Welfare Department	2	2,140,075	-	0	3	3,007,750
51	Security Bureau	2	302,000	2	788,800	2	1,415,000
52	Correctional Services Department	-	-	2	799,998	1	256,000
53	Fire Services Department	3	3,740,000	5	6,030,000	3	3,060,000
54	Immigration Department	-	-	1	3,998,495	1	2,885,000
55	Government Flying Service	-	-	1	39,000	-	-
56	Transport and Housing Bureau (Transport Branch)	2	2,462,500	2	5,583,500	2	3,590,400
57	Civil Aviation Department	1	740,000	3	1,266,131	-	-
58	Marine Department	-	-	-	-	3	8,192,500
59	Highways Department	17	108,400,000	18	86,500,000	16	612,400,000
60	Transport Department	13	10,371,000	13	10,904,000	25	27,599,000
61	Housing Department	4	23,329,560	1	2,669,800	12	40,836,482
62	Independent Commission Against Corruption	-	0	-	0	1	935,000
63	Judiciary	-	0	-	0	1	7,150,000
	Total	379	1,085,411,723	338	1,086,725,233	351	1,774,228,878

Notes:

- (1) Consultancy fee in foreign currencies is converted into Hong Kong dollars using the exchange rate as at 1 April of the respective financial year. As for US dollar, the exchange rate fix at US\$1 = HK\$7.8.
- (2) The consultancy services contracts only include studies on public policy and strategic public policy for which funds had been allocated between 2008-2009 and 2010-2011.

Food Prices in Districts with High Concentrations of Low-income Families

12. **DR DAVID LI:** *President, according to the findings announced in June this year of a survey conducted by a trade union organization which compared the prices of selected commodities at wet markets in various districts, the food prices in the wet markets in Tung Chung are the highest in Hong Kong, even though it is one of the poorest districts in the territory. In this connection, will the Government inform this Council:*

- (a) whether it had conducted any comparative survey of the prices of basic food items in the Consumer Price Index (CPI) by District Council district in the past three years; if it had, how the outcome compares with the aforesaid survey findings;*
- (b) whether it had studied in the past three years the reasons why food prices were higher in certain districts with high concentrations of low-income families; if it had, of the findings; and*
- (c) whether it has assessed if the issue in part (b) should be addressed through greater government intervention, or through greater transparency and better operation of the free market through measures including the introduction of legislation?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT:

President,

- (a) and (b)

The Administration does not compile data on prices of basic food items in the CPIs by District Council districts. For compiling the CPIs, the Census and Statistics Department collects price data of consumer goods and services through a Monthly Retail Price Survey which is designed to collect price data for reflecting the change in consumer prices for the overall economy in Hong Kong.

- (c) The Consumer Council undertakes a Weekly Price Survey project the objective of which is to inform consumers of possible price differentials among shops in a particular district at a particular point in time. Under this project, the Council selects a district each week and surveys the retail prices of some 40 food items and daily necessities put up for sale by some 20 retail points of different nature. Although the project does not seek to compare prices across districts, it helps enhance price transparency and facilitate the flow of market information, thereby helping consumers make smarter shopping choices.

Separately, we have introduced the Competition Bill into the Legislative Council. The Bill seeks to tackle anti-competitive agreements or abuse of a substantial degree of market power that prevent, restrict or distort competition in Hong Kong. While the Bill does not target at market structure, it seeks to safeguard a level-playing field in the market by deterring and sanctioning anti-competitive conduct, thereby promoting sustainable competition, enhancing economic efficiency and bringing benefits to different sectors of the community.

Guidelines on Industry Best Practices for External Lighting Installations

13. **MR JAMES TO** (in Chinese): *President, in March this year, the Government informed this Council of its study on regulating external lighting installations for resolving the issues of energy wastage and light nuisance. It also proposed to set up the Task Force on External Lighting (Task Force) and formulate the Guidelines on Industry Best Practices for External Lighting Installations (Guidelines). The Government stated in its paper that it "plan(s) to set up the Task Force in the second quarter of 2011" and "would write to all stakeholders and invite their comments in the next three months before the draft guidelines are finalized for promulgation". However, when I met the representative of the Environmental Protection Department in September this year, the representative said that the consultation on the Guidelines was still in progress. It was until October that the Secretary for the Environment indicated*

the Guidelines would be promulgated at the end of this year. In this connection, will the Government inform this Council:

- (a) of the stakeholders being invited by the authorities to give their comments on the Guidelines; the comments collected and whether the authorities will report such comments to the public and this Council;*
- (b) given that the Task Force could not be set up in the second quarter of this year as scheduled, why the authorities could only complete the procedure for appointing Task Force members in August this year; of the work progress of the Task Force so far, and whether it has started the work on collecting public views as well as publicity and education, and so on; if it has, set out in chronological order all the work done and dates of meetings held; and*
- (c) given that the authorities have not yet promulgated the Guidelines, and the establishment of the Task Force has been delayed, whether, according to the estimation of the authorities, the Task Force can complete its work in early 2012 as scheduled; if not, of the measures in place to expedite the work progress which is behind schedule at present; and when the authorities expect to promulgate the Guidelines?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, the Government is concerned about the problems caused by external lighting. The Environment Bureau commissioned in 2009 a consultancy study on external lighting to look into the issues of energy wastage and light nuisance that may be caused by external lighting installations. The study looked into the experiences of metropolises of similar situation with Hong Kong in handling external lighting problem, surveyed the views of relevant stakeholders, and researched into the usage of external lighting in Hong Kong.

In light of the findings of the consultancy study, we briefed the Panel on Environmental Affairs of the Legislative Council in March 2011 on the proposed measures to deal with issues related to external lighting installations. These

proposed measures include promulgating a set of the Guidelines to encourage voluntary actions to minimize light nuisance and energy wastage. Meanwhile, the Government will lead by example and adopt appropriate measures to avoid its external lighting installations from causing nuisance to nearby residents. We also proposed to set up a Task Force to study the issues of energy wastage and light nuisance caused by external lighting installations, and prepare recommendations for submission to the Government. We have since been implementing the various proposed measures.

Our replies to the specific questions raised by Mr James TO are as follows:

- (a) The Guidelines set out some general good practices on design, installation and operation of external lighting installations for the reference of lighting designers, contractors, owners and users. The Guidelines cover operating hours for lighting, automatic controls for lighting, light pollution control measures and energy efficiency measures. The Government consulted about 100 bodies from different stakeholder groups on the Guidelines, including professional institutions, trade associations, green groups, property-related associations, tourism-related bodies, and district bodies. Among the views received, the majority supported the issue of the Guidelines and suggested striking a balance between protecting the environment and catering for actual operational needs when dealing with issues on external lighting. Some were of the view that apart from issuing a set of voluntary guidelines, the Government should introduce legislation in the long run to regulate external lighting.

We have taken due consideration of the views received and consulted the Task Force. While the Task Force will study the applicability of different options to regulate external lighting in the local context and their related technical standards, it also agreed that the Government should first promulgate the Guidelines to encourage early action by stakeholders to minimize the problems that may be caused by external lighting. The Government will issue the Guidelines as soon as possible.

(b) and (c)

The Environment Bureau set up the Task Force in August 2011, with members drawn from different professional bodies, relevant trades and green groups. The terms of reference of the Task Force include developing technical standards and parameters suitable for regulating external lighting in Hong Kong, having regard to international experience and practices; engaging different stakeholders to forge a consensus; and advising the Government on the way forward to tackle nuisance and energy wastage caused by external lighting.

The Task Force has already commenced its work in full. Since August 2011, the Task Force and its Working Groups have held four meetings to receive a briefing by the consultant on overseas experiences in tackling external lighting problems, and map out the direction of future work. The Task Force is now studying whether the technical standards and parameters in different overseas cities are applicable to Hong Kong. It will organize in the near future briefings on the Guidelines for stakeholders and solicit their views on how to regulate external lighting in Hong Kong.

Light nuisance and energy wastage caused by external lighting involve issues of high complexity. Different stakeholders and relevant sectors of the community may have different views. The Task Force will continue to actively pursue its work highlighted above and listen to the views of various stakeholders.

Woman Health Centres and Maternal and Child Health Centres

14. **MS EMILY LAU** (in Chinese): *President, woman health service is currently provided in three Woman Health Centres (WHCs) and 10 Maternal and Child Health Centres (MCHCs) under the Department of Health (DH). In this connection, will the executive authorities inform this Council:*

- (a) *of the respective monthly statistics on the cases on the waiting list for woman health service in each WHC and MCHC last year;*
- (b) *whether they will set up additional WHCs; if they will, of the details; if not, the reasons for that; and the costs required for setting up an additional WHC; and*
- (c) *whether they will consider splitting the units in MCHCs which provide woman health service at present and upgrading them to formal WHCs; if they will, of the details; if not, the reasons for that; and the costs involved?*

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

- (a) The Government has always attached importance to health promotion and disease prevention among the whole population and provided services specifically for different age groups and genders having regard to their health needs and risks. On promotion of health among women, comprehensive and integrated services are provided for women aged 64 or below at three WHCs and 10 MCHCs (on a sessional basis) under the Family Health Service of the DH. The services include health promotion and counselling on specific topics (for example, healthy lifestyle, menstrual problems, bone health, breast awareness and mental health) and health assessments (physical check-up, and appropriate screening tests conducted according to individual circumstances, for example, blood tests, cervical cytology screening and mammography). Referrals will also be made to specialists as appropriate.

The waiting time for woman health service varies in different districts, ranging from about one week to four months on average. The DH does not have the respective monthly statistics on the waiting time for woman health service at each WHC and MCHC last year. The quarterly statistics on the waiting time for physical check-up at each WHCs and MCHCs are as follows:

Table (1): Quarterly statistics on the waiting time for physical check-up at WHCs and MCHCs last year

WHCs/MCHCs		<i>Waiting time (weeks) 2010-2011</i>				
		<i>2010 (October to December)</i>	<i>2011 (January to March)</i>	<i>2011 (April to June)</i>	<i>2011 (July to September)</i>	
WHCs		Chai Wan	1	1	1	1
		Lam Tin	9	8	13	15
		Tuen Mun	2	3	3	2
MCHCs	Hong Kong Island	Ap Lei Chau	2	1	4	2
		Sai Ying Pun	2	2	2	3
	Kowloon	Wang Tau Hom	4	2	2	2
		West Kowloon	6	6	10	15
	New Territories West	Tsing Yi	2	6	7	6
		South Kwai Chung	6	6	3	3
	New Territories East	Lek Yuen	8	8	8	8
		Ma On Shan	2	2	3	2
		Fan Ling	5	3	5	4
		Tseung Kwan O Po Ning Road	2	1	2	3

- (b) The DH has been striving to promote woman health through different channels. Apart from promoting through its WHCs and MCHCs, the DH has also collaborated with various community organizations, non-government organizations and different women groups to promote woman health. Other organizations such as the Family Planning Association of Hong Kong also provide a wide range of health promotion programmes, including non-profit-making

woman health services. The Government has no plan to set up additional WHCs at this stage, but will continue to keep in view the demand for and utilization of the relevant services. Information on woman health is also available at the DH's websites. The DH will continue to promote woman health and enhance health awareness among women through different channels.

The costs of setting up an additional WHC vary due to many factors, such as the service quota, number of healthcare professionals and clerical staff, facilities of clinics and the rent of the premise. It is difficult to estimate the costs involved in setting up an additional WHC. In 2011-2012, the financial provision for three WHCs is about \$14.7 million.

- (c) The quality and scope of service of the woman health service provided by WHCs and MCHCs are the same. To utilize the resources more effectively, the Government has no plan to separate woman health service from MCHCs at the moment.

Spurious Proprietary Medicines Sold to Mainland Tourists

15. **MR PAUL TSE** (in Chinese): *President, it has been reported that a large number of unscrupulous pharmacies have emerged at tourist spots in Hong Kong in recent years, and they are suspected of covering the brand names on the package of fake proprietary Chinese medicines with price labels and selling these spurious medicines specifically to Mainland tourists. It has also been reported that even though the police officers, after receiving the complaints, have come to the pharmacies involved, they only settle the cases by mediation. The defrauded tourists vent their grievances at various forums on the Mainland, and some of them even indicate that they have lost their confidence in shopping in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of complaints received by the police, Hong Kong Customs and Excise Department (the Customs), Hong Kong Tourism Board (the TB) and Consumer Council (CC) in the past three years involving any shop alleged to be selling fake proprietary medicines; how such government departments and organizations handled the relevant cases after*

receiving the complaints; among the complaints, of the number of those in which the persons-in-charge of the shops involved were prosecuted due to such selling activities;

- (b) in the past three years, of the number of the aforesaid complaint cases which the police dealt with by mediation only, and the respective reasons why after receiving the relevant complaints, the police did not lay any charge or initiate any investigation;*
- (c) given that tourists stay in Hong Kong for a brief period, of the existing policies and measures to provide timely assistance to tourists suspected to be defrauded during their stay in Hong Kong; and*
- (d) of the existing policies and measures to deal with the aforesaid shops which sell fake proprietary medicines by means of fraud; in addition, how it will clearly inform the Mainland tourists visiting Hong Kong of such policies and measures, so that they know the channels through which they can lodge complaints and make reports, and the measures for protecting consumers and their rights in Hong Kong?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President,

- (a) At present, the Trade Descriptions Ordinance (the TDO) (Cap. 362) prohibits any person from applying false trade descriptions to goods in the course of trade and from applying forged trademarks or any marks which may cause another person to be deceived. The Customs is responsible for the enforcement of the TDO.

In the past three years, the Customs received 232 complaints relating to shops suspected of selling fake proprietary medicines. The Customs investigated and analysed all cases, including inviting trademark owners to verify the authenticity of the relevant goods. The Customs instituted prosecutions in relation to 54 cases, and 55 persons or companies were convicted eventually. Details are as follows:

<i>Year</i>	<i>Number of complaints</i>	<i>Number of prosecutions</i>	<i>Number of convictions (persons/companies)</i>
2008	49	20	25
2009	63	16	8
2010	70	15	9
2011 (January to October)	50	3	13

In the past three years, the CC received 78 complaints relating to shops suspected of selling fake proprietary medicines. If there is preliminary evidence that the sale of fake proprietary medicines might be involved, the CC refers the case to the Customs for investigation after securing consent from the complainant. The CC also assists in mediation on complainants' request. Relevant figures are as follows:

<i>Year</i>	<i>Number of complaints</i>
2008	11
2009	22
2010	27
2011 (January to October)	18

In the past three years, the TB received five complaints relating to shops suspected of selling fake proprietary medicines. The TB referred all of them to the Customs and the CC for follow-up. The relevant figures are as follows:

<i>Year</i>	<i>Number of complaints</i>
2008	0
2009	1
2010	2
2011 (January to October)	2

The police does not keep statistics on cases involving shops suspected of selling fake proprietary medicines.

- (b) The police handle each complaint in a serious manner. If fraud, deception or other criminal elements are found, they will investigate and take appropriate follow-up actions in accordance with the law. The police will institute prosecution against the suspect if sufficient evidence for criminal charges is found.
- (c) The Customs set up quick response teams in March 2009. On duty around the clock, and ready to arrive at case scenes quickly, they attend to consumer complaints (including those of short-haul visitors) immediately. Meanwhile, the Customs liaises closely with the police, the CC and the TB, with effective complaint referral mechanisms established. Visitors who have departed from Hong Kong may also lodge complaints to the Customs by email or letter from their homes. The Customs will follow up accordingly.
- (d) The Customs is committed to protecting the interests of consumers and tourists. Apart from deploying additional staff for conducting inspection in shopping areas during long holidays, it also gathers information and intelligence for analysis and risk profiling. It will conduct targeted checks against high-risk shops which are suspected of selling fake goods or goods with misleading mark. When necessary, the Customs will conduct undercover operations or purchase goods for further analysis and testing.

Besides, the Customs and the CC work closely together to raise consumer awareness. For example, the Customs has articles on the outcome of enforcement actions and prevalent unfair trade practices published in the CC's monthly "*Choice*" magazine. Since February this year, the CC has put up information on shops which were convicted of selling counterfeit drugs in its "*Choice*" magazine and the "Shopsmart" site to deter unscrupulous traders. As at the end of November, the CC has named 29 pharmacies.

Apart from stepping up enforcement, the Customs also attaches great importance to the promotion, publicity and education work on consumer protection legislation. The Customs distributes pamphlets to tourists, organizes seminars for the trade, and broadcasts Announcements in the Public Interests to raise consumer awareness.

Special Learning Needs of Ethnic Minority School Children

16. **MR ABRAHAM SHEK:** *President, it has been reported that an ethnic Indian boy with an intelligence quotient of 120 to 129, which is close to the benchmark of 130 for prodigies, in accordance with a cognitive test he took using the "Wechsler Intelligence Scale for Children", has been schooled at home for two years. His parents pointed out that they could not find a suitable school to satisfy his special learning needs, as several schools had refused their demand to admit the boy into a more advanced class. Moreover, the Education Bureau has failed to find a proper school for the boy in two years. In this connection, will the Government inform this Council:*

- (a) whether it knows the number of gifted ethnic minority children who had been schooled at home in the past three years; and of the details and the reasons why they did not attend school;*
- (b) whether it knows which schools currently offer Chinese-language education to ethnic minority students, the number of ethnic minority students admitted to each of such schools in the past three years and the districts where the schools are located;*
- (c) given that several schools, as reported, have refused some parents' requests for admitting ethnic minority students, according to the authorities' assessment, whether this constituted indirect discrimination against ethnic minority students; if yes, of the details; if not, the reasons for that; and*
- (d) of the reasons why the Education Bureau has failed for two years to arrange a school which suits the special learning needs of the aforesaid ethnic Indian boy, and whether any relevant party involved has to bear legal liability for the reported incident; if yes, of the details with any follow-up measure taken?*

SECRETARY FOR EDUCATION: President, my reply to the question raised by Mr SHEK is as follows:

- (a) and (d)

The Government's policy is to provide nine-year free and universal basic education for children aged between six and 15, irrespective of

gender, ethnic origin as well as physical and mental ability. From the educational perspective, it is in the best interest of children to receive education in schools, which provide a more balanced and structured formal curriculum and extra-curricular activities as well as opportunities for interaction with peers and teachers. All these are essential for children's all-round development, covering the domains of ethics, intellect, physique, social skills and aesthetics. Gifted students are generally catered for through school-based gifted education programmes.

Regarding the specific case, the Education Bureau has repeatedly endeavoured to arrange for the student concerned to enrol in schools appropriate to his age and abilities and which offer a broad and balanced curriculum to facilitate his all-round development. These schools include designated schools which support non-Chinese speaking (NCS) students, schools which provide school-based gifted education programmes and schools which offer non-local curriculum. Since the requirements for admission and skipping level of the proposed schools differed from the aspirations of the student concerned and his parents, he finally declined all offers.

In response to the requests of the student concerned and his parents, the Education Bureau has also made special arrangements to provide gifted education services for him. He has been taking the Education Bureau Web-based Learning Courses since 2009, including Earth Science (with one-week intensive teaching in the summer programme), Mathematics and Astronomy. Since early 2011, he has also started to take the credit-bearing course "Boundless Adventures in Science" run by the Hong Kong Academy for Gifted Education.

In handling non-attendance cases of students aged below 15, the Education Bureau will first contact the parents concerned to identify the reasons for their child leaving schools and then provide the necessary support services. The Education Bureau will continue to persuade the parents to let their child receive balanced and structured formal education in school. The Education Bureau does not have any breakdown of non-attendance cases with regard to the category of gifted students.

- (b) All public sector schools and Direct Subsidy Scheme (DSS) schools offering the local curriculum provide students, including NCS students, with opportunities to learn the Chinese language. The number of public sector and DSS schools admitting NCS students and the number of NCS students in the past three years are set out at the Annex.
- (c) As regards the Race Discrimination Ordinance, the Education Bureau has reminded all educational establishments of their responsibilities to endeavour to support the teaching and learning of all students irrespective of race, to create an accommodating environment for ethnic diversity in schools, to respect cultural and religious differences and to maintain communication with parents. Should there be cases, we will contact the schools concerned to understand the situation and take follow-up actions as appropriate.

Annex

Number of Schools Admitting NCS Students and Number of NCS Students
in the 2009-2010, 2010-2011 and 2011-2012 School Years

Primary Schools

<i>District</i>	<i>2009-2010</i>		<i>2010-2011</i>		<i>2011-2012</i>	
	<i>Number of Schools</i>	<i>Number of NCS Students</i>	<i>Number of Schools</i>	<i>Number of NCS Students</i>	<i>Number of Schools</i>	<i>Number of NCS Students</i>
Central and Western	16	235	16	291	17	377
Eastern	18	60	19	58	19	69
Islands	15	372	15	506	15	573
Kowloon City	27	172	26	281	25	350
Kwai Tsing	26	570	24	704	22	842
Kwun Tong	16	871	19	951	19	929
North	9	22	10	19	9	20
Sai Kung	14	67	12	100	16	134
Sha Tin	20	83	17	70	18	72
Sham Shui Po	12	719	14	840	16	816
Southern	8	21	6	16	5	13
Tai Po	9	27	10	27	11	29
Tsuen Wan	14	69	16	51	17	48
Tuen Mun	23	510	22	487	26	518

<i>District</i>	<i>2009-2010</i>		<i>2010-2011</i>		<i>2011-2012</i>	
	<i>Number of Schools</i>	<i>Number of NCS Students</i>	<i>Number of Schools</i>	<i>Number of NCS Students</i>	<i>Number of Schools</i>	<i>Number of NCS Students</i>
Wan Chai	18	1 035	17	1 019	18	958
Wong Tai Sin	13	271	11	309	12	331
Yau Tsim Mong	19	831	18	862	16	901
Yuen Long	38	545	35	646	37	723
Total	315	6 480	307	7 237	318	7 703

Secondary Schools

<i>District</i>	<i>2009-2010</i>		<i>2010-2011</i>		<i>2011-2012</i>	
	<i>Number of Schools</i>	<i>Number of NCS Students</i>	<i>Number of Schools</i>	<i>Number of NCS Students</i>	<i>Number of Schools</i>	<i>Number of NCS Students</i>
Central and Western	10	187	10	233	10	305
Eastern	14	405	15	415	14	470
Islands	7	364	8	557	9	730
Kowloon City	23	99	24	125	21	142
Kwai Tsing	21	32	21	57	18	75
Kwun Tong	15	850	14	1 011	13	1 194
North	7	14	9	18	6	16
Sai Kung	13	51	12	66	12	114
Sha Tin	24	268	22	239	21	241
Sham Shui Po	16	923	16	926	18	1 068
Southern	10	47	11	46	11	43
Tai Po	5	8	6	25	6	29
Tsuen Wan	8	17	8	22	9	29
Tuen Mun	20	227	18	384	20	581
Wan Chai	11	138	12	208	12	278
Wong Tai Sin	12	23	10	18	9	18
Yau Tsim Mong	11	623	11	676	13	796
Yuen Long	21	130	27	210	29	244
Total	248	4 406	254	5 236	251	6 373

Notes:

- (1) The figures refer to the position as at September of the respective school years. The figures for 2011-2012 are provisional.
- (2) The figures cover public sector schools and DSS schools, but exclude special schools.
- (3) The counting of primary schools is down to session level, that is, a school with AM, PM and whole-day sessions is counted as three separate schools.

Safety of Food Containers Containing Bisphenol A

17. **MR FREDERICK FUNG** (in Chinese): *President, an earlier study conducted by the Harvard University in the United States found that the urinary Bisphenol A (BPA) level in people who consumed canned soup was 20-fold higher than that in people who consumed fresh soup. The academic leading the study pointed out that in order to prevent metallic substances (for example, stannum) in food cans from leaching into the food inside the cans, manufacturers add BPA in the interior coating of cans, resulting in indirect human intake of BPA. Although the aforesaid study has not assessed the potential health risks of BPA intake, past studies have found that BPA may suppress male sex hormones, resulting in indistinct sexual characteristics. In addition, other studies have found that BPA may cause cardiovascular diseases, diabetes, obesity and cancer. At present, the United Kingdom has enacted legislation to stipulate that stannum and BPA in canned food containers cannot affect the quality of food. Canada, Australia and the European Union have also banned the use of BPA or encouraged the industry to stop using BPA to produce baby bottles. In this connection, will the Government inform this Council:*

- (a) *what safety regulations the authorities have imposed on food cans or other food containers (particularly to avoid the materials used for making food containers and the chemicals therein from polluting the food inside the cans or containers and affecting the health of consumers) at present; how the relevant ordinances and regulations in Hong Kong compare with those in other advanced countries; and*
- (b) *whether the authorities will draw reference from the practices adopted in the aforesaid countries and take preventive measures to ban the sale of any baby bottle made from BPA in the market, and whether they will draw reference from the aforesaid study and the practices in countries such as United Kingdom, and so on, to formulate safety standard for the materials used for canned food containers, so as to stipulate that substances such as stannum and BPA, and so on, contained in food cans cannot pollute the food inside the cans; if not, of the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, BPA is a widely used industrial chemical. As an ingredient of food contact materials, it can be used in polycarbonate (PC) baby bottles and water bottles, and epoxy resin coatings in can linings. BPA has low acute toxicity and does not cause cancer. Some studies on experimental animals suggested that low dose of BPA may have adverse effects on the animals' nervous system, behaviour during the developmental period and reproductive system. However, other studies indicated no such effect.

Local and overseas data showed that the migration levels of BPA from PC baby bottles were very low or even not detectable. The Centre for Food Safety (CFS) has been closely watching the relevant scientific researches and risk assessments at the international level. The current dietary exposures to BPA in humans are well below the safety reference dose.

In November 2010, an international panel of experts established by the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) of the United Nations held a meeting to assess the safety of BPA. The meeting considered that, based on current knowledge of BPA, it was premature to use study results of low dose of BPA on experimental animals to realistically assess the human health risk. The CFS will closely monitor the international development on latest risk assessment work.

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

- (a) 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. If any food is assessed to be hazardous to health, the CFS will take vigorous follow-up action, including research and testing, to ensure food safety.

The current regulatory control on tin (stannum) levels in food in Hong Kong is comparable to the standards set by the Codex Alimentarius Commission (Codex standards). The CFS is reviewing the local standards, with a view to harmonizing with

Codex standards. While there is no regulatory control on BPA in food in Hong Kong at present, the CFS will keep in view the latest international development in this aspect.

In addition, the safety of general consumer goods for sale in Hong Kong, which includes baby bottles and food containers generally available on the market, is regulated under the Consumer Goods Safety Ordinance (Cap. 456). It is an offence for any person to import, manufacture or supply consumer goods unless they comply with "the general safety requirement". Generally speaking, if the goods can meet overseas or international safety standards (such as the standards of the Mainland, the United States, the EU, Australia or Japan), they will be considered as meeting the requirements under this Ordinance. The Customs and Excise Department (the C&ED) is responsible for the enforcement of this Ordinance.

In the case of baby bottles and food containers generally available on the market, the testing standards adopted by the C&ED draws reference mainly to the European Standard established by the European Committee for Standardization, that is, BS EN 14350-2:2004 "Child use and care articles — Drinking equipment — Part 2: Chemical requirements and tests". The maximum acceptable level of BPA migration specified by this standard is 0.03 µg/ml. Over the past three years (from January 2009 to October 2011), all samples of plastic baby bottles, water bottles and food containers drawn by the C&ED from the market for safety testing by the Government Laboratory were found to comply with the above standard.

- (b) Canada and the EU banned BPA in baby bottles in March 2010 and June 2011 respectively. The CFS consulted the Expert Committee on Food Safety (Expert Committee) regarding BPA in January and December 2011. The Expert Committee agreed to the above conclusion made by the international panel of experts established by the WHO and the FAO that it was premature to use study results of low dose of BPA on experimental animals to realistically assess the human health risk. The CFS will continue to closely monitor the international development on latest risk assessment work.

Meanwhile, the CFS will update the trade on latest information on overseas regulatory control of BPA and advise the public on the proper use of food containers to minimize the risk of chemical contaminants migrating from food containers. Recommendations include using containers according to product instructions; not pouring boiling water or liquid at high temperature into plastic milk bottles and containers; and not using plastic tableware to hold hot oil, deep-fried food or highly acidic foods. In addition, to further reduce the migration of BPA from the can in the case of canned foods, the CFS advises the public to take the food out from the can for heating; not to use empty cans for cooking; and not to store leftover food in opened cans.

Regarding the regulation of tin in food, Schedule 2 of the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V) stipulates that the maximum level of tin in certain specified foods is 230 parts per million. Through its routine surveillance programme, the CFS takes food samples at import, wholesale and retail levels for testing of tin in food. Since 2010, no food sample has been found with unsatisfactory level of tin.

Relocation of Lingnan Primary School and Kindergarten

18. **MISS TANYA CHAN** (in Chinese): *President, recently, some parents of the primary school section of the Lingnan Primary School and Kindergarten (LPSK) have relayed to me that the primary school section of LPSK will be relocated in January 2012, yet the parents of the students of LPSK have not been informed of any detail so far. In this connection, will the Government inform this Council:*

- (a) *given that LPSK has indicated that it will officially close down the school campus situated at Stubbs Road in January 2012, whether the Lingnan Education Organization (the school sponsoring body) has informed the authorities of the relevant relocation arrangements; if it has, of the details;*

- (b) *as I have learnt that the school sponsoring body has rented a campus at Cheerful Garden in Siu Sai Wan, whether the authorities know the permitted accommodation of that campus;*
- (c) *as it has been reported that a developer has applied to the Town Planning Board for developing residential properties on the site of the former Lingnan College, and quite a number of parents are concerned whether the school sponsoring body have planned to sell the land of LPSK to tie in with the development of the aforesaid property project, whether the authorities have received any application from the school sponsoring body at present to revise the land use or land lease conditions of the site of LPSK; if they have, of the details;*
- (d) *apart from instructing the school sponsoring body to continue to operate LPSK, whether the authorities have taken any specific measure to assist LPSK's students in continuing to attend school when LPSK insists on closing down its campus at Stubbs Road in January 2012; if they have, of the details of such measures; if not, the reasons for that; and*
- (e) *given that the school sponsoring body is a licensed educational institution, whether the authorities will follow up the case in accordance with the existing regulatory ordinances when the school sponsoring body closes down the campus in January 2012; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President, my reply to the issues raised by Mr CHAN is as follows:

- (a) The Education Bureau has not received any notification from the School Sponsoring Body (SSB) — Lingnan Education Organization Limited (LEO) that the existing premises of its LPSK and Lingnan Day Nursery (LDN) will be officially closed in January 2012. However, the LEO has informed the Education Bureau that for the safety of pupils and teachers, the LPSK and LDN may have to be relocated temporarily before February 2012 in view of the

construction works that would be carried out at the ex-Lingnan College site adjacent to the schools, the existence of unauthorized building works in the building in which the kindergarten section and LDN are housed, and the remedial works on the said unauthorized building works and a nearby retaining wall.

- (b) In October 2011, the LEO applied to the Education Bureau for registration of a proposed kindergarten-cum-child care centre at Cheerful Garden, 23 Siu Sai Wan Road, Hong Kong. As at 13 December 2011, the LEO has not yet submitted to the Buildings Department (BD) the updated layout plans of the said premises for approval. Due to this reason, the relevant government departments are not able to work out the permitted accommodation of the proposed kindergarten-cum-child care centre in accordance with the Education Regulations.
- (c) According to our records, the LEO owns two private land sites: Inland Lot No. 2958 (15 Stubbs Road on which Lingnan Primary School is located); and Inland Lot No. 2939 (7 Tung Shan Terrace on which kindergarten section and LDN are located). Neither the Lands Department nor the Planning Department has received any application from the LEO for modification of lease conditions or planning permission of the two sites.
- (d) and (e)

The Education Bureau is very concerned about the LEO's request to relocate the LPSK and LDN on the grounds of safety of the school premises. Assessments by the government departments concerned have confirmed that there is no obvious structural danger at the two school premises, and the BD informed the LEO of the assessment results in September and November 2011. Accordingly, the Education Bureau has advised the LEO that the relocation decision should not be directly associated with the structural safety of the school buildings, and that the SSB's request for the LPSK and LDN to relocate on 31 January 2012 is not fully justified. The Education Bureau has also reminded the SSB to place pupils' interest in the first priority and consider all possible options, including demolishing the

unauthorized building works and carrying out remedial works on the retaining wall during long school holidays to minimize the impact on pupils' learning.

If the school has full justification for relocation, it should first identify suitable premises and then work out a reasonable relocation timetable to minimize disturbances to pupils' learning. During the process, the school should also communicate with parents so that they are well informed of the arrangements. The Education Bureau will continue to liaise with the SSB and the school authority to highlight the need for them to accord priority to pupils' well-being and ensure that the pupils' needs and parents' concerns are properly taken care of.

Public Transport Concessions

19. **DR LAM TAI-FAI** (in Chinese): *President, the Chief Executive has proposed in the 2011-2012 Policy Address to provide elderly people aged 65 or above and recipients of Comprehensive Social Security Assistance (CSSA) who are aged between 12 and 64 with 100% disability as well as recipients of Disability Allowance (DA) in the same group with a public transport fare concession (the concession scheme), enabling them to travel on the general Mass Transit Railway (MTR) lines, franchised buses and ferries anytime at a concessionary fare of \$2 a trip. It is expected that about 1.1 million people, including 130 000 persons with disabilities, will benefit. In this connection, will the Government inform this Council:*

- (a) of the estimated total expenditure required for implementing the concession scheme, with a table listing the respective estimated amounts of subsidies to be received by various public transport operators (the operators);*
- (b) given that the authorities have indicated that the concession scheme will only be launched in the latter half of next year, whether the scheme can be launched earlier in the first half of next year; if so, of the specific time and details; if not, the reasons for that;*

- (c) *why the authorities restrict that for people aged between 12 and 64, only CSSA recipients with 100% disability and DA recipients can benefit;*
- (d) *whether it has assessed the increase in the number of beneficiaries and government expenditure in expanding the concession scheme to cover all persons with disabilities, CSSA recipients and other disadvantaged groups;*
- (e) *of the criteria based on which the fare level at \$2 a trip was set;*
- (f) *why public light bus (PLB) is not included in the concession scheme, and whether it will reconsider including PLB in the scheme;*
- (g) *given that the Government has indicated that it will negotiate with the operators and urge them to continue to provide existing fare concessions to the elderly and persons with disabilities, and not to withdraw the present concessionary measures for passengers because the Government has made additional commitment, how the authorities ensure that the operators will continue to offer the existing fare concessions; what corresponding measures the Government has put in place against non-compliant operators;*
- (h) *apart from introducing the concession scheme, whether the authorities have requested the operators to offer more fare concessions to members of the public so as to pass on the benefits to society; if they have, of the details; if not, the reasons for that;*
- (i) *whether it has considered including the operators' offer of fare concessions to members of the public as a condition when it negotiates with the operators on public transport franchise; if it has, of the details; if not, the reasons for that;*
- (j) *whether the concession scheme has any limit on the implementation period, and when a review will be conducted; and*
- (k) *whether it has assessed the increase in government expenditure on the reduction of the fare of \$2 a trip in the concession scheme to \$0?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, in his Policy Address this year, the Chief Executive proposed a Public Transport Concessions Scheme for the Elderly and persons with disabilities (the Scheme) to enable all the elderly persons aged 65 or above and eligible persons with disabilities to travel on the general MTR lines, franchised buses and ferries anytime at a concessionary fare of \$2 a trip. The Scheme aims to encourage the elderly and eligible persons with disabilities to participate in more community activities, thereby enriching social capital and developing a spirit of care and inclusiveness.

My reply to Dr LAM Tai-fai's question is as follows:

(a), (g), (j) and (k)

The Scheme covers MTR, franchised buses and ferries and involves a large number of routes and services. We are proactively liaising with the MTR Corporation Limited, five franchised bus companies and ferry service operators (the operators) on the detailed *modus operandi* and arrangements of the Scheme. We are also exploring with the Octopus Cards Limited (OCL) on the necessary upgrading of the hardware and software of the Octopus system. We will only be able to make a more accurate assessment of the amount to be reimbursed to individual operators and other administrative costs after the detailed arrangements have been finalized and more data are available. As mentioned above, the policy objective of the Scheme is to enable elderly persons aged 65 or above and eligible persons with disabilities to travel on the general MTR lines, franchised buses and ferries at \$2 a trip and thus we have no plan for providing a full waiver. We will brief the Legislative Council Panels concerned on the details of the Scheme in the second quarter of next year, including the estimated annual expenditure.

(b) There is a lot of complicated and time-consuming preparatory work for the implementation of the Scheme. At the same time, we also need the full co-operation of the OCL and all the operators concerned. Apart from liaising with the operators concerned and the OCL on the detailed *modus operandi* and arrangements, the Government needs to negotiate with the operators to continue with

their existing fare concessions for the elderly and persons with disabilities, to amend Schedule 5 to the Disability Discrimination Ordinance (DDO), to seek the Legislative Council Finance Committee's funding approval, and so on. It will also take considerable time for the operators concerned and the OCL to enhance, fine-tune and test the Octopus system. Since the Scheme involves a significant amount of public resources and is of a recurrent nature, we must ensure the reliability of the operating mechanism and every detail of the Scheme. The Labour and Welfare Bureau, Transport and Housing Bureau and Transport Department have been working together and kick-started the preparatory work with a view to launching the Scheme as soon as possible in the second half of next year.

- (c) Under the rehabilitation policy, the Government has all along been taking special care of the transport needs of persons with disabilities and has been offering financial assistance through the CSSA and DA Schemes. A monthly transport supplement has also been provided to recipients under the CSSA Scheme aged between 12 and 64 with 100% disability and recipients of DA in the same age group since July 2008. In view of their severity of disability, we are of the view that they have greater needs for support and encouragement for participating in more community activities and facilitating their integration into society. In fact, the relevant Legislative Council Subcommittee formed in 2005 also agreed that these groups of persons with disabilities had greater needs for assistance and encouragement for integration into society. At present, the non-means-tested financial assistance provided to persons with disabilities by the Government and fare concessions for persons with disabilities offered by MTR also adopt the same eligibility criteria.
- (d) Given the diversity of disability, persons with different disability types and severity of impairment may have different service needs at different stages of rehabilitation. To cope with the varying needs of persons with different disabling conditions for rehabilitation services and support, the definition of disability under the relevant legislation, policies and measures may not necessarily be the same. For example, the DDO covers disabilities that currently exist, previously

existed and even disabilities that may exist in future, as well as minor and temporary disabilities. Hence, Hepatitis B virus carriers, persons suffering from myopia, and persons recovered from disability will also be regarded as persons with disabilities under the DDO.

Given such a broad definition of disability, there are practical difficulties in extending the Scheme to include all persons with disabilities as well as estimating the additional number of beneficiaries and expenditure involved.

Furthermore, the policy objective of the Scheme is to encourage elderly persons aged 65 or above and eligible persons with disabilities to participate in more community activities. We, therefore, have no plan to extend the coverage of the Scheme to other groups of people.

- (e) At present, MTR and all franchised bus companies offers concession fare of \$2 for the elderly to take specific routes on designated days. On this basis, the Government proposes to expand the scope of the elderly fare concessions to other days, and to enable eligible persons with disabilities to benefit from similar fare concessions.
- (f) There are many PLB operators. In general, they are of a small scale and with different modes of operation and financial situations. Moreover, not all the PLB operators provide concessionary fare to the elderly at the moment. In view of the above, we consider it difficult to extend the Scheme to PLBs at this stage. To enable the elderly and eligible persons with disabilities to enjoy the concession as soon as possible, the Administration plans to launch the Scheme initially on the three major types of public transport, *viz.* MTR, franchised buses and ferries. The need to extend the scope of the Scheme is subject to review upon its full implementation for a period of time.
- (h) The Government has all along been encouraging the operators to offer fare concessions as far as possible to reduce the transport expenses of the public, taking into consideration various factors, including the overall economic environment of the society, the market conditions, their individual operating situations and passenger demand. Major operators have already been providing

passengers with various types of fare concessions, including concessionary fares for the elderly, persons with disabilities, children and students; interchange discount, Fare Saver concessions, monthly passes, and so on.

Under the Scheme, the Government proposed to request the operators concerned to continue with their existing concessions for the elderly and persons with disabilities. The Government would periodically reimburse the operators the revenue foregone arising from the provision of the \$2 fare concession to the elderly and eligible persons with disabilities.

- (i) It is the Government's public transport policy to ensure that efficient and proper public transport services are provided by the operators for the public, and that fares of major public transport services are set at reasonable levels through regulation according to the established effective mechanism.

If the Government requires the operators to provide fare concessions to specific passenger groups, the associated financial impact on the operators will eventually be reflected in the fares and shared by all passengers.

The Government will, through various channels including negotiation on franchises, request the operators to offer fare concessions to reduce the transport expenses of the public, having regard to their individual operating situations.

New H3N2 Flu Variant

20. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported that the health authorities in the United States earlier expressed concern about a new H3N2 influenza (flu) virus mutated from H1N1 human swine flu virus, pointing that this flu variant, which combines the genes from the viruses of ordinary human flu, H5N1 avian flu and H1N1 human swine flu, can be transmitted among humans, and there is a possibility of a major outbreak. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have approached the overseas health authorities concerned and the World Health Organization (WHO) to seek the latest information about the aforesaid new flu virus; if they have, of the details (including the characteristics of the aforesaid new flu virus, mode of transmission and spreading rate, symptoms as compared with those of ordinary flu, possible complications, methods of treatment, as well as comparison with the human swine flu epidemic which broke out and spread in Mexico in 2009, and so on); and*
- (b) *of the mechanism currently in place for comprehensively monitoring the possible appearance of any new flu variant; whether the authorities have any measure (for example, any plan to specify the aforesaid new flu as a statutory notifiable disease, and so on) in place at present to cope with the possible major outbreak of the aforesaid new flu; and whether they have formulated any contingency plan for the purposes of perfecting the mechanism for the prevention and control of flu, disseminating information, flexibly deploying and purchasing medical resources, organizing and co-ordinating the work of various government departments in combating epidemics, strengthening public health education and immunization, and so on; if they have, of the details?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, following the establishment of the Centre for Health Protection (CHP) in 2004, the Government has established a comprehensive surveillance system that monitors influenza activity in the community. The system includes laboratory surveillance and sentinel surveillance networks which cover childcare centres, kindergartens, residential care homes for the elderly, Hospital Authority out-patient clinics, clinics of private practitioners and Chinese medicine practitioners. Moreover, the authorities have been working closely with local universities to gather expertise and experience from various specialties in order to formulate strategies and measures for the prevention and control of influenza.

In monitoring the latest global situation of influenza, the Government has also been collaborating closely with health authorities such as the WHO, the Ministry of Health of China and the Centers for Disease Control and Prevention

(CDC) of the United States. In the regional context, the Government has established a direct communication mechanism with the relevant authorities of Guangdong Province and Macao. This ensures that the three places can expeditiously and effectively exchange important information about influenza outbreaks, and contingency measures can be taken to reduce the chance of outbreaks.

As far as seasonal influenza is concerned, it should be noted that serious influenza infections can occur even in healthy individuals, and that influenza vaccines are safe and effective. Therefore, the authorities encourage all members of the public to consult their family doctors to receive seasonal influenza vaccination for personal protection. On the other hand, the Scientific Committee on Vaccine Preventable Diseases under the CHP will take into account a variety of scientific factors, including the local disease burden and international experience, before recommending priority target groups for seasonal influenza vaccination. Priority target groups recommended for seasonal influenza vaccination in the 2011-2012 season include children aged between six months and less than six years, persons aged 50 years or above, pregnant women, pig farmers and pig-slaughtering industry personnel, and so on.

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

- (a) The Government has been closely monitoring developments concerning a swine-origin triple reassortant influenza A (H3N2) (S-OtrH3N2) virus in the United States. The CHP has written to the WHO and CDC in order to understand and follow up on the latest developments concerning the virus in the United States.

According to information provided by the WHO and CDC, there have been 11 recorded cases of the reassortant virus in the United States since July this year. All infected patients have recovered and the majority of cases involved relatively mild illness. Seven of the cases (including two in Indiana, three in Pennsylvania and two in Maine) involved direct or indirect exposure to swine. Epidemiological investigations conducted by the United States authorities so far revealed that the four latest cases recently reported had no direct exposure to swine before the onset of symptoms — among the cases, three cases reported in Iowa involved children

studying in the same childcare facility and investigation is underway to ascertain whether other children in the same childcare facility and their family members had exposure to swine; one other case was reported in West Virginia and further investigation of contacts and potential sources of infection are ongoing. According to the epidemiological investigations on these four cases, limited human-to-human transmission may have occurred but there is no evidence of sustained human-to-human transmission of the virus. According to advice of the CDC, the virus is susceptible to oseltamivir (Tamiflu) and zanamivir (Relenza). As the virus is different to the influenza A (H3N2) virus common to humans, the existing seasonal influenza vaccine can only provide limited cross-protection against the virus to adults and cannot provide protection to children.

Generally speaking, swine influenza, including the aforementioned swine influenza A (swine flu), is a respiratory disease of pigs caused by type A influenza virus. Swine flu viruses commonly cause influenza outbreaks among pigs, and do not normally infect humans. There have been sporadic human infections with swine flu and the majority of such cases involved direct exposure to swine. Symptoms are similar to those of human seasonal influenza.

Influenza A (H1N1) 2009, which broke out in Mexico and spread in 2009, was an exceptional case. There was sustained human-to-human transmission and spread rapidly across the globe. This is different to the swine-origin triple reassortant influenza A (H3N2)(S-OtrH3N2) mentioned in the question.

The Government will continue to closely monitor the situation and update the public on any new developments concerning the virus. A relevant press release was issued on 29 November 2011.

- (b) The Government has been closely monitoring influenza activity in the local community and has established a comprehensive disease surveillance system through collaboration with the Hospital Authority and private hospitals, general practitioners and institutions on sentinel surveillance; investigation of institutional outbreaks;

hospital admissions data monitoring and media monitoring. Results of influenza surveillance are uploaded weekly on the CHP website for public information.

In addition, the Government has a sensitive laboratory surveillance system for influenza virus. The Public Health Laboratory Services Branch under the CHP conducts characterization of all influenza viruses detected, including antigenic and genetic analysis.

In 1999, the Department of Health recorded a case of a child infected with a swine-origin influenza A (H3N2) virus. The child recovered and was discharged after two days of hospitalization. To date, no human infections with this swine-origin triple reassortant influenza A (H3N2)(S-OtrH3N2) virus in the United States have been detected in Hong Kong.

The Centre for Food Safety has also been assisting the University of Hong Kong in conducting research and surveillance on influenza activity in pigs at the slaughterhouse. Recent surveillance results revealed that a swine influenza H3N2 virus that had picked up genes of the influenza A (H1N1) 2009 virus, detected at the Sheung Shui Slaughterhouse, was different from the swine-origin triple reassortant influenza A (H3N2)(S-OtrH3N2) virus in the United States.

Under the Prevention and Control of Disease Ordinance (Cap. 599), at present type A influenza viruses (H2, H5, H7 and H9) are notifiable infectious diseases. The Government will continue to closely monitor the development of influenza globally and locally, and strengthen its liaison with the WHO, Mainland and overseas health authorities. We will also pay particular attention to whether there is a genetic mutation of the virus and whether viral virulence and transmissibility have increased. If necessary, we will make amendments to the legislation to include other viruses as statutorily notifiable diseases.

In addition, the Government has adopted a multi-pronged approach to prevent and control influenza outbreaks. We have formulated

the Framework of Government's Preparedness Plan for Influenza Pandemic, which set out in detail the command structure, preparation and control measures for influenza pandemic in Hong Kong. The Plan includes a number of preventive and control measures in case of novel influenza and influenza pandemic, such as stepping up surveillance and rapid diagnosis, maintaining medical services, promoting basic protection measures like personal and environmental hygiene, risk communication, and so on.

To ensure that relevant government departments are well prepared for major infectious disease outbreaks, the CHP regularly conducts exercises and drills on the preparedness plan, so as to test our preparedness and responsiveness for infectious disease outbreaks in Hong Kong. The Government will also continue to maintain a stockpile of some 20 million doses of antivirals to meet the needs in case of an influenza pandemic.

BILLS

First Reading of Bills

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

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) (NO. 2) BILL 2011

CLERK (in Cantonese): Mandatory Provident Fund Schemes (Amendment) (No. 2) 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

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

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) (NO. 2) BILL 2011

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I move the Second Reading of the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011.

Since the implementation of the Mandatory Provident Fund (MPF) System in 2000, the Mandatory Provident Fund Schemes Authority (MPFA) has been regulating MPF intermediaries through an administrative regulatory regime in respect of the sales and marketing of MPF products. As sales and marketing activities of MPF products are mainly employer-targeted, this is considered appropriate and proportionate. However, it is expected that after the implementation of the Employee Choice Arrangement (ECA), which allows scheme members to transfer accrued benefits derived from their own mandatory contribution from a contribution account to an MPF scheme of their own choice at least once a calendar year, the sales and marketing activities of the trustees towards more than 2.5 million scheme members will become more vigorous and intensive. Besides, in view of the rising public expectation for enhanced investor protection after the 2008 global financial crisis, we consider that it is prudent to enhance the regulation of sales and marketing activities of MPF products before implementing the ECA. This arrangement won general recognition in our public consultation on the Bill earlier on.

Against such a backdrop, the main object of the Bill is to set up a statutory regulatory regime for MPF intermediaries in order to protect more than 2.5 million scheme members' interests. The Bill has clearly defined the regulated activities of MPF intermediaries, including invite or induce, or attempt to invite or induce another person to make critical decisions on the MPF schemes, or give advice to another person on specified matters. The Bill further provides that it will be an offence for anyone not being a registered MPF intermediary to carry on any regulated activities. As for registered MPF intermediaries, the Bill has introduced a comprehensive registration system, including the qualifications and procedures to obtain registration, the conduct requirements for registered intermediaries, and the corresponding supervision and investigation powers, as well as disciplinary powers and appeals mechanism.

On the regulatory framework, we have proposed the continuation of the existing institution-based regulatory approach taking into account the general industry profile of MPF intermediaries carrying out MPF sales and marketing activities as incidental to their core business in banking, insurance or securities, as the case may be, and the fact that they are regulated by the Hong Kong Monetary Authority (HKMA), the Insurance Authority (IA) or the Securities and Futures Commission (SFC) respectively. The continued adoption of this approach with improvement enables more efficient use of regulatory resources. Meanwhile, as for members of the sector, given that they are familiar with the existing regulatory approach, they need not adapt to the new system, thus the compliance costs is minimized. This will facilitate early implementation of the ECA, promote competition and reduce the MPF fees. It is estimated that after the implementation of the ECA, the size of transferable MPF assets will increase from about 39% to about 67% of total MPF assets based on the figures as at end-October 2011.

(THE PRESIDENT resumed the Chair)

Specifically, the MPFA will be responsible for managing the registration of MPF intermediaries and issuing guidelines on statutory requirements for registered MPF intermediaries. The HKMA, the IA and the SFC will be given the statutory role as front-line regulators (FRs) responsible for the supervision and investigation of MPF intermediaries whose core business is in banking, insurance or securities respectively. They will submit information obtained in the course of their investigation to the MPFA, the sole authority to impose disciplinary sanctions, for consideration in an appropriate manner. The MPFA, after considering the information and the representation of the intermediary concerned, may impose disciplinary sanctions if non-compliance by the intermediary is confirmed.

In order to tie in with the arrangement, we have proposed various measures to ensure regulatory consistency and a level playing field. These include: All appeals against registration and disciplinary decisions with regard to MPF intermediaries will be handled by a single body, the Mandatory Provident Fund Schemes Appeal Board; apart from legislation, detailed arrangements concerning the respective powers and functions of the MPFA and the FRs will be agreed

through the signing of a Memorandum of Understanding among them; the MPFA will establish a regular liaison mechanism with participation of all FRs to enhance communication; an independent Process Review Panel will be established to review the enforcement procedures of MPFA and FRs to ensure consistent internal process in respect of supervision and investigation powers; and the MPFA will be the central point for receiving all complaints about MPF sales and marketing activities.

President, we issued a consultation paper in March this year to consult the public and the Panel on Financial Affairs on the legislative proposals and published the Consultation Conclusions in July. In a nutshell, the majority of respondents did not indicate disagreement in principle with the proposed regulatory regime and the above measures have appropriately incorporated comments received during the consultation.

While striving for further improvement in the regulatory framework, we should also take into account the operation of the sector. According to information of the MPFA, as of November 2011, 485 companies and 30 491 individuals in total have registered as MPF intermediaries through administrative regulatory arrangements. The Bill proposes that all MPF intermediaries already validly registered with the MPFA before commencement of the new regulatory regime shall be allowed to continue to engage in activities as MPF intermediaries for a period of two years. During this period, however, the pre-existing MPF intermediaries are subject to the statutory conduct requirements under the new system, such that non-compliance may result in disciplinary sanctions. They will need to file application for registration in accordance with the requirements of the new statutory regime before the expiry of the transitional period. The MPFA intends not to charge registration and annual fees in the initial years of operation of the new statutory regime to facilitate a smooth transition. In future, any proposal to collect registration and annual fees and the determination of fee levels will need to go through consultation and necessary legislative procedures.

In order to tie in with the implementation of ECA, apart from enhancing the regulation of MPF intermediaries, the Bill also empowers the MPFA to establish an E-platform for transfers of accrued benefits to enhance the accuracy and security, as well as shorten the processing time, in anticipation of a significant rise in transfer of accrued benefits.

Besides, in response to public concern about default of contributions by employers, the Bill has created a new offence for failure by an employer to comply with a court order for the payment of arrears of MPF mandatory contributions and contribution surcharges. In addition, it is currently an offence under the legislation if an employer does not make MPF mandatory contributions for an employee within the statutory time frame. To ensure that the employer will rectify the situation and make good the default without delay, the Bill further provides for a daily penalty for each day on which an offence committed by an employer for failing to make MPF mandatory contributions for an employee continues.

President, assuming that the Bill can be passed within the current Legislative Council term, the commencement date of the regulatory arrangements for intermediaries and the enhanced measures against default contributions by employers will be 1 November 2012, on which the ECA will also be implemented. The Government will fully co-operate with the Bills Committee's deliberations. Meanwhile, the MPFA is preparing a new Code of Conduct for MPF Intermediaries and has been continuing its public education programme and publicity activities to raise public awareness of the ECA.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Mandatory Provident fund Schemes (Amendment) (No. 2) 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.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011.

**GENERAL HOLIDAYS AND EMPLOYMENT LEGISLATION
(SUBSTITUTION OF HOLIDAYS) (AMENDMENT) BILL 2011****Resumption of debate on Second Reading which was moved on 23 November
2011**

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 General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011

(Mr WONG Kwok-hing raised his hand in indication)

MR WONG KWOK-HING (in Cantonese): President, I have already pressed the "Request to speak" button but it is not displayed.

PRESIDENT (in Cantonese): Mr WONG, you can also raise your hand in indication. Do you wish to speak now?

MR WONG KWOK-HING (in Cantonese): Yes.

PRESIDENT (in Cantonese): Mr WONG, please go ahead.

MR WONG KWOK-HING (in Cantonese): President, I am sorry. I have already pressed the "Request to speak" button very hard, but it is not displayed on the screen.

President, on the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011, I wish to express the following views.

I welcome the amendment proposed in this Bill. Although this is a minor amendment, I find that there is a human touch in it, having given consideration to the custom of family reunion. If a Lunar New Year holiday falls on a Sunday, the day immediately after the last day of the said holiday will be designated as the holiday in substitution. If the day following the Chinese Mid-Autumn Festival falls on a Sunday, the day thereafter will be designated as a holiday in substitution. This will facilitate family gathering, so that family members can celebrate at home. Besides, what is the difference between having a holiday in substitution after the said holiday and having it before the said holiday? Many employers are very nice and they care about the needs of their employees. They understand that their employees have to go home earlier in order to buy and prepare food for dinner in celebration, so usually, they will allow their employees to go off duty half a day earlier on Lunar New Year Eve or on the day of the Chinese Mid-Autumn Festival. If a holiday in substitution is designated before a major festival, it will overlap with these conventional half-day holidays, thus making employees enjoy fewer holidays. In addition, if a holiday in substitution is designated immediately after these two major holidays, wage earners can enjoy continuous holidays without suffering any loss.

Moreover, according to government statistics, in Hong Kong, there are presently some 850 000 people working in the non-government sector who work five days a week. I guess these employees are mainly white-collar ones and that there are fewer blue collar or gray-collar workers among them. To these employees who work five days a week, if a holiday falls on Saturday, that is, their rest day, they will virtually have a day of holiday less. Therefore, I think that this amendment is more human and compassionate, so it deserves our support.

President, I believe this amendment will be passed unanimously in the Legislative Council. However, since the Hong Kong economy is developing constantly and is one of the front-runners among the economies of the world, I hope that the Government can consider caring for employees more in view of the present situation in Hong Kong. On this point, I have several suggestions and hope that the Government can consider them.

First, we notice that three holidays will fall on Saturdays next year, that is, in 2012, and Saturdays happen to be the day off for many employees. In 2012, 7 April (the day following Good Friday) falls on a Saturday; 28 April (the Birthday of the Buddha) also falls on a Saturday and 23 June (Tuen Ng Festival)

also falls on a Saturday. All these holidays overlap with Saturdays and wage earners effectively will have three days of holidays less, so can the authorities consider amending the legislation further? In fact, when the Labour Advisory Board discussed this amendment, some members already proposed that if statutory or general holidays fall on Saturdays, employees should be given holidays in substitution but at that time, this view was not accepted unanimously. However, I consider this proposal to be most desirable and hope that the Government will give it consideration.

Second, the general holidays and statutory holidays in Hong Kong are not the same. There are 17 days of general holidays each year but the Employment Ordinance provides that employees are entitled to only 12 days of statutory holidays each year, representing a difference of five days between the two. Since the Government has all along been implementing family-friendly policies and striving to create a desirable environment, so that wage earners can have more holidays to get together with their family members, coupled with the fact that the work efficiency of employees may be enhanced when they return to their posts for the benefit of employers, we hope that the authorities can seriously consider aligning these two types of holidays to avoid the situation of some employees having only 12 days of statutory holidays, five days less compared to the entitlement under general holidays. This is the second point that I hope the Administration can consider.

Third, I hope the Government can consider the issue of annual leave. Under the existing labour laws in Hong Kong, any employee who has worked for one year shall be entitled to seven days of paid annual leave. Thereafter, the length of such paid annual leave will increase proportionately to the length of service, to a maximum of 14 days of paid annual leave. Of course, the annual leave offered by some companies may exceed the statutory seven days of annual leave. In fact, it is not excessive for each employee to be entitled to several days more of paid annual leave. The International Labour Organization conducted a survey on the working hours of 103 countries or regions worldwide in 2003 and found that less than one third of the countries or regions worldwide offer 10 to 15 days of holidays and Hong Kong is one of the regions with the least days of annual leave in the world, standing only at seven days. It is after employees have worked for two years that they can accumulate annual leave to a maximum of 14 days, a number below the international standard. Therefore, I hope the Government can consider this proposal. Taking into account the statutory

holidays and annual leave each year in Hong Kong, the total number of holidays only stands at 19 days. Among 103 countries or regions worldwide, Hong Kong ranks fourth from the last, just slightly better than Singapore, the Philippines and Mexico, so this is rather incongruent with its status. Therefore, I believe that given the present pace of economic development and the Gross Domestic Product in Hong Kong, Hong Kong absolutely has the spare capability, room and resources to increase the labour holidays for wage earners, so that they can align with the general holidays. In this way, the holidays for employees can be standardized.

The foregoing three points are my views on the Bill proposed by the Government today. I hope the Government can consider them actively. Thank you, President.

MS LI FUNG-YING (in Cantonese): President, the Government proposed to amend the existing Schedules to the Employment Ordinance (EO) and the General Holidays Ordinance (GHO) in order to designate the fourth day of Lunar New Year as a holiday in substitution when either Lunar New Year' Day, the second day of Lunar New Year or the third day of Lunar New Year falls on a Sunday and, when the day following the Chinese Mid-Autumn Festival falls on a Sunday, the 17th day of the eighth month of the lunar calendar will be designated as a holiday in substitution. I do not intend to oppose the Government's proposed amendments. However, at present, the greatest unfairness about holidays in Hong Kong is not the damage to the rights of employees working five days a week, rather, it is the difference between statutory holidays and general holidays. All employees of banks, educational institutions, offices of public organizations and government departments are entitled to 17 days of general holidays each year, whereas employees other than those of the aforesaid organizations are entitled to only 12 days of statutory holidays. If the Government wants to change the arrangement for general holidays, the first thing it should do is to make changes to the difference between statutory holidays and general holidays, so that all employees in Hong Kong can enjoy 17 days of general holidays.

I do not wish to see any discrimination in the formulation of government measures and legislation that protect employees' interests, but this is a fact. The Government wants to take the lead in implementing a five-day work week, yet it

does not agree with enacting legislation to implement the measure. As a result, only employees in the Civil Service, public organizations and educational institutions and those in banks and the financial sector can be benefited. Employees in other industries, particularly elementary employees, cannot benefit from a five-day work week. In particular, I have to point out that employees who can benefit from a five-day work week are usually those who can enjoy 17 days of general holidays. This means they already have five more days of holidays compared with other employees. The objective of the legislative amendment this time is apparently to align the substitute holiday arrangements, so that whenever a statutory holiday falls on an employee's rest day, the day thereafter will be designated as a holiday in substitution. However, it actually takes care of employees who are entitled to more holidays, so that when some holidays fall on their rest days, they will not have fewer holidays in real terms.

President, if we look at the root of this issue, the substitute holiday arrangements for these two major traditional festivals of the Lunar New Year or the Chinese Mid-Autumn Festival is not the same as that for other statutory holidays. This is meant mainly to enable employees to make preparations for family gathering on major traditional festivals. Even in the colonial era, the Hong Kong Government also knew that it had to respect traditional Chinese festivals by not adhering to the consistency in substitute holiday arrangements. However, the SAR Government after the reunification, for the sake of consistency in holiday arrangements, disregarded the need to facilitate festive celebrations by the public. Even the justification of the Government in tabling the amendment today does not hold water.

President, I mean no neglect of employees who work five days per week or hinder the improvement of their rights. However, between an attempt to offer nice-to-haves and an effort to address an urgent need, the latter appears to be more precious and the need is also more pressing. I request that the Government expeditiously amend the law after the passage of this Bill today to align the statutory holidays and general holidays. Thank you, President.

DR PAN PEY-CHYOU (in Cantonese): President, the Hong Kong Federation of Trade Unions (FTU) expresses its support for the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011.

Just now, Ms LI Fung-ying talked about the history of the arrangements for holiday in substitution. If Members review the history, they will find that before 1983, all substitutions of general holidays fell on the day thereafter, given the Government and the legislature then found that all organizations and company employers would allow their employees to go off duty earlier on the day of the Chinese Mid-Autumn Festival and Lunar New Year's Eve as it was a Chinese custom to have a reunion dinner on the day of the Chinese Mid-Autumn Festival and Lunar New Year's Eve.

Due to this custom, the Legislative Council back then agreed to designate the day before the Mid-Autumn Festival and the day before the Lunar New Year as holiday in substitution, that is, if the Mid-Autumn Festival or the first day of the Lunar New Year fell on a Saturday, the day before would be designated as holiday in substitution.

Although this arrangement can be considered as conforming to tradition and custom, wage earners perceived this unfavourable to them. Since there was a convention for employers to allow employees to go off duty earlier on the day of the Mid-Autumn Festival and on Chinese New Year Eve, setting those days as holidays actually gave wage earners slightly more than half a day or just half a day of holiday. Even worse, if the holiday in substitution fell on a Saturday since many wage earners only worked half day on Saturdays, when a Saturday was designated as holiday in substitution, wage earners would actually benefit even less from this arrangement. Even so, this could still be considered an arrangement that conforms to the custom.

Today, the five-day work week has become increasingly common in Hong Kong society. The Labour Department (LD) conducted questionnaire surveys among member establishments of Human Resources Managers Clubs (HRMCs) in 2006. Among the persons-in-charge of the HRMC member establishments, 36.5% indicated that their organizations had already adopted the five-day work week. In a similar survey conducted by the LD in 2010, that is, four years later, the findings even revealed that the percentage had already risen to 61.5%. It can thus be seen that the Government, in taking the lead in implementing five-day work week, has influenced private enterprises and organizations quite significantly.

Therefore, the amendments to the replacement holiday arrangements for the day after the Mid-Autumn Festival and Lunar New Year Holidays can be described as better suited to the present arrangements of the job market and being fairer to workers. Of course, I must point out that the five-day work week is a mode of work that has yet to become commonplace.

According to the findings of the survey among employees conducted by the Census and Statistics Department (C&SD) in 2008, more than 66% of the wage earners were required to work more than five days but up to six days per week; and about 33% of the wage earners were required to work for five days or less. Therefore, we hope that more workers can benefit from the five-day work week.

Instances of workers working long hours are indeed very common in Hong Kong and this is actually a widely known fact. In the "hard-hit" industries (for example, the catering, security and property management industries), it is commonplace for the working hours to exceed 60 hours per week. That the number of labour holidays in Hong Kong is small is also notorious worldwide. My partner, Mr WONG Kwok-hing, has already elaborated on this clearly earlier on.

The Employment Ordinance in Hong Kong provides that wage earners are entitled to 12 days of paid statutory holidays yearly and seven days of annual leave, which can be increased to 14 days incrementally. On the basis of seven days of annual leave, wage earners are entitled to 19 days of holidays yearly. Among the 103 countries and regions in the world, Hong Kong ranks fourth from the last, that is, at 99th.

In general, wage earners usually work six days a week. Even though many developed and advanced economies have social conditions that do not compare favourably with those of Hong Kong, the five-day work week has already been implemented extensively in these regions. Therefore, if the two factors mentioned by me just now are taken into account, we will find that wage earners in Hong Kong work very long hours daily and their holidays are particularly small in number.

Sometimes, we feel very helpless because even though Hong Kong is such an affluent society, it looks as though its labour protection regime remains

19th century when capitalism was just on the ascent in the West. This is totally incongruent with such an advanced city as Hong Kong.

In that case, how can this problem be solved? How can we enable labourers in Hong Kong to enjoy better work conditions? I believe we can approach at this matter from two areas, namely adjusting the working hours and setting standard working hours. In this regard, it is necessary for society to hold extensive discussions and forge a consensus.

Second, I believe that a more pressing issue is to increase the number of holidays. Here, I wish to point out that we are not encouraging people to do less work and enjoy life more without restraint. Quite the contrary, we are only striving for a more reasonable and more human amount of personal time and space for the general labour force in Hong Kong.

The FTU conducted a survey two years ago, and the results of the survey underscored the crux of the problem. The subjects of the survey were primary school pupils and they were asked how many times a week they could have meals with their fathers and how often they could go out with their fathers. The results indicated that 40% of the primary school pupils could have meals with their fathers less than four times a week and 70% of the pupils said that they went out with their fathers for less than two times a week.

How can primary school pupils have the chance to have meals and go out together with their fathers? Of course, a daddy must have the time and must be at home before this is possible. Therefore, I believe that letting wage earners have more holidays so that they can have more family time is a very pressing issue.

Just now, Mr WONG Kwok-hing and Ms LI Fung-ying both said that the "dual-track system" of holidays adopted currently is most ridiculous. The number of general holidays as stipulated in the General Holidays Ordinance (GHO) are days on which all banks, education establishments, public offices — I believe the last one refers to government departments — stands at 17 days a year, and these places need not open or operate on these days. These 17 days of public holidays include 12 days of statutory holidays and five days of general holidays (that is, three days of Easter Holidays, the day after Christmas and the Buddha's Birthday).

Why are the workers in education establishments, banks and government departments entitled to five more days of general holidays? Is it because their work is more demanding than that of other wage earners? Is it because they need more family time? The answer is clearly in the negative. In that case, it then begs this question: If private companies comply with the provisions of the GHO, would they be considered to have violated the law? The answer is also clearly in the negative. Otherwise, the many private companies that allow wage earners to have 17 days of holidays each year (that is, they can have holidays on all "red" days) would have all violated the law.

In the past, I once asked an oral question in the Council. At that time, the Secretary was present and answered my question in person. However, I consider his reasons to be hardly convincing, so I wish to take this opportunity to spend a few minutes rebuking the reasons cited by him and also some grounds cited by the business sector and employers.

The first reason is that general holidays are not the same as holidays, rather, it means that offices (that is, banks, education establishments and government departments) do not operate on those days, nor will services be provided by them. In that case, may I ask Members if, in the case of offices not providing any service or operating on such days, their employees will go to work as usual? In fact, their employees will also be on holiday.

In addition, the name of the GHO already betrays its nature. How should the word "holidays" be defined? May I ask the Secretary if "holidays" mean those days on which the relevant offices do not operate or do not provide services to the public? If so, the Secretary has come up with a new and great invention because I have never heard people define the word "holidays" as such.

Education establishments (in particular, schools for early childhood education) do not operate on general holidays but parents do not have holidays on these days, so this will create a problem to parents. Where can they send their children, so that they can be cared for on such days? Children do not have to go to school on general holidays but some parents have to go to work, so whom should they ask to take care of their children? Such situations pose difficulties to parents.

The second reason is that increasing the number of holidays will increase operating costs. I believe the minds of friends with such thinking remain in the era of Queen Victoria in the 19th century. It looks as though their thinking was like that of Mr SCROOGE in *A Christmas Carol* by Charles DICKENS, who would be happy only if he could make workers slave away for him. After having holidays and "recharging" themselves, workers can work more efficiently. How should we account for this? Have we taken this into account?

Second, the work is still there even when workers are on holidays and having their breaks. After their holidays or breaks, they still have to shoulder the work all by themselves, or their colleagues have to shoulder the work. This being so, how much additional cost do companies or organizations actually have to bear? Or do companies or organizations have to bear any additional cost at all?

Third, nowadays, Hong Kong is not a third-world region. The well-developed Hong Kong economy does not rely on sweat shops but high value-added industries for its survival. Do we have to be so miserly about giving wage earners five more days of holidays in a year? Do we really have to be like this?

Some people say that increasing the number of holidays will affect the economy. However, I have also said that increasing the number of holidays by a few days probably will not have the slightest adverse effect on productivity, rather, there will be positive effects.

In addition, wage earners will spend money on holidays. They would go to restaurants, watch movies or go shopping. The items they buy can be described as big-ticket because some people may use their holidays to inspect and buy flats. It is one of the habits of life in Hong Kong people to look for a flat during their holidays and such transactions involved millions of dollars. Is this not a big-ticket item? Can this stimulate Hong Kong's domestic economy?

In terms of logic, compassion and actual implications, I cannot see why the statutory holidays and general holidays cannot be aligned. To do so will give wage earners five more days of holidays, that is, wage earners can all be equitably entitled to 17 days of holidays, so what is wrong with this?

Therefore, here, I call on the Government, Members representing various sectors in the legislature and various sectors of society to jointly support the view of the labour sector on aligning the statutory holidays and general holidays, so that wage earners in Hong Kong can be entitled to 17 days of paid statutory holidays, so as to be fair to wage earners.

I so submit.

MR IP KWOK-HIM (in Cantonese): President, according to the law, all wage earners, regardless of their length of service, are entitled to days off on statutory holidays. It is an indisputable fact that wage earners in Hong Kong work long hours and long working hours would affect one's health, family life, and so on. All along, this has been a matter of concern for us. Therefore, having an appropriate number of holidays is necessary and essential. As Legislative Council Members, in formulating any labour legislation, we should make it our objective to concern ourselves with the protection for the reasonable rights of employees, and we should keep abreast of the times. With the changing circumstances in society and the economic structure as a whole, the work patterns of employees in different trades and industries have also seen changes. According to information, in the past decade, the number of employees in the non-government sector working five days or less a week increased steadily from 480 000 in 2001 to almost 850 000 in 2008. It is a major trend to work five days or less per week. Therefore, to many employees, it is commonplace to find people having two consecutive days off on Saturdays and Sundays. In fact, the entitlement of employees to statutory holidays should also be aligned with the changes in the pattern of work days.

Prior to 1983, when a statutory holiday fell on an employee's rest day, the day following the holiday was designated as a holiday in substitution across the board. However, since 1983, the amended Employment Ordinance provides that should any of the first three days of Lunar New Year fall on a Sunday, the day immediately preceding the Lunar New Year's Day is designated as a holiday in substitution; and in the event that the day following the Chinese Mid-Autumn Festival falls on a Sunday, the day of the Chinese Mid-Autumn Festival is designated as a holiday in substitution. In view of the change to and the popularization of five-day work pattern nowadays, the arrangement of designating as a holiday in substitution the day immediately before the holiday

really causes a reduction in the number of holidays that employees may enjoy, thus making them suffer losses. Therefore, on this occasion, the Administration proposed an amendment which had also been discussed and unanimously endorsed by the Labour Advisory Board. After the passage of the Bill, the replacement holiday arrangement for the Lunar New Year holidays and the day following the Chinese Mid-Autumn Festival that happen to fall on a Sunday will be aligned with the replacement arrangement of other statutory holidays, that is, whenever a statutory holiday falls on an employee's rest day, the day thereafter will be designated as a holiday in substitution. This is closely aligned with the present development.

Therefore, we can see that this amendment of the law is in line with the interests of all parties and has struck a reasonable balance between the interests of employees and employers. Therefore, the DAB supports this Bill that will enable wage earners to benefit from this holiday benefit as soon as possible in 2013.

President, I so submit.

MR IP WAI-MING (in Cantonese): President, I believe hardly any Honourable colleague in the legislature would oppose the Bill because in the final analysis, the relevant amendment would enable wage earners to enjoy holidays to which they should be entitled.

Concerning the amendment this time around, I am really baffled as to why the Labour and Welfare Bureau only introduced an amendment to alter the holiday in substitution for the Lunar New Year's Day, the second day of Lunar New Year or the third day of Lunar New Year and the Chinese Mid-Autumn Festival rather than reviewing the whole Ordinance or respond to the views that have been voiced by the labour sector all along, that is, to align the general holidays and statutory holidays. In fact, I believe many strange phenomena in Hong Kong are man-made divisions created by the Government. The discrimination in some employment issues is also perpetrated by the Government.

When working in society, some wage earners are entitled to statutory holidays (commonly called the "labour holidays") while others are entitled to general holidays. In fact, this is a man-made division, some sort of

discrimination in the employment market perpetrated by the Government. This situation is just like the distinction between gross floor area and saleable area in the property market, which is also a schizoid condition among members of the public created by policies of the Government.

Personally, I find the amendment this time around doubtless a little bit like child's play because if I remember it correctly, according to press reports, while a member of the public bumped into the Chief Executive when shopping in a Lunar New Year Fair, he complained to Mr Donald TSANG that when either Lunar New Year's Day, the second day of Lunar New Year or the third day of Lunar New Year fell on a Sunday, people working five days a week could only get a replacement holiday on a Saturday, so this was not fair to them. As a result, the Chief Executive promised this member of the public to conduct a review and subsequently, he instructed the Secretary for Labour and Welfare to review the legal provisions in this regard. However, interestingly, after the Secretary for Labour and Welfare had received the order to conduct a review, he really proceeded to review only these two provisions rather than conducting an overall review of the entire Ordinance. He did not heed the demands of the labour sector to allow all people to have general holidays, rather, he only reviewed the replacement holiday arrangements whereby should any of the first three days of Lunar New Year or the day following the Chinese Mid-Autumn Festival fall on a Sunday, the day immediately after instead of before the said holiday would be designated as the holiday in substitution, as though this measure could already benefit all wage earners.

However, has it ever occurred to the authorities that should the first three days of Lunar New Year or the day following the Chinese Mid-Autumn Festival fall on Saturdays, what then? To people on a five-day work week, in that event, will there be a holiday in substitution for them? Workers under a five-day work week system are entitled to two rest days, and without any substitution, they would lose a day of holiday, so why will a holiday in substitution be given on Monday if a holiday falls on Sundays but not on Saturdays? Does it mean that we have to look for another members of the public to complain to the next Chief Executive when shopping in a Lunar New Year Fair in the future and query why members of the public on labour holidays are entitled to only 12 days of holidays, whereas he, Secretary Matthew CHEUNG and the staff of the Labour Department are entitled to 17 days of holiday? Does it mean that the Secretary for Labour and Welfare would examine the relevant provisions only after the next Chief

Executive has made a promise to members of the public? Why does he not take this opportunity to conduct a comprehensive review?

Therefore, although it can be said that basically, no Honourable colleague would oppose this amendment, this amendment exercise as a whole is actually quite mystifying, and it can even be said that this is a highly arbitrary amendment that can purely be credited to the occasion on which the Chief Executive came across a member of the public who lodged a complaint with him. The authorities did not conduct a full review of the reasons for wage earners being entitled only to labour holidays rather than general holidays, and study if there is any need to align them and if so, how this matter should proceed, so that it can be brought in line with the economic development of society as a whole. Therefore, in these circumstances, the high degree of arbitrariness of the amendment on this occasion really makes me feel that there is something wrong with the Government's administration.

President, let me cite an issue that I have been exploring with Secretary Matthew CHEUNG as an example to illustrate this point. At present, many employees work under a five-day work system and among these employees, some have to work in shifts, so their rest days do not always fall on Saturdays or Sundays because under a shift system, they may have to work on Saturdays or Sundays but all in all, they only have to work five days a week according to the terms of their employment contracts. Since they work in shifts, if employees have to work on statutory holidays, some employers would arrange for them to take leave in substitution on one of the two rest days. In other words, although the shift roster specifies that those two days are rest days for employees, an employer would use one of them as the holiday in substitution for the statutory holidays that employees are entitled to.

Secretary, may I ask if in these circumstances, the employer has violated the law? Is he being fair to the employees concerned? Why do you not deal with this issue in one go under this amendment exercise? I hope the Secretary can give me an answer in this regard later because, there is already a court precedent in this regard. The Court of Appeal ruled that employers can do so. We respect the judgment of the Court of Appeal, but according to the logic of the legislative amendment made by the Secretary this time around, suppose employers arrange for employees working in shifts to take leave in substitution on a Sunday, should the employee be given one more day of holiday? However, it

seems the Secretary has turned a deaf ear to this. I believe that according to the logic of the amendment on this occasion, it seems the Labour Department or the Secretary should also consider amending the legislation to deal with the arrangement for leave in substitution for employees who work in shifts appropriately. Often, it can be seen from these laws that the authorities always implement stopgap measures, thus creating man-made divisions and inequalities.

President, concerning standard working hours and holidays, and such problems as wage earners in Hong Kong being entitled to fewer holidays than those in other regions, and the long working hours in Hong Kong making workers endure hardship or leaving them with inadequate rest time, Mr WONG Kwok-hing and another Honourable colleague, Dr PAN Pey-chyou have already talked about them, so I am not going to make any repetition. However, I hope the Secretary can answer the questions raised by us in earnest. Otherwise, this kind of man-made inequality would only continue to exist. Here, I also call on all wage earners to lodge a complaint publicly with the next Chief Executive, the Secretary for Labour and Welfare or the Chief Secretary for Administration in front of reporters and make a request that a review be conducted if they have the chance to meet these officials on certain occasions, and if they think that it is indeed unfair for them to have only 12 days of holidays when civil servants are entitled to 17 days of holidays. In that event, we should see how they would respond and whether or not they are willing to make amendments.

Here, I take this opportunity to respond to the comments made by Ms LI Fung-ying. I hope that the next Government and the next Chief Executive can respond to the demands of the labour sector by reviewing the entire holiday arrangement, so as to make it equitable, enable all employees to enjoy the holidays to which they should be entitled and align the number of holidays by setting it at 17 days across the board.

Thank you, President.

MR WONG SING-CHI (in Cantonese): President, the Democratic Party supports the passage of the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011. To the large number of wage earners, at the mention of new year wishes, most of them would wish for promotions and pay rises but often, the reality runs counter to their wishes and

they cannot be realized easily. Recently, due to increased work pressure, the fact that more and more wage earners hope that the holidays of the Ching Ming Festival can combine with Easter holidays to give them three or four days and even five days off in a row. That will be the most desirable because everyone can have holidays to "recharge" themselves by going out to have fun together with their family members.

It can thus be seen that many wage earners and the labour sector hope very much to have more time to get together with their family members. Therefore, on the labour policy, apart from being concerned about rights, the Democratic Party also believes that equal importance should be attached to the number of holidays, or the so-called quality of life. Therefore, we hope that the future labour policy can adopt a two-pronged approach. Apart from their rights, it is hoped that workers' quality of life can also be enhanced. Otherwise, the health, mental pressure, social life and family life of employees would be affected, thus affecting their work efficiency in turn, and economic performance would also be directly affected.

Although we think that the formulation of this Bill is a Spring late in coming, it can still be considered as a small step towards a family-friendly policy and the promotion of balance between work and life. To the labour sector, this is an important concept.

President, the Bill under debate today is not very complicated and it is mainly about the proposal of the executive to alter the holiday in substitution under the Employment Ordinance and the General Holidays Ordinance 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. To wage earners at large, this approach is tantamount to an admission of mistakes made in respect of the arrangements for some general holidays in the past. However, being willing to admit to mistakes is always better than refusing to do so obstinately.

For many years in the past, the Government has given one the impression of "couldn't care less" but this time around, it is able to bring itself to do

something to help workers, so this is really something desirable. The original intent of arranging for employees to work for five days a week and have holidays on Saturdays and Sundays is desirable. However, some general holidays may overlap with Sundays and as a result, they have one day of statutory holidays less. Now, they are only getting back the statutory holidays to which they are entitled.

Therefore, we believe that this time around, it is not the case that new statutory holidays are created. These are the holidays that workers should originally enjoy but they just fall on Sundays. There are some loopholes in the original legislation and as a result, they cannot enjoy the holidays to which they should be entitled. Although they have to wait until 2013 to benefit from this measure, as I said just now, a Spring late in coming is better than one that never comes, so I hope the Government can have foresight in its labour policy instead of doing some minor patch-ups slowly when a lot of criticisms and a great deal of grievances have emerged in society.

President, today, I wish to take this opportunity to talk about the room for future amendments brought about by this Bill. We have read some of the media reports. A survey conducted by a media group overseas shows that based on five days of work per week and an employee having 10 years of service, and after arranging the numbers of holidays in 39 countries and regions in a descending order, the numbers of paid holidays and statutory holidays for employees in Hong Kong are 14 days and 12 days respectively, that is, they have a total of 26 days of paid holidays in a year. We ranked fourth among 39 countries and regions — but we were the fourth from the last. This is really miserable! It turns out that the number of holidays that workers in Hong Kong enjoy ranks almost the last among 39 countries and regions. What a disgrace this is! Therefore, we should catch up quickly by doing more to protect workers' rights.

In addition, from July 2006 onwards, the five-day work week was implemented by stages in the hope of easing the work pressure of employees and enhancing the quality of their family life. In other words, the authorities believe that nowadays, with social development and changes in the economic situation, employees should have two rest days a week. This is a very clear concept.

Therefore, be it in the provisions of the existing General Holidays Ordinance or in the Amendment Ordinance, we hope that some progress could be made. After the implementation of five-day work week, employees can have a

rest day on Saturdays but if a Saturday overlaps with a general holiday, under the existing legislation, no holiday in substitution would be offered, so for those people working five days a week, this is tantamount to depriving the working class of one day of holiday. If this situation continues, it is not compatible with the efforts made in this regard and the concept of family-friendliness.

For this reason, I believe that the amendments proposed in the Bill today will have some effects on general holidays during the Chinese New Year holidays and the Mid-Autumn Festival at the present stage. However, in the long run, I hope the authorities would solemnly consider and face squarely the issue of a general holiday falling on a Saturday, so as to fully balance the views of employers and employees and make fair, reasonable and comprehensive arrangements.

Lastly, we can see that at present, in respect of the holiday arrangements, the Government practises discrimination against people doing highly manual work because the number of labour holidays is different from that of the general holidays. We hope that in respect of labour holidays and general holidays, wage earners who labour a lot can really have breaks on general holidays. They should no longer be discriminated against, thus resulting in a situation in which the greater the exertion, the fewer holidays one can enjoy.

President, I so submit. Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, as the saying goes, "even if one hangs oneself, one still has to take a breather". The legislative amendment today will enable wage earners to take a small breather, but it is so small as to be pathetic. Why do I say that it is so small as to be pathetic?

President, the legislative amendments proposed today are designed for just one purpose, that is, when either the Lunar New Year's Day, the second day of Lunar New Year or the third day of Lunar New Year or the Chinese Mid-Autumn Festival falls on a Sunday, instead of the past practice under which the holiday in substitution would be given on a Saturday, now it would be deferred so that the holiday in substitution will not be offered on a Saturday and people working five days a week can have one more day as a breather when the Chinese Mid-Autumn Festival or the Lunar New Year's Day, the second day of Lunar New Year or the

third day of Lunar New Year happens to fall on a Sunday. Of course, the Hong Kong Confederation of Trade Unions (HKCTU) supports this measure but the question is: What is the Government's entire rationale? It has not given any explanation on this in any way. If we use the same logic, the Government says that to people working five days a week, if the Lunar New Year's Day or the third day of Lunar New Year happens to fall on a Sunday, in order not to make them lose a day-off by offering a holiday on Saturday, the holiday in substitution is deferred. In that case, when a general holiday falls on Saturday, why is it not deferred to Monday? If the same logic and belief are taken further, the Government's course of action should be: When any general holiday falls on a Saturday, the holiday in substitution should be given on a Monday. In this way, wage earners can have more breathers while "hanging themselves" because there are surely more instances of general holidays falling on Saturdays than the Lunar New Year's Day, the second day of Lunar New Year or the third day of Lunar New Year or the Chinese Mid-Autumn Festival overlapping with Saturdays. Why does the Government not adopt this measure?

However, a more necessary task for the Government is not this one. If the Government really wants wage earners to take a little bigger breather, particularly given that nowadays, wage earners in Hong Kong have to "hang themselves" for a really long time they work long hours and have few holidays. Most of them are "hanging themselves" and the time for taking a breather is really limited. They do not have any family life or family time, and all their balance in life is lost. If the Government really adopts such a rationale and hopes that a balance between family and work can be achieved and if it cares so much about people working for five days a week, why does it not care about people working for six days a week?

People working six days a week are even more miserable because many of them are entitled to labour holidays rather than general holidays. Today's subject matter is the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011. Why is it necessary to amend two types of holidays? Because there is a queer law in Hong Kong, that is, the number of general holidays is 17 days but the number of statutory holidays under the Employment Ordinance is only 12 days. There is a difference of five days between 17 days and 12 days. Worse still, the most miserable part of this is that the harder the work and the longer the working hours, the greater the disparity in the number of holidays. For them, there is a greater likelihood that they have to

work six days rather than five days. Come to think about this. In the trades with the longest working hours in Hong Kong, that is, the transport, security, catering and retail industries, a six-day work system is adopted, the working hours range from 10 to 12 hours and all the workers are only entitled to labour holidays rather than general holidays. Therefore, this group of people working the hardest and "hanging themselves" for the longest time have a smaller number of holidays.

If we want to solve this problem and the entire notion is to let people take a breather, the first thing that needs to be done is not to propose the Bill today but to align general holidays with statutory holidays by changing the number of statutory holidays under the existing Employment Ordinance from 12 to 17, that is, an increase of five days and give these five days back to all wage earners, so that the anomaly of a clerical worker being entitled to 17 days of holidays and those in manual jobs in the same company being entitled to 12 days would not arise. In fact, such a situation is not right. Why is it necessary to discriminate against manual workers? However, that is the reality at present.

Therefore, if we want to promote balance between family and work, to these people working the hardest, leading the most difficult life and having to "hang themselves" for the longest time, the Government should enable them to strike a balance and give them a chance to take a bigger breather. Hence I think the first thing that the Government has to do is to align the 17 days and 12 days of holidays and after accomplishing this task and aligning the two, so that people working six days or five days a week are all entitled to 17 days of holidays, it should do one more thing, that is, to help people working five days a week so that when a general holiday or labour holiday falls on a Saturday, the holiday in substitution can be deferred to Monday. In that event, I would consider this to be some kind of progress, progress for everyone. People working six days a week would experience progress and so would those working five days a week. However, the most important thing is that in terms of the process or order, those leading a difficult life should enjoy progress first. At present, people working six days a week have long working hours, so people in a six-day work system can enjoy the progress first by being given 17 days of leave first. Then, people working five days a week can also enjoy progress by having the holiday in substitution for their general holidays that fall on Saturdays deferred to Mondays. This is what a Government that has its own beliefs and is fair-minded should do.

However, I know that today only trivial amendments will be made and of course, it can be said that this is better than nothing but sometimes, we feel very helpless in the face of this Government because often, it would only do things that are better than nothing, but never anything desirable. Therefore, I hope the Secretary can address the issue of unequal treatment under the arrangements of general holidays and labour holidays as soon as possible, so that those five days of holidays can be returned to all "wage earners" toiling away in Hong Kong.

Thank you, President.

MR ALBERT CHAN (in Cantonese): President, I speak to express my strong discontent with the Government's class discrimination and strongly condemn the Government's policy of class discrimination.

A number of Members representing the labour sector have highlighted the differences between statutory holidays and the so-called general holidays. President, it is strange that the English for "公眾假期" is general holiday, but in fact, what is called "general" does not include blue-collar workers. Indeed, this is a class delineation. Statutory holidays are available worldwide irrespective of job types. However, general holidays are not available to blue-collar workers and are specifically skewed towards the white-collar class, which enjoys a special class status.

In fact, the legislative amendments proposed today will further deepen the class distinction between the blue-collar and white-collar classes and will accentuate the discrimination. The difference between general holidays and statutory holidays is that the former number is 17 days and the latter, 12 days. For example, in the past, if there were 17 days of general holidays and one or two days of these among them fell on Saturdays in a year, since some white-collar workers still had to work for half a day on Saturdays, then after deducting the half day of work on Saturdays, there were actually only some 16 or 15.5 days of general holidays in a year. The present adjustment to the replacement holiday arrangement will ensure that white-collar workers can all have 17 days of general holidays but blue-collar workers will continue to have 12 days of general holidays. Therefore, although the amendments have adopted the fine pretext of enhancing the entitlement of employees in Hong Kong to more holidays, in

reality, in number and in theory, it has further widened the difference in holiday entitlement between blue-collar and white-collar workers.

Why is this measure loaded with class discrimination? Because the people formulating this policy are often representatives of white-collar workers. Donald TSANG is a staunch defender of civil servants and the five-day work week introduced some time ago was promoted by him. Civil servants can enjoy five-day work week because he himself came from a civil service background and many of his colleagues, aides and trusted people are all civil servants. Since the people trusted by him and people closest to him are civil servants, civil servants can have five-day work week. Regarding other people who are not closely-related to him, who do not have close working relationships with him, who are very distant and alienated from him, he just does not care about their well-being. In his work relationships and daily contacts, and perhaps in his growth and development, the people around him are people with civil service backgrounds, so the people he cares about and hates are precisely these people. To him, the other social groups and the working class are extremely distant and alienated from him, so he does not have the slightest feeling for them. Therefore, not only is this legislative amendment by the Government useless in reducing the class discrimination in reality, it also does not help blue-collar workers make the slightest adjustment or improvement to their drudgery.

President, I have lived overseas for some time. In particular, I took up my first job and worked in society when I was 17 years old. At that time, the employment legislation provided that a worker could not work for more than 40 hours a week and if one worked eight hours a day, the number of working days was precisely five days. If a worker worked more than 40 hours a week or more than eight hours daily, his employer had to pay 150% of the wages. If a worker had to work on statutory holidays, double wages had to be paid. President, I am talking about the situation in 1972. When I worked in Canada when I was 17 years old, such was the protection for workers prescribed by the law there. President, in a wink, that was 40 years ago. However, what is the legislation in Hong Kong? In terms of GDP, Hong Kong is on a par with Canada but the protection for workers is still full of discrimination and exploitation. The imposition of any regulation on working hours is still rejected. The legislation on minimum wage has just been enacted but it is still kept at a heartless and disgraceful \$28. Regarding the requirements on working hours and the provisions for employee protection, there is still a lack of definite and reasonable

protection in respect of working hours, so we are lagging far behind other advanced societies in Europe and America and economically well-developed regions.

President, it is difficult for us to oppose this legislative amendment today. Just now, Mr IP Wai-ming gave a fantastic account, pointing out the background against which Donald TSANG proposed this amendment. In fact, he bumped into a member of the public at a Lunar New Year Fair and this member of the public voiced such a view. This shows that the top echelon of the Government is actually alienated from various classes in the whole society. If he had got in touch with the working class or the general public frequently, he would have found that this problem had actually been raised a number of times, including issues that make wage earners feel particularly and extremely discontented. If Donald TSANG is interested, he should get in touch with some blue-collar workers to listen to their discontents with the discrimination found in the statutory holidays and general holidays.

President, in fact, the number of holidays has a tremendous impact on family life. I believe that Members here, in particular, the rich and powerful whom the Secretary gets in touch with, definitely have more than 12 days of holidays per year. When some of these people enjoy their holidays, they may be out of town for a long time, travelling in leisure around the world like drifting clouds. I am not talking about reputation or public support being like drifting clouds to them, but when they travel around the world like drifting clouds and enjoy life, it is absolutely impossible for them to appreciate the hardships of the toiling working class in Hong Kong, in particular, the blue-collar class, whose members have to work six days a week and sometimes 10 to 12 hours a day. When they get home, they still have to take care of their family members and children, as well as doing their household chores and dealing with many matters. They have few opportunities to enjoy family life or use the facilities provided by society or the Government, still less the country parks. If you try to ask the labouring working class who among them have visited the country parks, not many people among them would say that they have.

Therefore, this society is full of oppression, exploitation and discrimination. The underlying cause is the total disregard for the basic rights of blue-collar workers among people in the top echelon of the Government because they seldom come into contact with blue-collar workers in their lives, nor do they

appreciate or have compassion for the hardships in the living of blue-collar workers. Think about it and you will find that the present situation is so very ridiculous. It was because the Chief Executive went shopping in a new year fair and a member of the public raised this issue with him, saying that whenever a general holiday fell on a Saturday, he would be deprived of half a day of holiday and suggesting that some adjustment be made that the Chief Executive immediately ordered the Secretary to deal with this matter properly. In that case, what about other blue-collar workers? Other blue-collar workers only have 12 days of statutory holidays and cannot enjoy 17 days of general holidays, so what about their rights? It turns out that one can just sit by and disregard such matters. Do you mean they are not human beings? As Mr LEE Cheuk-yan asked, is it unnecessary to take care of the living of these people and is it not necessary for them to take a breather?

Therefore, President, I stress again here that I have to condemn this government policy that is so full of class discrimination. This legislative amendment today only further deepens this kind of discrimination.

MR RONNY TONG (in Cantonese): President, when I came back to Hong Kong after my study in the United Kingdom, I found for the first time that there was the distinction of general holidays and labour holidays. President, in the United Kingdom, there are only the so-called bank holidays to which all people are entitled. My immediate reaction was: Is this not very unfair? If this is unfair, why is there such an unfair arrangement?

President, of course, the arrangement back then has continued without seeing any comprehensive change, so it can be said that this is a not so honourable legacy for Hong Kong people from the colonial era. I believe that in each social issue, we still have to consider relative interests even though they may be unacceptable in terms of logic or justice, because all political issues and welfare issues are the outcomes of a balance struck among various interests in society.

I know that the argument for opposing the extension of paid general holidays to the labour sector is that holidays do not simply allow workers to take some rest, rather, to society, each day of holiday carries a substantial price tag. For example, recently, an assessment in the United Kingdom indicates that an

additional day of holiday would cost the British society GBP£6 billion, so this is a considerably large sum. Of course, this figure is controversial. Some people think that it does not amount to as much as GBP£6 billion but only GBP£150 million since the consumption brought about by holidays will stimulate the economy and generate incomes. Therefore, in the end, after offsetting the figures against one another, the loss is probably not so great.

However, President, the consideration in the United Kingdom and that in Hong Kong are different. I said just now that all along, in the United Kingdom, there is no such unbalanced and unfair arrangement like that in Hong Kong, so if the holidays are increased by one more day, the number of holidays for all people will be increased by one day instead of increasing the number of holidays for blue-collar workers alone. However, the situation in Hong Kong is different and there are several issues that we have to consider. First, Hong Kong's economy is now undergoing restructuring and the proportion of labourers has decreased compared to the colonial era, when I completed my study and returned to Hong Kong. Second, we now have the general holidays and non-blue-collar workers have more holidays than blue-collar workers. For this reason, even if we give one more day of holiday to blue-collar workers, the economic loss to be incurred and the effect on Hong Kong society will not be as great as those in the United Kingdom.

Therefore, when our society moves gradually to a more advanced and economically stable period, I believe it is only right to rectify such an unequal treatment. Meanwhile, what we have to consider is that all along, the protection for the labour sector in Hong Kong has all along been most inadequate indeed. In the example of the United Kingdom, which I have cited just now, standard working hours have been prescribed but this is not the case in Hong Kong. In other words, currently, many people in the labour sector have to work very long working hours. Therefore, if the holiday arrangement for them is not aligned with that for other employees in general, in fact, this will create even greater unfairness. Of course, relatively speaking, since the working hours of many people in the labour sector are very long, if a day is taken from their working time, the financial loss sustained by society will be even greater.

However, we cannot be calculating to the extreme in such a way in every issue. In the final analysis, an arrangement consistent with justice or more equitable should be the goal that we should strive for. Unless comparatively

speaking, the economic loss that society may sustain is really too great or the harm done to people in other strata is too great, social justice and equal treatment should be the goal that we must strive for.

Therefore, President, I think that the amendment to the Ordinance on this occasion, as an Honourable colleague indicated just now, is frankly speaking very humble and minor, but this is a step in the right direction. I also agree that the amendments this time around have not gone far enough. If we bring labour holidays on a par with general holidays, I believe the overall economic losses to be incurred in Hong Kong will not be greater than the core values that we have all along been proud of, that is, the value of social justice and equality. Therefore, it is necessary for us — I hope the Secretary can also hear what various Honourable colleagues have said — to move towards a fully equal and equitable holiday arrangement. If the Secretary thinks that this cannot be achieved by this Government, I hope that at the same time as he considers the issue of standard working hours, he can also consider deleting the labour holidays as soon as possible, so that only general holidays will remain and all people are equally entitled to the same number of holidays.

President, I hope the Secretary will listen carefully to the speeches of representatives of the labour sector. We agree completely with their remarks. For this reason, we agree totally with the amendments to the Ordinance on this occasion. At the same time, we also hope that the coverage of the amendments can be extended in the future, so that labour holidays will vanish in Hong Kong society.

Thank you.

MR LEUNG YIU-CHUNG (in Cantonese): President, today's Amendment Bill seeks to place some replacement holidays to Mondays so that employees can have a complete rest day. As stated by other Honourable colleagues, this arrangement is positive. We should, therefore, support it. This positive arrangement allows employees to enjoy one more rest day to further replenish their weary bodies. In fact, the labour sector in Hong Kong often criticizes that our working hours are too long with too few rest days. Hence, it would be a nice thing if we can have one additional holiday to further replenish our weary bodies.

Meanwhile, this arrangement can also bring positive effect to our family life. As we all know, the Government has been pointing out that we need to promote parenting education. Very often, however, as parents have to leave home early and return from work late, they have little chance of seeing their children due to their excessively long working hours. They simply have very little time to see and talk with their children, let alone parenting education. If the working class can enjoy a few more holidays, there will be more opportunities for parenting education. In terms of benefits, the arrangement currently proposed is also positive.

Many a time when we discuss increasing the number of holidays, the Government will keep on saying that it will cause big harm to society, particularly the economic loss. As illustrated in the example in the United Kingdom cited by Mr Ronny TONG just now, an increase in holidays would cause great loss to the overall economy. Objectively speaking, I believe that economic loss does exist because, for some trades or job types, an additional holiday could mean close of business for the day, naturally affecting their revenues. This kind of direct influence certainly exists.

The situation, however, is different if we look at it from the community as a whole. In today's society, we only tend to estimate the direct influence, neglecting some implicit or indirect impacts. The Government, in particular, often excludes social costs when assessing economic benefits. What are the social costs? They are actually very wide-ranging. If working hours are too long, an employee sooner or later will fall sick due to physical and mental exhaustion. If the employee goes to see the doctor in a public hospital, the relevant medical expenses will turn into a kind of social costs. Although the medical spending has gone up accordingly, the Government has not taken it into account.

Similarly, on parenting education, aberrations such as deviated behaviour may arise in the growth process of their children if employees do not have time to communicate with or educate their children. By that time, our society may have to allocate more resources including school social workers and even prison cells in order to tackle the problem. These are also social costs. Should we factor these costs into the calculation? To me, I will not count these costs. However, if we can make improvements in this respect, some social costs can be reduced.

But our Government does not consider any remedial action or address these problems.

The Government only knows how to lasso the employers, alleging that it would seriously affect our economic benefits if the number of holidays were increased. I feel that it is too superficial to look at problems in that way. Without seriously studying where the problems lie from the long-term perspective, our social costs will become much heavier. If the working parents are unable to take good care of their children, or if enterprises are incapable of taking care of the health of their employees, why are the costs incurred by these problems not accounted for? Why do we look at a problem purely from the surface? These are what I regard as deficiencies.

On the other hand, there is a deep-rooted problem in respect of today's Amendment Bill. What is it exactly? This holiday arrangement will create a deeper division within our society because not all employees are entitled to such holiday in substitution. Some employees are entitled to it while others are not. Division arises among the employees in this circumstance, like the class discrimination just mentioned by Mr Albert CHAN.

Apart from class discrimination, this division exists not only in respect of holidays in substitution but also in other areas. Many colleagues have mentioned that the general holiday and statutory holiday arrangement has also created division among us. Is it fair that some employees can enjoy certain holidays while some are not entitled to the same? As a wage earner, some of us can enjoy a few more days of holiday while some of us cannot. As we all work in the same society, do you think it is fair for him enjoying more days of holiday than I do?

In addition to the existence of these problems, we also see that the whole society is money-minded, hence imposing huge pressure on us. The pressure stems from the rewards from our hard work. Besides money, should we also consider the rewards I have mentioned? We provide physical labour as we work for the employer, how can we be compensated? Unfortunately, our society does not consider these at all. It gives us an impression that some people are better remunerated and can enjoy general holidays while some of us are treated to the contrary. This kind of division has created a lot of unnecessary discord. Since the Government has gone this far, I hope it could take a bigger step forward by

correcting altogether the division caused by any unjust or unfair arrangement with a firm view to rectifying the problems.

President, today I would like to talk a little bit about lengthy working hours, which I think is relevant. Lengthy working hours and holidays are closely related because our daily working hours are actually too long, making us tired and weary. As it also adversely affects our family life, more holidays are needed as compensation. However, our Government can be described as a miser in this respect. It always stands on the employer's side. They haggle over every ounce for holidays. In fact, if the employees could be happier and their family life could be more harmonious, it will definitely contribute not only to the advancement of society as a whole but also to our economic development.

We can always hear our colleagues say that it is more refreshing after the holiday because they can take a rest. Working for a long period of time will make them languid, holidays and reduction of working hours are, therefore, very important to employees. We should not ignore these problems by simply looking at the semblance or caring only about the direct impact it will have on the economy. I hope that this proposed amendment is only the Government's first step. There will be a second, third and fourth step to follow in order to shorten the working hours for the employees so that they can be rewarded with reasonable rest days rather than creating division in our system.

President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Labour and Welfare, you may now reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, first of all, I am grateful to Members for their support for the resumption of the Second Reading debate on the General Holidays and Employment Legislation

(Substitution of Holidays) (Amendment) Bill 2011 (the Bill) today. I also thank the 10 Members who have spoken earlier. They have put forward a lot of useful and valuable opinions and proposals.

Under the existing Employment Ordinance and General Holidays Ordinance, should any of the first three days of Lunar New Year or the day following the Chinese Mid-Autumn Festival — I wish to stress that these are both statutory holidays and general holidays — fall on a Sunday, the day preceding the holiday will be designated as a holiday in substitution. This has been the practice before. Under the existing legislation, should other statutory holidays fall on a Sunday, the day thereafter is designated as a holiday in substitution. It means that the arrangement of designating the preceding day as the replacement holiday applies only to the Lunar New Year holidays and the holiday on the day following the Chinese Mid-Autumn Festival. Members must understand this point, and our purpose is to align the replacement arrangement for all holidays.

With the changes in Hong Kong's social and economic circumstances, the number of employees working on a five-day work week basis with a day-off on Saturdays and Sundays has increased in recent years. To these employees, if the Lunar New Year or Chinese Mid-Autumn Festival holidays happen to fall on a Sunday and if the replacement holiday, which is the day preceding the holiday under the present arrangement, falls on a Saturday, the replacement holiday will overlap with the Saturday which is already their day-off. The Government has proposed these amendments precisely to make improvement in this respect. This is absolutely no arbitrary arrangement. It is an arrangement made after thorough consideration and in line with the overall economic and social development in Hong Kong. In future, when the Lunar New Year's Day or the day following the Chinese Mid-Autumn Festival happens to fall on a Sunday, the existing arrangement of designating the preceding Saturday as a holiday in substitution will be replaced in that the fourth day of Lunar New Year and the 17th day of the eighth month of the lunar calendar will be designated as a holiday in substitution instead. The Saturday day-off of these employees will not overlap with the holiday in substitution in the event that the Lunar New Year's Day or the day following the Chinese Mid-Autumn Festival falls on a Sunday in the future.

The next time when the Lunar New Year's Day falls on a Sunday is in 2013. According to the past practice, the Government will publish the general

holidays in 2013 in the Gazette in around April next year for institutions and members of the public to make preparations for their holidays in the coming year. If the Bill is passed smoothly, employees can benefit from the implementation of the Amendment Ordinance in the Lunar New Year of 2013 the earliest.

I wish to give a focused response to a number of views presented by Members in the debate earlier. First, I wish to respond to the proposal of increasing the number of statutory holidays from 12 days at present to 17 days, in order to bring it on a par with the number of general holidays. First of all, I wish to explain that general holidays as stipulated in the General Holidays Ordinance are days on which banks, education establishments, public offices and government departments need not open or operate. In fact, it is not provided in law that these are definitely paid holidays. By nature, general holidays are "institutional" holidays, whereas statutory holidays as provided for in the Employment Ordinance — I stress the Employment Ordinance — are a kind of welfare that employers must provide for employees. It is a kind of welfare. They are different in background and nature.

The stipulation that employees can enjoy 12 days of statutory holidays under the Employment Ordinance is a consensus reached in the community after extensive consultation. Therefore, any change must be carefully assessed, especially as it is necessary to strike a balance between the interests of employers and employees and obtain a wide consensus and support in society before changes can be made.

President, let me stress once again that it has been the Government's practice to review labour legislation from time to time in the light of Hong Kong's changing social circumstances and economic development to ensure that the legislation can meet the reasonable aspirations of both employers and employees and that the statutory protection accorded to employees can keep abreast of the times.

On the issue of whether the number of statutory holidays should be increased, as this change may have a bearing on business costs, we must collect the relevant statistics and conduct studies most carefully. What I can tell Members is that in order to understand the distribution and respective proportions of employees enjoying statutory holidays and general holidays, as well as such information as the characteristics of their working hours, the Labour Department

(LD) has asked the Census and Statistics Department to collect the relevant statistics. It is expected that the statistics will be collated and handed to the LD for analysis in the first half of next year. We will then examine the future direction, hence we have not overlooked the issue.

The second point to which I wish to respond is the suggestion made by some Members that employees be granted a holiday in substitution whether it be a general holiday or a statutory holiday that falls on a Saturday. I wish to point out that this proposal will have implications of varied magnitude on the business costs of employers as well as the number of days on which services are provided by public bodies. The existing stipulation in the Employment Ordinance is a consensus reached in the community after extensive consultation, and I have already stated this point just now. When we consider increasing or changing any welfare, we must strike a balance between the interests of employers and employees. We must carefully consider and assess the possible impact to be brought by the proposal on the entire labour market and the business environment. Most importantly, it is certainly necessary to forge a consensus in society. Let us not forget that Saturday is neither a statutory holiday nor a general holiday, and employees in different sectors have different work patterns to cater for the operation of their companies. We must clearly understand what impact will be created on the entire labour market in implementing the proposal. In this connection, the LD will collect the relevant information and particularly, we will make reference to the experience in neighbouring regions and overseas countries and hold discussions with the Labour Advisory Board. We will actively follow up these two proposals.

Lastly, some Members asked whether the day-off of employees can be designated as a rest day when a holiday happens to fall on a Saturday. I wish to explicitly point out that it is a requirement under the existing Employment Ordinance that an employee employed by the same employer under a continuous contract is entitled to one rest day in every period of seven days. If a statutory holiday happens to fall on a rest day of the employee, the employer must make arrangements for the employee to take the statutory holiday on the day following the rest day. This is all very clear.

With these remarks, President, I implore Members to support the passage of the Bill. Thank you.

PRESIDENT (in Cantonese): I now put 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. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

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

Council went into Committee.

Committee Stage

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

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

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011.

CLERK (in Cantonese): Clauses 1 to 5.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

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

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

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

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

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

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

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Road Traffic (Amendment) Bill 2011.

ROAD TRAFFIC (AMENDMENT) BILL 2011

Resumption of debate on Second Reading which was moved on 25 May 2011

PRESIDENT (in Cantonese): Ms Miriam LAU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Road Traffic (Amendment) Bill 2011 (the Bill), I shall now submit the report of the Bills Committee and brief the Council on its major deliberations. The Bills Committee has held six meetings to scrutinize the Bill and received views from the public as well as representatives of various organizations of the trade.

The Bills Committee members in general support the policy intent of the Bill to combat drug driving. The objects of the Bill include introducing stricter control over drug driving, providing the police with the necessary enforcement powers to combat drug driving and making other related amendments. The Administration has proposed to introduce a new offence to prohibit driving after taking any specified illicit drug (referred to as "zero-tolerance offence"). Driving with any concentration of a specified illicit drug in blood or urine is an offence, even if the driver does not show any signs of being under the influence of these drugs. The penalties for the offence will be aligned with that for tier 3 drink driving offence. The Bills Committee members in general are supportive of the creation of the new "zero-tolerance offence" to effectively combat drug driving. The Bills Committee also supports the specification of the six illicit drugs proposed for the purpose of the offence.

It is proposed in the Bill to also create a new self-contained provision in the Road Traffic Ordinance to provide for the offence of driving under the influence of any drug (which includes a specified illicit drug and any drug other than a specified illicit drug), to such an extent as to be incapable of having proper control of the motor vehicle. The Administration has advised that in order to protect the general driving public who have taken appropriate measures to avoid drug driving, a defence is proposed to be provided for a person who consumed or used the drug in accordance with the advice given by a healthcare professional or on the drug label, and who did not know (and could not reasonably have known) that the drug would render him or her incapable of having proper control of a motor vehicle if consumed or used in accordance with the advice. Furthermore, it is proposed that a preliminary drug test (such as an Impairment Test) should be introduced, so as to set a high threshold for assessing contravention of the offence.

The Bills Committee has noted that the penalties for driving under the influence of a drug other than a specified illicit drug will be aligned with tier 1

drink driving offence. If the drug involved is a specified illicit drug, the person will be subjected to much more severe penalties, with minimum disqualification periods for first and subsequent convictions being set at five years and 10 years respectively. If the person has previously been convicted of the same offence and, having regard to the relevant factors, the Court may order driving disqualification for life. Bills Committee members in general support the current proposal in the Bill of stipulating stiffer penalties for the offence involving specified illicit drugs to send a clear message that the community does not tolerate driving under the influence of illicit drugs, and lighter penalties for the offence involving drugs other than the specified illicit drugs. Some members have suggested that the two acts of driving under the influence of a specified illicit drug and driving under the influence of any other are very different in nature and severity, and should be dealt with separately. The Administration has accepted the members' suggestion and agreed to deal with and present these two acts as two different offences in two different provisions of the Road Traffic Ordinance.

The present proposal under the Bill is that the penalties on maximum imprisonment and maximum fine in respect of the category of drug driving offences (including the "zero-tolerance offence", driving under the influence of a specified illicit drug, and driving under the influence of a drug other than a specified illicit drug) should be set at three years and \$25,000 respectively. In the course of deliberations, Mr KAM Nai-wai has proposed that the penalties for the offence of driving under the influence of a specified illicit drug should be increased to a maximum fine of \$50,000 and a maximum term of imprisonment of five years, in order to enhance the deterrent effect. The Administration has responded to this proposal and the response has been included in the report of the Bills Committee. Mr KAM Nai-wai will move a Committee stage amendment (CSA) on this later.

With regard to the safeguards provided by the defence for driving under the influence of any other drug, a member has raised the concern that drivers of cross-boundary vehicles have to drive on the Mainland and they might receive medical treatment there. The member is concerned that the medicines purchased or dispensed by doctors on the Mainland are not subject to the statutory drug labelling requirements in Hong Kong and therefore may not carry any or detailed warnings on their side-effects in affecting driving. Since this is the case, the member has asked whether the proposed statutory defence can be expanded to

also cover medicines purchased or dispensed by doctors on the Mainland. The Administration has responded that as the prosecution would not have information about the medicines or the way they are prescribed or supplied outside Hong Kong, it is not feasible or practicable to verify if the drug in question is a lawfully obtained drug, and thus it is not appropriate to expand the statutory defence to cover drugs obtained outside Hong Kong. But the Court will consider all relevant facts and circumstances of a case, including the fact that the accused has taken drugs on the Mainland for medical purpose, when dealing with such charges. Moreover, an Impairment Test will help screen out persons who are grossly impaired by a drug to the extent of being incapable of properly controlling a vehicle. The Administration has advised that most medicinal drugs, if taken in accordance with advice given by healthcare professionals or in drug label, will not cause impairment to such an extent that a person is unable to properly control a vehicle.

The Bills Committee has noted that it is proposed in the Bill to include provisions to empower the police to require a person who is suspected of driving after taking an illicit drug or under the influence of a drug to undergo the preliminary drug test(s). The preliminary drug tests proposed to be introduced include Drug Influence Recognition Observation (DIRO), Rapid Oral Fluid Test, and Impairment Test. Normally, after conducting DIRO, if the police officer is of the opinion that the driver is under the influence of drug, the police officer may require the driver to undergo a Rapid Oral Fluid Test or/and Impairment Test. Bills Committee members have expressed concern about the safeguards to be taken on the relevant enforcement procedures and to prevent abuse of power by the police. The Administration has advised that a number of safeguards would be adopted, which include under normal circumstances, police officers will only conduct Impairment Test when they have a reasonable cause to suspect that a person is influenced by drugs through DIRO or Rapid Oral Fluid Test. The Administration has also advised that the preliminary tests (for example, an Impairment Test) will only be deployed to screen out the drivers who are suspected of driving under the influence of a drug and hence should be required to undergo the next step of testing. A charge may only be laid if the presence of drugs is confirmed by the detailed laboratory analysis that follows. The police have also undertaken that only police officers who are properly trained to conduct the preliminary drug tests and authorized by the Commissioner of Police will be tasked to enforce drug driving duties; and all Impairment Tests will be performed in an indoor environment (such as police stations), and will be videotaped;

detailed procedures and special instructions will also be drawn up and provided in the police orders.

The Bills Committee notes that it is proposed in the Bill that a medical practitioner may, at the request of a police officer and if the medical practitioner thinks fit, take blood from a suspected drink or drug driver if it appears to the police officer that the driver is incapable of giving a valid consent. The Administration has explained that the purpose of this proposal is to preserve evidence, because drug and alcohol metabolize quickly in the body. Regarding this proposal, some members have expressed concern about the detailed arrangements in actual enforcement operation. The Administration has advised that the proposed provisions in the Bill are modelled on relevant provisions of the Road Traffic Act of the United Kingdom, which have been introduced since 2002. The provisions have been proven. The Administration has further explained that, if a driver suspected of drink driving or drug driving appears to be incapable of providing a specimen of breath; undergoing a preliminary drug test; or giving a valid consent to the taking of a specimen of blood, in the majority of cases, the incapacity would be due to physical injuries or intoxication by alcohol or drugs to such an extent that the person is unconscious or delirious. The police officers authorized to perform the drink or drug driving enforcement duties will be trained such that they would possess the required knowledge, skills and experience in differentiating a person showing a medical condition from a person not showing a medical condition. Moreover, upon request by a police officer, a medical practitioner will take a blood specimen from the suspected person only if he thinks fit. Besides, the blood specimens will not be subjected to laboratory analysis unless consent is obtained from the driver when he becomes capable of giving consent.

Due to the seriousness of the dangerous driving causing death offence, the Bill has proposed to lengthen the disqualification period for this offence. It is proposed in the Bill to increase the disqualification period to not less than five years and 10 years for a first conviction and a subsequent conviction respectively. Furthermore, similar to the driving under the influence of a specified illicit drug offence, it is proposed to provide in the legislation that the Court may make an order disqualifying a subsequent offender from holding or obtaining a driving licence for life. The Administration has advised that this measure is necessary to maintain the relativity among the penalties for different traffic offences. The Bills Committee notes that the transport trades have objected to the proposal of

increasing the minimum disqualification periods for dangerous driving offences. The Administration has explained to the Bills Committee that the dangerous driving causing death offence is indeed a very serious offence. Having regard to the proposed high level of disqualification penalty for the new offence of driving under the influence of a specified illicit drug, the Administration maintains its views that it is necessary to increase, correspondingly, the disqualification penalty for the dangerous driving causing death offence to maintain the relativity among the penalties for different traffic offences, and it is considered appropriate to introduce the relevant provisions under the Bill.

In the light of the concerns of the Bills Committee, the Administration has introduced a number of CSAs. The Bills Committee has no objection to these amendments.

President, now I would like to express my own views and the views of the transport trades on this Bill.

According to the figures provided by the Administration to the Bills Committee, 84 drivers suspected for drug driving were arrested in 2010, which was more than seven times the number in 2009 when 11 drivers were arrested. The figure thus indicated a sharp rise in drug driving. The situation is even more serious in that about 90% of the 84 drivers arrested were suspected of having taken illicit drugs specified in the legislation, that is, narcotics. Given that after taking these narcotics a driver's ability of having control of the motor vehicle will be affected, which results in rampaging and recklessly speeding on the road, thus posing serious threats to the safety of other road users, the community is much alarmed by these highly dangerous drivers. As the transport trades and the Legislative Council are greatly concerned about the situation, they urge the Government to expeditiously enact legislation to address the problem. Thus, the Government's introduction of the Road Traffic (Amendment) Bill 2011 with the relevant amendment to take vigorous actions against drug driving is generally supported by the transport trades.

As a matter of fact, the transport trades have been troubled by the issue of drug driving for some time. At present, insurance companies do not provide any compensation in traffic accidents caused by professional drivers having taken drugs or illicit drugs. Car owners may possibly have to bear the responsibility of making compensations in the accidents concerned. If the accident involves

casualties, the amount of compensation may be astronomical. Those people from the transport trades often say that if they unfortunately find themselves in such a situation, they may lose every cent of their lifelong savings. Although owners have exercised vigilance in recruiting drivers and have strictly forbidden drivers to drive after drug abuse and taking illicit drugs, individual drivers may still defy the law. Under such circumstances, car owners have no way to know the facts and prevent this from happening. Thus, the Administration has proposed to adopt "zero-tolerance control" with regard to the offence of driving after taking any specified illicit drug (including heroin, ketamine, "ice", cannabis, cocaine, and "ecstasy"). Driving with any concentration of a specified illicit drug in blood or urine is an offence, even if the driver does not show any signs of being under the influence of these drugs. In adopting this practice of hitting the offenders hard by singling out one or two serious offenders, the Administration is aiming at enhancing the deterrent effect and eliminating the drug driving behavior. The transport trades have no objection to the proposals of the Administration, and they hope that the relevant proposal can be expeditiously implemented so as to achieve an effective deterrent effect.

However, the transport trades have expressed concern over the general drug driving offence involving any drug other than a specified illicit drug, and hope that the Administration will deal with this behaviour and the behaviour of drug driving separately. Professional drivers in general suffer from urban illnesses due to the nature of their job. Many are even sufferers of chronic diseases, relying on medicine to control their condition. After taking drugs, they may have different reactions due to individual physical conditions. Some drivers of cross-boundary vehicles are also worried that in some instances, it is inevitable for them to purchase medicines in the Mainland or take medicines dispensed by doctors on the Mainland. They express concern over whether they would be caught inadvertently for taking medicines for medical purpose and medicines of the Mainland and lead to allegations of drug driving. Although the Administration has emphasized that most medicines, if taken in accordance with instructions, will not cause impairment to such an extent that a driver is unable to control a vehicle, and has even proposed to provide a defence as safeguard for drivers, any legal proceedings will exert tremendous pressure on drivers. Moreover, in the event that a driver is charged, he will not be able to drive, and has to spend money to engage a defence lawyer. Therefore, we hope that when the Administration decides to lay a charge, it will seriously consider all relevant factors, such as the source of medicine taken by the driver, whether the medicine

is obtained lawfully, and whether the driver has taken the medicine in accordance with the advice given by a healthcare professional. The prosecution must also consider whether the evidence is sufficient to support the charge before making the decision to prosecute, so as to avoid "prosecuting the innocent" and causing collateral damage to innocent people. The Administration has also agreed to deal with and present these two acts of drug driving as two different offences in the Amendment Ordinance. Since this is the case, it is hoped that the concerns of the trades over this amendment can be alleviated.

Another highlight of the proposed amendment is that the police are empowered to enforce the legislation. In the past, the police did not have the power to carry out random checks on drivers to find out whether drug driving was involved. It was difficult to prove unless the police had found illicit drugs or the driver himself had admitted to having done so.

To eliminate the loopholes in collecting evidence, the Administration has proposed that the police be empowered to enforce the law. After the enactment of the Amendment Ordinance, the police will be able to require drivers suspected of drug driving to undergo five tests, which take only about 20 minutes to complete. However, the tests must be performed in an indoor environment, such as police stations. Requiring a suspected person to go to a police station for tests is appropriate because this can enhance the accuracy of the tests and protect the privacy of the driver. Nevertheless, the transport trades are concerned that for purposes of conducting such tests, a vehicle has to be arranged to take the person involved to a police station where tests will be performed. The test will take about 20 minutes. In addition to the time taken for registration, waiting, blood test and urine test, and so on, it will take at least an hour or two. If such a test is performed lightly, it is certain that professional drivers will suffer losses.

I believe the majority of drivers will co-operate with the enforcement by the authorities. But I hope that the police will issue clear guidelines to enforcement officers, stipulating that in their preliminary judgment of whether a driver is suspected of drug driving, police officers must have sufficient evidence to support their judgment, and strictly adhere to the principle of asking the driver to undergo the test only when he has established reasonable suspicion, thereby minimizing the inconvenience caused to professional drivers, and avoiding the drivers' misunderstanding of the action of the police as an abuse of power. Moreover, the police should expeditiously introduce the instrument for Rapid

Oral Fluid Test, which will be conducive to making an objective judgment, and avoiding unnecessary arguments. According to our understanding, Rapid Oral Fluid Test is like the Random Breath Test used in combating drink driving. It can be performed on the scene to a driver suspected of drug driving without taking him to a police station. It is also convenient in that it takes only dozens of seconds to get the results, thus significantly reducing the time of the test. As a matter of fact, the introduction of the Random Breath Test has been very effective in deterring drink driving. According to the figures provided to us by the Government, since the implementation of the relevant measure in February 2009, accidents involving drink driving in 2009 decreased substantially by 67% when compared to 2008; the number of drivers arrested because of inappropriate drink driving behaviour has also decreased substantially, from 1 495 in 2008 to 1 024 in 2009, and only 847 as at October this year. The Random Breath Test has proved to be an effective deterrent. We believe a random Rapid Oral Fluid Test will also be effective in combating drug driving.

President, insofar as combating drug driving is concerned, imposing penalties is certainly important, but education and publicity should not be neglected. The transport trades hope that the Government will strengthen the publicity of the message that drug driving causes harm to yourself and others. With the adoption of this two-pronged approach, it is hoped that drug driving can be eliminated. President, I so submit.

MR CHEUNG HOK-MING (in Cantonese): President, the community has always been devoted to combating the problem of drug abuse. For whatever reasons, drug driving, an act of harming oneself and others after taking illicit drugs that affect mental condition, is absolutely intolerable. The Road Traffic (Amendment) Bill 2011 (the Bill) and the relevant amendments proposed by the Administration can help it institute prosecutions and empower front-line officers to carry out law-enforcement work effectively. Both the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and I support them.

The DAB has once pointed out that random checks can prevent drink drivers from thinking that they can get away by luck, thereby deterring drink driving. Hence, this measure is also applicable to combating drug driving. I welcome the Bill empowering the police to conduct random drug tests. To ensure that such random tests are as efficient, uniform and scientific as those

conducted for the purpose of combating drink driving, the examination for the accuracy and reliability of the equipment used for the Rapid Oral Fluid Test for specified illicit drugs must be completed expeditiously to facilitate effective law enforcement by front-line officers.

Furthermore, the "specified illicit drug" specified in the Bill covers six common drugs of abuse. Given the emergence of new types of drugs literally in an endless stream, unruly elements might exploit the loopholes in law to avoid being tested positive for the presence of drugs in the body. The Administration must therefore closely monitor the trend of the types of drugs of abuse, introduce timely amendments to the scope of "specified illicit drug", and update examination technology and equipment.

Although the types of psychotropic drug covered by the "specified illicit drug" can be clearly specified for the purpose of driving under the influence of a specified illicit drug (毒駕), driving under the influence of a drug other than a specified illicit drug (藥駕) has more grey areas because of the wide range of drugs for treating various diseases which may affect mental condition or cause drowsiness. Although the existing legislation has provided that medicines containing antihistamine to be sold locally must bear warnings, coupled with the fact that prescription drugs are dispensed by healthcare professionals, pharmacists, and so on, a person may invoke the defence provisions if he has used such medicines in accordance with the advice without knowing that they would render a person incapable of having proper control of a motor vehicle. Nevertheless, the medicines covered by the defence provisions in the Bill do not cover medicines acquired outside Hong Kong. At the meetings of the Bills Committee, this question was raised by many Honourable colleagues. Some Members also proposed expanding the scope of application of the defence provision to cover medicines purchased or dispensed by doctors on the Mainland.

President, it might be commonplace for cross-boundary drivers working in the logistics sector to receive treatment or purchase over-the-counter medicines when they fall ill on the Mainland. Moreover, with the imminent implementation of the pilot scheme for free flow of cross-boundary vehicles, the situation mentioned is expected to occur more frequently. Owing to different criteria for the regulation of medicines in the Mainland and Hong Kong, coupled with different standards adopted for the use of various types of medicines, the DAB holds that it is inappropriate for the scope of application of the defence

provision to be expanded to cover the Mainland at the present stage. Nevertheless, I hope the Administration can, after amending the Ordinance, enhance publicity among cross-boundary drivers as well as helping and educating them to tell whether they are still physically fit for driving after receiving treatment or taking over-the-counter medicines outside Hong Kong.

President, the amendments proposed by Mr KAM Nai-wai today seek mainly to underline the seriousness of driving under the influence of a specified illicit drug. He proposed that the maximum fine and term of imprisonment for this offence should be increased, in order to dial up the vigour of combating drug abuse. Therefore, even if the ultimate consequences of driving under the influence of a specified illicit drug are the same as those of drink driving or drug driving, driving under the influence of a specified illicit drug is more serious than drink driving or drug driving in terms of penalties. The DAB, however, holds that it is difficult to tell whether the threat posed by drug driving or drink driving is heavier. If the penalties for drug driving are to be raised, the penalties for drink driving and dangerous driving should also be raised accordingly to pre-empt the situation whereby improper acts of a similar nature carry different degrees of gravity. Moreover, as I mentioned a while ago, given the rapid changes in the types of drugs, the maximum penalties for driving under the influence of a non-specified illicit drug will only be the same as those for drink driving or drug driving. Such being the case, the amendments proposed by Mr KAM Nai-wai will fail to serve the purpose of combating drug abuse. For this reason, I oppose his amendments. President, both the DAB and I support vigorously combating the undesirable trend towards drug abuse and stepping up the efforts through various channels, such as raising the penalties in connection with the taking and control of drugs, stepping up law enforcement and facilitating drug treatment, enhancing publicity and education activities, and so on. All these merit consideration by the Administration.

The DAB holds that the penalties proposed in the Bill already have considerable deterrent effects. Moreover, we can wait for some time after the Bill has taken effect before reassessing whether or not the relevant penalties are adequate. Hence, we cannot support the amendments proposed by Mr Andrew CHENG.

I so submit. Thank you, President.

MR WONG SING-CHI (in Cantonese): President, the discussion in this Council today on enacting legislation to regulate and combat drug driving is extremely important to overall road safety and various road users, because the Government did not have a specific and targeted law to stringently curb drug driving. Today, this Council is going to discuss and vote on the relevant Bill to fill the gap in the existing legislation and plug regulatory loopholes. I will present the views of the Democratic Party on the overall legislative framework, whereas Mr KAM Nai-wai will speak on the amendments.

Drug driving is not only an irresponsible driving behaviour of a driver who knowingly violates the law, it also poses a serious challenge to road safety and social order. Under section 8 of the Dangerous Drugs Ordinance (Cap. 134), a person who has in his possession or smokes, inhales, ingests or injects a dangerous drug shall be guilty of an offence and shall be liable to a fine of \$1 million and to imprisonment for seven years. Even the act of taking drugs *per se* is an offence. Meanwhile, everyone should know how drugs affect the behaviour of a person. In particular, drugs can have profound impacts on drivers' driving behaviour.

For instance, heroin can cause slow and inappropriate response as well as a drop in thinking abilities — not to mention addiction, and so on. I will now focus merely on immediate reaction. Ketamine, also known as "K", will undermine the co-ordination and balance of the body, lead to blurred vision, cause illusionary detachment from the reality, and distort the perception of speed and distance. Although some people say that taking cannabis should not be taken seriously, cannabis is actually a drug. We must not listen to those people who say that young people used to take cannabis and thus pick up the habit of taking cannabis and, eventually, heroin. Cannabis undermines cognitive abilities and psychomotor ability, so that one can hardly drive on the same lane, or even walk. Cocaine causes a driver to wrongly judge the driving speed or the distance required for braking his vehicle, or leads to wanton and capricious driving behaviour. "Ice" and "ecstasy" cause deformation of everything before the eyes of the driver and a drop in concentration, and cause the driver to become over-confident and readily take risks in the belief that he can do anything, even speeding. When their effects weaken, the drugs will cause fatigue and make it impossible for the driver to concentrate on driving.

Some overseas studies have also highlighted the serious impacts of drugs on driving. According to the consolidated findings of a study conducted by a university in Lyon, France in which 10 748 fatal traffic accidents were studied in detail, even if the age of the drivers and state of the vehicles are taken into account, the risk of fatal accidents occurring to cannabis-taking drivers is double that occurring to drivers with normal driving behaviour. One of the researchers has specifically pointed out that such drivers will easily get involved in car crashes because the effect of the drug will affect the response time and concentration of a driver. Meanwhile, the drug will also make it easier for a driver to get hurt in a car crash. Hence, drug driving raises the chance of fatality in car crashes.

The Government has listed six "specified illicit drugs", including heroin, as mentioned just now; ketamine; methamphetamine, commonly known as "ice"; cannabis; cocaine; and 3,4-methylenedioxymethamphetamine (MDMA). These are common drugs of abuse. Actually, there are tens of thousands of drugs, and the reactions to these drugs may vary from one person to another. There will be a huge difference in the effects of drugs if they are taken together. These drugs pose extreme dangers to people, especially drivers. If a driver goes on a rampage with a machine on Nathan Road when he has such problems as slow response, difficulties in balancing, blurred vision, illusion, wrong judgment, a drop in concentration, impaired cognitive abilities, and so on Nathan Road aside, an accident had already occurred a couple of days ago in which a person was hit and killed by a car when the driver confused the brake with the accelerator. What will be the consequences if a drug-abuser driver goes on a rampage on the road or in a busy street? In order to curb this kind of bad behaviour, legislation should be enacted to combat drug driving without delay.

As mentioned earlier, it is specified in section 39 of the Road Traffic Ordinance (Cap. 374) that "a person who drives while he is under the influence of drugs to such an extent as to be incapable of having proper control of the motor vehicle commits an offence". Besides covering all kinds of drugs, this provision does not require the drivers involved to undergo drug tests or provide body fluid specimens. To a certain extent, this is a passive piece of law — the law can only serve its purpose if the driver confesses that he has taken drug when he is questioned by the police after his "driving rampage". Hence, there is simply no law-enforcement and prosecution procedure that can make it easier to expose the problem or deter drivers.

Under the existing legislation, a police officer will conduct a breath test if he suspects that a driver is under the influence of alcohol or a drug. If it is shown that the alcohol level of the driver does not exceed the limit, but the police officer has reasons to suspect that the driver is under the influence of a drug, he will question the driver if he has taken any drug and search the vehicle to examine if there is any dangerous drug. The driver will be arrested only if he confesses that he has taken drug. The police officer can only invoke the existing drink driving legislation to pursue a drug driving case or question the driver if he has taken any drug. We think that it is quite difficult to pursue prosecution by this means, for it is like waiting for luck. This explains why we initially hoped the Government could expeditiously enact legislation on drug driving. That Members are able to discuss and pass this Bill today is actually good news to road users.

We can see that the Government merely conducted some publicity and education work in the past by, for instance, urging motorists to pay attention to such warnings as "causing drowsiness" or "unsuitable for driving after taking the drug" on the labels before taking the drugs. However, this measure is relatively passive, and its effect is not evident.

Let me give more information about drug driving. The relevant figures on drug driving for the past five years are as follows: The number of drug driving accidents in 2010 was 33, more than six times the number in 2007, 11 times that of 2008 (three cases were recorded), more than eight times that of 2009 (four cases were recorded). The 12 cases recorded in total in 2007, 2008 and 2009 were still lower than the 33 drug driving accidents recorded in 2010 alone, with the latter being nearly three times the former. When it comes to the magnitude of change in the number of accidents occurred, despite a 71.9% or so fall in the number of drink driving accidents from 758 in 2007 to 213 in 2010, the number of drug driving accidents recorded in the same period has risen more than six times. Perhaps more police officers were deployed to inspect drug driving because the police were no longer required to examine drink driving. In fact, I believe the findings of the survey will be even more astonishing if a law on drug driving is in place. Why? Is it because the number of drug drivers has increased recently? I do not think so. It is only because the Government has taken the matter more seriously and acted more proactively. Moreover, after the enactment of legislation, drink drivers can be arrested easily, and there has been a

growing number of cases involving people investigated for drug abuse after arrest.

We can also see the enormous numbers of convicted drug driving cases and casualties over the past five years.

In the drug driving accidents that occurred in 2007 and 2008, one and three persons respectively were injured, and fortunately, no one was killed in such accidents in these two years. However, in the drink driving accidents that occurred during the same period, a total of six persons were killed. In 2010, one person died in drug driving accidents but, on the contrary, no one was killed in drink driving accidents.

It is thus evident that in 2010, for instance, even though compared with drink driving accidents (in which 113 persons were injured), drug driving accidents (in which 12 persons were injured) might not appear to be serious in terms of injuries, the fatalities in recent drug driving accidents are higher when compared to those in drink driving accidents. These figures also reflect the gravity of the drug driving problem and that such behaviour should be stamped out expeditiously. Hence, the Democratic Party has all along hoped that legislation can be enacted expeditiously to bring drug driving under control.

Some time ago, the Government enacted the Road Traffic (Amendment) Bill 2010 in which a three-tier penalty system was proposed for drink driving. At that time, some work was also done to combat drug driving by including six illicit drugs, namely heroin, ketamine, methamphetamine, cannabis, cocaine and MDMA in the Bill and specifying that the penalties for driving after taking those drugs be increased by 50%. Unfortunately, the incomprehensive legislation could merely achieve a deterrent effect. It might not be easy to prove drug driving during enforcement.

I think that this proposal put forward by the Government on the occasion is a bit late, if not very late. Although it seems that I do not show much respect for the Government by putting pressure on it despite its willingness to enact legislation, many countries in Europe, such as Belgium, France and the United Kingdom, as well as Australia, Singapore, and so on, have already introduced relevant legislation to regulate drug driving. Hence, it is indisputable that the SAR Government has lagged behind. The Government should be able to act

faster. It should have put forward a greater number of concrete and more proactive proposals to control drug driving when the three-tier system was discussed last time. Unfortunately, it failed to do so on the last occasion and waited for this occasion to enact legislation. It has really taken so long for the legislation to be rolled out. I hope that the Bill can be passed this time around and drug driving be combated most stringently.

Of the many views on offences expressed this time around, there are proposals concerning "zero-tolerance offence" and prohibition of driving after taking any "specified illicit drug". Driving with any concentration of a "specified illicit drug" in blood or urine is an offence even if the driver does not show any signs of being under the influence of such drugs.

As regards the general drug driving offence, it is specified that a person will commit the offence if his or her ability to drive properly is impaired under the influence of a drug. In order to protect drivers who have taken appropriate measures to avoid drug driving, the Government has stipulated a defence provision: A person who has taken medicine according to the advice of a healthcare professional or the label of a medicine without knowing that the medicine will impair his or her ability to drive properly, he may use this as a defence. This can also be considered comprehensive protection for people in some other circumstances.

As regards empowering the police to require persons suspected of driving after taking illicit drugs or driving under the influence of illicit drugs or other drugs to undergo drug tests, I hope the tests can really work and be conducted with respect for the public's human rights. Under appropriate circumstances, the police may require the drivers to undergo one or more drug tests. This can actually enhance the effectiveness of the police in law enforcement.

Certainly, while approving of regulating driving under the influence of a drug other than a specified illicit drug and combating driving under the influence of a specified illicit drug, the Democratic Party would like to call on the Government and law-enforcement agencies to strike a balance between human rights and police power in the course of enforcing the law. As we will pay attention to the possibility of abuse of police powers, the Government and the police must study this matter and deal with it carefully as well as taking steps to

prevent the occurrence of such problems to give the public peace of mind, with the knowledge that the police are enforcing law for the sake of road safety.

I have no intention to guess why drug addicts or drug abusers have gone astray. Of course, there are many reasons for them to do so. But I must tender this sincere advice to these drivers: Drug driving not only affects your personal safety, it may even claim the lives of other innocent road users without any signs. Although you can still say that you can bear the consequences of losing consciousness, both hands or both legs, you can hardly shirk your responsibility for such crimes as killing or injuring passers-by who have nothing to do with you. Hence, I hope that driving under the influence of a specified illicit drug can be brought under control expeditiously. Thank you, President.

MR CHAN HAK-KAN (in Cantonese): President, when we opened the newspapers or switched on the television at the beginning of this year, some news would invariably attract our attention. These were news about accidents caused by drivers who drove recklessly on highways after taking drugs. Hong Kong people are very concerned especially serious injuries and deaths were caused by such accidents. So, after the occurrence of such accidents, the Government is very much concerned and the relevant law-enforcement agency has also combated such behaviour with tougher measures. Now, the situation has been brought under restraint. According to relevant data, 43 people were arrested for suspected drug driving or driving under the influence of specified illicit drugs in the first 10 months of this year while 84 people were arrested in the whole of last year. It seems that there has been a significant drop in the figures, but I hope the Administration will not be complacent too soon because we need appropriate legislative backup in order to stringently combat and curb driving under the influence of a specified illicit drug. Today, the 2011 Road Traffic (Amendment) Bill precisely targets at the problem and seeks to make corresponding legislative amendments. Therefore, the DAB and I will support the Administration's amendments.

President, the most important and the very core of this Amendment Bill is the inclusion of what kinds of drugs in the Schedule as specified illicit drugs as driving with any concentration of a specified illicit drug in blood or urine is an offence.

According to the Administration's proposal, six types of drugs, including ketamine, heroin and cannabis, are classified as specified illicit drugs. Although these specified illicit drugs cover a wide range of drugs which are also the most commonly abused, there are endless types of drugs. Moreover, different people will take different drugs at different times, thus forming a most interesting trend. For example, I have learnt from a newspaper that recently some people will take a mixture of drugs or mix drugs with traditional Chinese medicine, alcohol or other drinks before consumption in order to achieve a greater sensory stimulation. So, I hope that the Government will update these six types of drugs according to the actual situation in the community in order to achieve the maximum effect of the legislation. The Government should never wait until some drivers who have caused accidents after taking drugs are found to have taken drugs which are not on the list of specified illicit drugs and imposed penalties similar to ordinary drug driving offences. This will give people an impression that the taking of illicit drugs will not contravene the relevant illicit drug driving legislation, thus creating a fundamental flaw in the enforcement of the legislation as a whole and causing disappointment.

Although the Administration has indicated that the list of specified illicit drugs will be updated from time to time, we still hope that the Government will put in place a sound mechanism to activate the procedure of updating the list. For example, we hope that the three government departments including the Transport Department, the police and the Narcotics Division will exchange relevant information on a regular basis instead of considering revising the list only after driving under the influence of a specified illicit drug has already become a trend. A time lag in this aspect will render the strength of combating such driving less effective. I hope the Government will pay special attention to this.

President, during the deliberations of the Bills Committee, Members of various parties and groupings unanimously agreed that the Administration should adopt a "zero tolerance" attitude towards driving under the influence of a specified illicit drug. But for drug driving, there are divergent views. In particular, after a public hearing, many professional drivers told us that they were worried about being caught by the law inadvertently by driving after taking drugs prescribed by doctor.

I understand the viewpoints and concerns of these professional drivers. However, regardless of the amendment to the Ordinance this time around, the Ordinance since enactment does not permit driving under the influence of medicinal drugs because the ingredients of many prescription drugs or patent medicines will affect the driver's judgment and reflexes, thus possibly leading to accidents. If we compare drug driving with illicit drug driving, the latter is certainly a more serious problem. Therefore, I support the Government to differentiate illicit drug driving and drug driving in this amendment with different penalties set out for these two offences.

Nevertheless, I would like to advise the professional drivers that they should have regard for the concern of the community because the lives of many passengers, pedestrians and other drivers are all in their hands. If they drive after taking medication and cause an accident, many other innocent parties will also be affected in addition to themselves. On the other hand, I hope that the employers of professional drivers can adopt a relatively tolerant attitude. If the professional drivers have really fallen sick, they should be allowed to rest because if they drive when feeling unwell, the risk of accident will increase regardless of whether they have taken medication or not.

President, during deliberations on the Bill, another focus of discussion is how the law can be enforced by the police. A draft guideline on how to establish reasonable suspicion in drug driving involving an illicit or medicinal drug by the police was therefore submitted to the Bills Committee. I have also read the guideline which is set out in an outline. The police will also need time to prepare for law-enforcement work. Meanwhile, we think the police should improve the guideline and provide appropriate training to traffic police officers because the results of a preliminary test to be conducted in future will totally rely on the officers' observation of the drivers.

President, let me cite another example. If we suspect that a driver has drunk too much alcohol, it is very easy to observe because he may carry a smell of alcohol. However, if it is suspected that a driver is under the influence of an illicit or medicinal drug, it will be difficult for the police to determine direct whether he has taken illicit drugs or medication. If a more stringent standard is adopted by the police, the public may find it disturbing. If the standard is too lenient, however, we are worried that the measure is not strong enough to curb drug driving. I remember that during the course of consultation, some

organizations raised the question that it would be more appropriate for tests related to drug driving involving an illicit or medicinal drug be conducted by medical personnel who have relevant professional knowledge.

According to the police, if they suspect that a person is driving under the influence of an illicit drug, they will carry out some simple physical tests, such as requiring the person concerned to stand on one leg or walk a straight line. When they have further suspicions, they will conduct some impairment tests. However, such impairment tests will likely be controversial. The test results may be overruled if the handling process or judgment of the police does not comply with the guideline. Therefore, police officers should have adequate knowledge of the legislation and received comprehensive training in order to ensure that the tests are more credible and scientific.

In order to enhance the reliability of tests on detecting drug driving, I hope that the police will introduce the device for Rapid Oral Fluid Test as soon as possible. As far as I know, although it is a new technology, the Hospital Authority (HA) has planned to conduct testing of the device in the near future in order to determine its reliability and accuracy. The testing is expected to take six months. I hope that the HA will complete the testing expeditiously so that the police can use a more convenient and less disturbing device as soon as possible, apart from making preparations for the introduction of random testing for drug driving involving an illicit or medicinal drug in future.

President, Members may recall that at the initial stage of dealing with drink driving, breath test was conducted only for the drivers involved before random testing was introduced. As we can see it, the number of traffic accidents caused by drink driving has decreased by more than 60% after the introduction of random testing, showing that this approach is effective. If random testing can be conducted for drug driving involving a medicinal or illicit drug, I believe the deterrent effect can be further enhanced and occurrence of drug driving will be reduced.

President, Mr KAM Nai-wai and Mr Andrew CHENG will propose relevant amendments to the penalties in the Bill later on, while Mr CHEUNG Hok-ming of the DAB has explained the position of the DAB just now. We do not support the two amendments mainly because the two Members' amendments have not taken into account the penalties for other offences even though their

amendments will lead to an increase in the penalties. As a result, there may be different penalties in the same legislation, thus affecting the proportionality between penalties. We are concerned that it will give people a wrong impression that penalties may be lighter for drug driving involving other medicinal or illicit drugs. As we do not want to send out the wrong message, we will vote against two Members' amendments.

President, I so submit.

MS LI FUNG-YING (in Cantonese): President, in tandem with social development, not only Hong Kong but also the international community has to face the proliferation of illicit drugs. In particular, drug traffickers make use of new technology to manufacture all kinds of illicit drugs. Not only do these drugs blur the line between illicit drugs and medicinal drugs, they have also made it much more difficult for law-enforcement agencies to combat illicit drugs. It is therefore imperative for legislative amendments to be introduced in a timely manner to deal with the hazards posed by illicit drugs. In view of the increasing drug driving cases, the Government has proposed to amend the Road Traffic (Amendment) Bill 2011 (the Bill) to create new offences in connection with driving motor vehicles under the influence of drugs, formulate examination methods, impose heavier penalties, and so on, for the purpose of stepping up efforts to combat drug driving to assure road safety. I support in principle the Government's proposed legislative amendments.

Combating driving under the influence of a specified illicit drug is clear and specific, for driving under the influence of an illicit drug specified in the Bill constitutes an offence. It is, however, a very different case for driving under the influence of a drug other than a specified illicit drug. A new provision is made in the Bill to stipulate that driving under the influence of any drug to the extent of being unable to properly control a vehicle is an offence. The scope of this provision is so wide that all drugs, including the "specified illicit drug" and drugs other than a specified illicit drug, are included. Under this provision, a driver who has taken drugs commonly and legally used might also be regarded as being unable to properly control a vehicle. President, the Transport Industry Committee of the Federation of Hong Kong and Kowloon Labour Unions, to which I belong, is concerned that professional drivers will bear the brunt and be affected. In Hong Kong, quite a number of professional drivers have to work

day and night and are, to a certain extent, suffering from occupational diseases. It is thus not unusual for them to work after taking medicine. A law with such an extensive coverage will very likely hit the wrong targets, thereby affecting some professional drivers who still have to work despite having taken medicine.

Despite the Government's emphasis that the existing Ordinance has provided for a defence provision that it is a defence if the drug in question is a legal drug. The scope of application of the defence, however, still has a lot of uncertainties. For instance, the drugs taken by some cross-boundary drivers who receive treatment or purchase patent medicines on the Mainland are not necessarily legal drugs in Hong Kong. Some legal drugs that can be purchased in the dispensaries in Hong Kong, such as those over-the-counter medicines that contain antihistamine and cause drowsiness, for treatment of common diseases extensively, such as rhinitis and alleviation of cold symptoms, can still be sold in dispensaries as over-the-counter medicines provided that the relevant warnings are spelt out clearly. So, it is open to question as to whether professional drivers who work after taking such medicines will be regarded as being unable to properly control a vehicle and thus caught by the law. Furthermore, it is also possible to buy some patent drugs in the dispensaries in Hong Kong. These drugs, which do not necessarily come with descriptions, might similarly become pitfalls for the drivers. I can go on and on to cite examples to illustrate the numerous situations.

The Government has pointed out in response that during identification, law-enforcement officers will require the driver in question to undergo the preliminary drug test to ascertain if his driving ability has been seriously undermined by a drug to such an extent that he is unable to properly control a motor vehicle. In dealing with the relevant charges, the Court will also take into account all relevant facts and circumstances, including if the defendant was required to take medicine in the Mainland for the sake of treatment.

Although I understand that it is not easy to clearly spell out the grey areas of the Ordinance, the Government's clarification has failed to completely dispel the misgivings of the trade unions. Nevertheless, in order that drug driving can be combated effectively, the trade unions ultimately opt not to oppose the amendment. I hope the Government can take one more step after the passage of the legislation by, in particular, strengthening the training of the abilities of front-line law-enforcement officers in differentiating between drug driving and

non-drug driving, and secondly, conducting extensive publicity in the community and encouraging employers not to force professional drivers who are ill to report duty and, finally, conducting a review after the commencement of the legislation in due course to assess the impacts on professional drivers. Thank you, President.

MR JEFFREY LAM (in Cantonese): President, the Road Traffic (Amendment) Bill 2011 (the Bill) is enacted to implement more stringent control on drug drivers. It is believed that the legislative amendment this time around can clearly send to the community the message of zero tolerance towards drug driving. Nevertheless, the Economic Synergy has reservations about the proposed amendments put forward by Mr KAM Nai-wai and Mr Andrew CHENG to substantially raise the penalties imposed on non-compliant drivers.

In enacting legislation, a balance must be struck between protecting the public's personal and property safety and maintaining drivers' integrity regarding safe driving. According to the Bill tabled for amending the Ordinance, the disqualification period for a driver convicted of a second or subsequent offence of dangerous driving causing death will be increased from not less than five years to 10 years. I think that this amendment is sufficient in reflecting the gravity of the offence. Furthermore, the Administration proposes to specify in the legislation that the Court has the power to order life disqualification from driving for repeat offenders. Nevertheless, I think that there is room for discussion as to sentencing drivers convicted for a second or subsequent offence to life disqualification all at once.

In our opinion, protecting the lives and properties of members of the public must be the prime consideration in enactment of legislation. We must spare no effort to bring to justice drivers who have made repeated mistakes and refused to correct their mistakes despite repeated counselling. The transport sector has, however, expressed the view that drivers charged with dangerous driving might not be personally responsible for traffic accidents. Very often, such accidents are caused by environmental factors. It will deal a serious blow to the livelihood of these drivers should the penalties be raised to life disqualification blindly all at once. Given that a Magistrate has the power to order life disqualification for repeat offenders, the Bill itself already has a deterrent effect. We believe the Magistrate knows how to determine the balance and severely punish such drivers

with regard to the gravity of the cases. As regards the question of whether the legislation should specify that all repeat offenders be sentenced to life disqualification all at once, we propose to consult members of the public first rather than getting around the Bill and raising the relevant penalties promptly.

As regards the two offences of refusing to undergo preliminary drug tests and provide blood and/or urine specimens without reasonable excuse, Mr Andrew CHENG has similarly proposed in his amendment that the penalties be raised all at once from the Government's proposed fine at level 4 and three-year imprisonment to a fine at level 5 and five-year imprisonment. We consider the penalties too heavy. We hope that the Amendment Bill, after enactment, can be implemented for a period of time before a fresh review is conducted depending on the prosecutions.

President, we support the Government's CSAs. I so submit. Thank you, President.

MR ANDREW CHENG (in Cantonese): President, personally, I greatly support the Road Traffic (Amendment) Bill 2011 (the Bill) proposed by the Government because of the great importance attached to drug driving both inside and outside the Legislative Council. I believe the Secretary understands this, too.

The Government's current approach to dealing with the "zero-tolerance offence" and general drug driving offences separately is a response to social aspirations, because illicit drugs are illicit and taking illicit drugs is already an offence. It is an extremely serious offence to drive after taking illicit drugs and thereby cause death or bodily harm. Therefore, the setting out of the six "zero-tolerance" drugs in the Schedule as a provision in law is absolutely sensible. The Schedule may also be updated from time to time.

I also agree with the Government separating the penalties for general drug driving offences from those for illicit drugs and driving under the influence of a specified illicit drug. Frankly speaking, quite a number of people really need to take medication, probably for chronic illnesses or a cold. The penalty for driving under the influence of such medication should be far lower than those for offences of driving under the influence of a specified illicit drug.

President, the Bill is actually not at all controversial. The Committee stage amendments (CSAs) proposed by me are by no means a specific indication that I am going to deliberately challenge the Government's authority. Nevertheless, insofar as drink driving and drug driving are concerned, I have always believed that, for some irresponsible drivers and repeat offenders, if they commit the offence of dangerous driving causing death repeatedly — President, this means that there is at least one death or, occasionally, even more than one death. Is a driver who repeats the offence of dangerous driving causing death (this means that there are at least two deaths or even more) still fit for driving a motor vehicle on the roads? As a dangerous person, will he not pose threats to road safety?

I hope to strike home the message through my CSAs that repeat offenders of dangerous driving causing death should, unlike the Government's proposed CSAs, be disqualified from driving for life. The same goes for driving under the influence of a specified illicit drug. Taking illicit drugs is already an offence, not to mention driving after taking illicit drugs. Committing such a crime once is already unacceptable. Repeat offenders, if arrested, should be stripped of their right to drive. Through this message, I hope the community and people who love to do this, including speeding enthusiasts or motorists with a history of taking drugs, can be given a reminder when they are allowed to drive a motor vehicle again in future, given that they have already committed such offences previously, unlike the case with the amendment proposed by the Government now. While I appreciate the Government's point in considering life disqualification essential, according to the CSAs by the Administration, however, the responsibility will be handed to the Court. On knowing that the person in question is a repeat offender, the Court may order disqualification for life if it deems it necessary to do so after studying the case.

Insofar as this point is concerned, President, if my CSAs are not passed, I will settle for the second best and support the Government. But why do I consider the Government's approach not the best? The reasons are, first, the message brought out by the Government is not as clear as the one brought out by my CSAs; and second, it appears that a lot of time has to be spent in the Court on debating and obtaining evidence. Lawyers will definitely argue on circumstantial issues or, when it comes to dangerous driving, that their clients are not really responsible. They may even question whether the responsibility lies with the victims.

Nevertheless, Members must bear in mind that dangerous driving causing death is a criminal offence. For a person to be convicted of a criminal offence, the case must be proved beyond any doubt or excuse. Given such a stringent standard for convicting a person of a criminal offence, coupled with the fact that he has committed the offence twice, thereby taking the lives of two or more than two persons, I believe a clear message is essential.

President, I will carefully listen to the views to be expressed by Honourable colleagues in the discussion on the CSAs later on and then we can have a debate on them. Nevertheless, this kind of debate appears to focus on how Members evaluate the expectation of the community in this respect, for Members from different sectors may have different views. Like the representatives of trade unions as a representative of the Economic Synergy, Mr Jeffrey LAM, pointed out that, from the economic angle or the angle of trade unions, some people might be thrown out of work. Although it is said that no effort should be spared as some people have made repeated mistakes, there will still be doubts when it comes to whether or not disqualification for life is too harsh.

It seems to me that the so-called issue of proportionality is a matter of judgment. It depends on how Honourable colleagues look at road safety, public interest and the financial reasons for individuals in making a living. Honestly, from the financial angle, that some individuals might be thrown out of work as a result of more stringent penalties will, to some extent, remind drivers to be more vigilant. This is actually good for them. They, too, are humans. They might also be killed or seriously injured as a result of dangerous driving or drug driving causing death. Their family members will also suffer. Hence, the underlying message that can be struck home by this offence is not only road safety, it also seeks to tell people with bad driving behaviour or history of dangerous driving or drug driving as well as drug addicts that they should not only give due regard to road safety, but also act in the interest of themselves and their family members.

President, I hope that this message brought out by me President, I do understand that the chances of my CSAs being passed later are very slim. When it comes to drink driving or drug driving, I understand that the outcome will be the same. I only wish to insist firmly on some of my points of view and put them forward. Last time, I proposed disqualification for life for repeat drug driving offenders. This time, the Government proposes that such consideration should be left to the Court and offenders might be sentenced to disqualification

for life in the end. I believe I have at least received some reward because of my perseverance, though I hope to do even better.

Furthermore, President, I would like to say a few words about the power for conducting tests. During the deliberations on the Bills Committee, some people in the community were definitely concerned about excessive police power. Insofar as drink driving or drug driving is concerned, I as a lawyer or a member of the democratic camp have been asked by many this question: Are you not afraid of abuse of human rights by the police? President, I am not afraid because the Government has cited the experience of many other countries. For instance, such countries as the United Kingdom, Belgium, Australia and New Zealand have already introduced some drug tests, including Rapid Oral Fluid Test (ROFT), Drug Influence Recognition Observation, Impairment Test, and so on, which are all governed by guidelines. However, I must emphasize this question: When will random drug testing begin? President, I personally have been hoping that the Secretary can expeditiously introduce ROFT devices which can test the six specified illicit drugs at one go, though it is not easy to do so because one of the drugs can hardly be tested. However, according to the final report I have read today, the Government might introduce this device shortly. Should ROFT succeed, I hope that random drug tests can be conducted immediately because we can see from drink driving that random breath tests are a good way to combat drink driving. As for drug driving, if random drug tests are complemented by ROFT, drug driving and the threat thus posed to road safety can definitely be minimized.

In addition, President, a lengthy discussion was also held on imprisonment term and the period of disqualification at that time. It is absolutely meaningless for a person sentenced to jail to be disqualified from driving concurrently, because he can drive a motor vehicle again after serving his imprisonment term, as the disqualification period will then be over. The Government has now dealt with this, too. In general, I agree with the amendments introduced by the Government. In the past, we pulled out all the stops to urge the Government to speed up its pace. Of course, the Government was a bit slow, citing such reasons as the need for technology to complement this, ROFT and the internal guidelines for and training of police officers. This I agree.

As mentioned by many colleagues earlier, we wish to strike home to drivers the road safety message, because since the 1970s and 1980s, these

so-called "soft drugs" — the expression "soft drugs" has become obsolete because the Government considers that it should not be used any longer — If Members can recall, in the 1980s, soft drugs had killed many young people, for they believed that it did not matter for them to take just a small amount of these "soft" drugs without realizing that they would become addicted. The teenagers in the 1980s have now turned 30 or 40. In the past couple of years, we can see many goods van or taxi drivers in their 30s or 40s vomiting while driving and then going on a rampage everywhere. The reason is that they have already got addicted since the 1980s.

Hence, to pinpoint the drug driving problem, the Government must clearly send the combat message that repeat offenders will be disqualified from driving to make these people realize that they must not drive recklessly and prevent them from committing the offence of dangerous driving causing death again.

President, I so submit.

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

MISS TANYA CHAN (in Cantonese): On behalf of the Civic Party, I will state our stance towards the Bill in my speech today. We have undoubtedly experienced a lot throughout the discussion. Many drivers have also come to the Legislative Council to express their views. Since the amendment of the drink driving legislation last year, the Government has clearly heard the public voices about drug driving. Certainly, many Members have worked hard on this over a long period of time. Coupled with public concern about the repeated occurrence of accidents caused by drug driving in recent years, the Government has hurried to amend the legislation.

We were quite shocked when we saw the scene on the television showing the white powder that remained in the seat after the arrest of a driver. Being a driver, I was indeed in great shock. How could there be such a large quantity of powder the quantity of powder left could not have been so large if the driver had finished taking drugs before driving his vehicle. Obviously, the driver was taking drugs while driving. I really find it hard to imagine how these drivers can handle so many things at the same time. It is already very dangerous for drivers

to chat with their handheld mobile telephones while driving. They can even take drugs while driving a vehicle! The row of powder found in the seat is indeed unacceptable. The most terrifying consequence is definitely a traffic accident causing death. This is the last thing we would like to see.

Insofar as this legislative amendment is concerned, both the Legislative Council papers and the information provided by the Government have stated the objective clearly, namely separately dealing with driving under the influence of a specified illicit drug and driving under the influence of a drug other than a specified illicit drug. We agree with this direction, because many professional drivers are greatly concerned about the legal consequences caused by driving after taking medicine. Of course, it does not mean that drivers are not required to face any legal consequences for driving after taking medicine. Despite the addition of a defence clause to the Bill, it is actually not that easy to invoke this clause as defence. Hence, we hope drivers, be they professional drivers or motorists in general, can think twice before taking medicine. What is more, special attention must be paid by those who seldom drive. They must think carefully should they urgently need to drive a motor vehicle after taking medicine, because the car keys might be kept at home and it is very convenient for them to drive. But the question is: Should they drive after taking medicine? They need to consider this more cautiously. On the contrary, people who seldom drive will overlook this more easily.

I hope that the Government will bear in mind these people in carrying out publicity in the future. Professional drivers might often keep this in mind and even choose to stay home to take a rest after taking medicine. But for some people who need to deal with urgent matters, they might forget about this. As a result, they might contravene the law more easily, and it is not a very good thing for them to petition for clemency. I hope that the Government can pay more attention to this.

Of course, we also need to say a few words about drug testing. I recall that we once watched some slides demonstrating drug testing. In the end, we even watched a video clip about how drug testing was conducted. We thus came to understand that such drug tests were conducted overseas as well. Despite our misgivings about the reliability of such tests, we can only hope that the Government can pay special attention to the training of the testing personnel. Certainly, we are aware that guidelines have been drawn up. However,

flexibility must be exercised in coping with emergencies. President, I consider this the most difficult task. Hence, we hope that the relevant training can enhance the knowledge of the guidelines and testing procedure among police officers to allay people's doubts about the accuracy of the tests.

As Mr Andrew CHEUNG pointed out just now, random oral tests are a great deterrent to many people. Some friends of mine would often drive their cars when they went dining with me. But now, they have become more cautious whenever they drive because they realize that random tests for drink driving are implemented stringently and very smoothly. Very often, they prefer taking a taxi or public transport rather than driving a car. I do not mean that they used to disregard road safety, only that they will think twice and are more cautious now. I believe the Civic Party will render support to the Government once the latter is able to arrange for the procurement of oral test devices and decides to conduct random tests. Of course, the Civic Party hopes Members and the police will pay attention to whether or not there is abuse of police power. But, insofar as drink driving is concerned, we have not seen cases of abuse of police powers to date. I hope the Rapid Oral Fluid Test can equally set our minds at ease.

Next I would like to say a few words about the views of the Civic Party on the CSAs proposed by the two Members. As regards one of the CSAs proposed by Mr Andrew CHENG concerning dangerous driving causing death, I think Mr CHENG has to continue with his efforts before his goal can be achieved. In fact, this point was raised in a CSA proposed last year. Even then, the Civic Party concurred that even one death was too many. President, the Civic Party supports Mr CHENG's proposed life disqualification on subsequent conviction. This is because if the legislation appears to fail to deter a driver who has already learnt a lesson from making the mistake again, then heavier penalties must be imposed. Despite the Government's point that the Court may consider ordering life disqualification, we must still point out that human lives deserve absolute respect. This is very important.

I believe a cautious driver will not commit this offence for whatever reason. There is simply no need to talk about the first or second time or whatever, because he will simply not commit this offence even once. Nevertheless, a driver who really repeats the offence deserves to be punished by life disqualification. We will certainly welcome the passage of the CSA

proposed by Mr CHENG. Even if it is negated, we will definitely accept the Government's CSA, because it is at least a step forward.

Next I would like to jointly discuss the CSAs proposed by Mr KAM Nai-wai and Mr Andrew CHENG. Some CSAs proposed by Mr CHENG are similar to those proposed by Mr KAM. We will express our views on these CSAs, too. The term of imprisonment and fine proposed by the two Members in their CSAs, which are to be increased to \$50,000 and five years respectively, are completely identical. Of course, this relates to the circumstances under which the offence of driving under the influence of a specified illicit drug is committed under section 39J. Besides, in respect of the two offences concerning "refusal to undergo preliminary drug tests without reasonable excuse" and "refusal to provide specimens of blood or urine for analysis without reasonable excuse", we will also support the maximum fine and term of imprisonment proposed in the CSAs by the two Members, because we hope to tell the public in unequivocal terms that such offences are absolutely unacceptable to us, and I believe the public distaste for such offences is actually pretty obvious. Furthermore, we merely seek to increase the maximum penalties. The ultimate penalties, whether they are light or heavy, will still be decided by the Court. After all, raising the maximum fine and term of imprisonment can serve as a clear indication. The Government has made a relatively major proposal in its CSAs this time around, namely to deal with the term of imprisonment and disqualification period separately. This is a relatively important point, because the disqualification period will not be meaningful at all if half of the disqualification period is already covered by the imprisonment term. It is indeed advisable for the Government to deal with them separately.

When it comes to the disqualification periods, however, we must discuss Mr Andrew CHENG's proposed disqualification period on subsequent conviction. We in the Civic Party have reservations about his proposed disqualification period on subsequent conviction for the offences of "refusal to undergo a preliminary drug test without reasonable excuse", "refusal to provide specimens of blood or urine for analysis without reasonable excuse" and "driving motor vehicle without proper control under influence of a specified illicit drug" on the ground that, if Members have noted we support Mr CHENG's proposed disqualification penalty for subsequent conviction of the offence of "dangerous driving causing death". On subsequent conviction, the three offences mentioned by me just now, however, will also lead to life disqualification. In other words,

the penalty for these three offences is actually on a par with that for subsequent conviction of "dangerous driving causing death". Members who care to give this some thoughts will find that the penalties are not proportional, as the disqualification penalty for "failing to undergo a preliminary drug test", "failing to provide specimens" and "driving motor vehicle without proper control under influence of a specified illicit drug" is brought to the same level as that for subsequent conviction of "dangerous driving causing death". There appears to be something not entirely proportional. Furthermore, the Court might be left with no alternative but to order life disqualification.

In fact, in this Amendment Bill, in respect of subsequent conviction of "driving motor vehicle without proper control under influence of a specified illicit drug", the Government proposes that the Court may order life disqualification having regard to the different merits of individual cases. I believe this can empower the Court to decide on the length of the disqualification period depending on different circumstances, though we note that the disqualification period has been increased to at least 10 years. Hence, we very much hope that increasing the penalties can produce a deterrent effect.

Having said that, President, we reckon that the CSAs proposed by the two Members might not be passed. On the other hand, the Government's CSAs, if all passed, will also give rise to unreasonable circumstances. Why am I saying so? Members will find that even the penalty for subsequent conviction of tier 3 drink driving offence is lighter than that for drug driving I should have said driving under the influence of a drug other than a specified illicit drug. I very much hope that the Government can promptly review the tiered penalty system for subsequent conviction of drug driving, should such penalties be passed today. Why? This is because I do not wish to send the wrong message to mislead the public into believing that drink driving is less serious than drug driving. This is not what we want the public to receive. Neither do I believe the Government wishes to send this message.

According to my memory, the Government has undertaken at the Bills Committee meetings that it will take note of and discuss these penalties from time to time. I very much hope that, after the passage of this Amendment Bill today, the Government can expeditiously take note of the case of disproportionality. Meanwhile, I believe that Members of the Bills Committee welcome at any time the Government raising the penalties for some offences which all the Hong Kong

people do not want to see again or warrant severe punishment. I believe Members will support the Government.

I so submit.

MR WONG YUK-MAN (in Cantonese): President, the two Members of the People Power will support the Road Traffic (Amendment) Bill 2011.

The Committee Stage Amendments (CSAs) proposed by Mr Andrew CHENG in relation to drug driving in the Chamber today are consistent with his position on the issue of drink driving. I remember that on the issue of drink driving, Members had reservations about his idea of resorting to heavy penalties and draconian laws. However, I have great admiration for his consistent attitude, which is different from that of his former party comrades. Therefore, even though I ordinarily do not talk much with Mr Andrew CHENG, I have a fair amount of admiration for him for being able to be true to his own principle and position on this issue.

However, we should not mix up the issues and it is also necessary to talk about the justifications. Even if everyone holds up his own trumpet and plays his own tune, it does not matter. Originally, I did not intend to speak today because I support the Bill. However, yesterday, during our caucus meeting and on reading the amendments proposed by Mr Andrew CHENG and Mr KAM Nai-wai respectively, it occurred to me that when the issue of drink driving was discussed, some Members also proposed a similar concept of "crime and penalty". In view of this, I have to use this platform and some 10 minutes of speaking time to talk about some matters that are rather non-specific. I hope the President would not stop me.

Many legislative amendments or policies are formulated having regard to their appropriateness to the people, incident, place or time concerned. Be it people, place, time or incident, what matters most is to formulate something appropriate. Therefore, do not tell me that the replacement proposal is formulated having regard to its appropriateness to an incident because the proposal is inappropriate. This is a very important concept. The reason that the constitution of the Communist Party can be amended many times is that it can be changed to suit the people concerned but in fact, this is not appropriate

because it even designated LIN Biao as the successor. Therefore, on all matters, it is necessary to formulate appropriate measures and if inappropriate measures are formulated, this will pose many problems. Therefore, we oppose the replacement proposal adamantly. Even though the authorities have made minor concessions, I will still oppose it adamantly. The reason for this is that the authorities have formulated something inappropriate.

I believe the Bill is an appropriate measure. When driving on the road, the greatest problems are related to human beings because road safety has the greatest relevance to human beings. Motorists may drive carelessly, dangerously or when drunk. Now, even instances of drug driving can be found. Although the authorities want to clamp down on drug driving and drink driving and we do not take issue with this, with regard to driving after taking medicinal drugs, there is still some controversy among members. This is an issue of common sense that Members all understand.

We, the Secretary included, all know that the word "Non-Drowsy" can be found on the labels of the flu medicines of some well-known brands. However, the Government's requirement is that the words "This may cause drowsiness" be included on the label. Here lies the problem. If some medicines cause drowsiness but the words on the label are unclear, thus making motorists cause traffic accidents after taking such medicines, how would the authorities determine responsibility? Should the authorities require the motorists concerned to hand over the packaging of the medicines taken by them to see if the label states that "This may cause drowsiness", then investigate if the motorists concerned drove immediately or half an hour after taking the medicine?

On this issue, the authorities should specify that such warnings as "This may cause drowsiness" and "If affected, do not drive" must be put explicitly on the labels in Chinese and English that are required by the Government. The authorities should specify that these words must be stated explicitly on the labels of the medicines concerned. Although the warnings on cigarette packings are very clear in Hong Kong, they still cannot make "Long Hair" quit smoking. The authorities should specify the relevant requirements clearly. Although this is a minor detail, I think the authorities may as well consider it.

There is one point that I wish to ask Mr Andrew CHENG about but I do not know if he would speak later. As far as I know, the two Members who have

proposed amendments respectively are both members of the Bill Committee on Road Traffic (Amendment) Bill 2011 (the Bills Committee), but I am not. It was only natural that Mr Andrew CHENG joined the Bills Committee because he is well-versed in the subject matter scrutinized by the Bills Committee.

People who are careless like me can only use their common sense because they are not very well-versed in the relevant matters. However, often, it would not do to rely just on common sense, rather, knowledge and experience are also needed. Even so, the worst thing is that our officials only use common sense but not knowledge and experience in the administration of Hong Kong. In fact, apart from knowledge and experience, personal integrity is also necessary in the administration of Hong Kong, buddy.

Although the two Members who proposed CSAs are both members of the Bills Committee, it seems they did not propose the relevant CSAs in the meetings of the Bills Committee. I am not clear about this and some people are saying that they did. Did they, or did they not? What? Mr KAM Nai-wai did, but Brother Ka-foo did not, is that so?

Since Mr CHENG's CSAs were never proposed in the meetings of the Bills Committee, that means he did not carry out any consultation and his proposal was not endorsed in the meetings of the Bills Committee, so I think apparently, there are some problems in the operation of the Bills Committees. Certainly, the CSAs proposed by them in the present Legislative Council meeting have to be debated and voted on by Members but at least, they should provide more information to Members. If they really do not have any more information, I think this is a minor flaw. I would not consider this to be an unpardonable wrongdoing because in the final analysis, this is a desirable course of action. Nevertheless, given the draconian provisions, I think there is one point that he must clarify. He proposed in his amendments that the Court must make an order disqualifying an offender on subsequent conviction from holding or obtaining a driving licence for life but apart from boosting the deterrent effect of disqualification, this proposal will also prevent the Court from exercising its discretion in some cases. It will be impossible for the Court to exercise discretion because there is such a legal provision, is there not? Therefore, the Court has no choice but to order disqualification for life.

Of course, the period of disqualification will depend on the facts of the case but at present, the Court can exercise discretion in some cases. If his CSAs are passed, there would not be any scope for exercising discretion. This is one point. In contrast, the Government's amendments basically allow the Court to impose disqualification for life on a subsequent conviction of drug driving, so I do not see the need to extend this to other situations. In particular, disqualification for life is excessively harsh to professional drivers.

Of course, Mr Andrew CHENG may say that although people have to make a living, in the final analysis, human lives are very important. Not only are human lives "very important", they are "extremely important". This is why we believe that the Government has to assume responsibility for the fire that caused the death of nine people and injury of 34 people, rather than the owners of the hawker stalls having to do so. The rationale is the same. It is a must to value human lives and the Government should all the more do so. However, does a draconian law have any established relationship with respect for human lives?

Some people oppose capital punishment. In that case, they should ask the countries still practising it why they do so. In Hong Kong, there is no death penalty but this matter still arouses a great deal of controversy. Earlier on, the Ministry of Justice in Taiwan drew a lot of criticisms for not carrying out death sentences on prisoners on the death row for over a decade and the majority of the detractors were the relatives of the victims. However, other people in society, including the former Minister of Justice, opposed capital punishment. Such conflicts have to be resolved through discussions in the parliamentary assembly and society.

Looking back at our legislature, even if Mr Andrew CHENG's amendments were perfect and flawless, sadly, they will still not be passed at separate voting. Therefore, the reason for my singing praises of Mr Andrew CHENG right at the beginning is his resolve in proposing his amendments, even though he knows full well that they will not be passed. Such a spirit really deserves our praise. I am also someone who would still go ahead despite knowing full well that something cannot be achieved. I still went ahead with the *de facto* referendum by the five geographical constituencies and "settling the debt of votes with votes" even though I knew full well that the goals could not be achieved.

However, to raise the penalty to disqualification for life will lead to technical problems in the event that the Court wants to exercise discretion on defendants. It may not be necessary for us to move so fast. We can wait until problems have actually arisen in the trials conducted by the Court to make amendments. I hope that in that event, Mr Andrew CHENG would admit that the relevant amendments have caused this kind of situations, and then with the sound advice heeded support the new amendments. It would do for him to do so.

Again, I want to talk about the matters I raised earlier on. As I said at the beginning of my speech, we have to formulate measures that are appropriate to the time, people or place — and I stress that we have to formulate "appropriate" measures. The Chinese language is very interesting. It is said that "義者，宜也" (Righteousness is appropriateness), so righteousness (義) and appropriateness (宜) are the same thing in Chinese. What is meant by "righteousness"? It is to be appropriate, meaning that we should do what is appropriate as this is also considered righteous. However, our Government often does inappropriate things. We think that the Bill is appropriate, so we will lend our support to it.

Mr KAM Nai-wai's CSAs are also intended to raise the penalty and I do not have strong views about the proposals therein. However, I agree with the "need for consistency" as stated in the Government's reply. Moreover, society has not been consulted on the relevant proposals, so if a heavier penalty is to be imposed, it may be necessary to conduct a comprehensive review of both drink driving and drug driving. I agree that the same standards cannot be applied in such consideration, particularly given that the Bill makes a distinction between driving under the influence of a specified illicit drugs and driving under the influence of a drug other than a specified illicit drug. I consider this already most appropriate.

We support the Bill, but regarding the proposals put forward by Mr Andrew CHENG, our position is the same as that on the last occasion when drink driving was dealt with. We think that the aim of the Bill is to make the roads safe and reduce traffic accidents and human casualties, and the present amendments made by the Government are already adequate. If the amendments proposed by Mr Andrew CHENG are passed, I am worried that the Court will lose the scope for exercising discretion, thus leading to unfairness to people who do not drive after taking medicinal drugs and cause casualties intentionally.

With these remarks, I support the Bill.

MR PAUL CHAN (in Cantonese): President, I would like to talk briefly about my stance on voting on the Second Reading of the Road Traffic (Amendment) Bill 2011 today and the reason for it. President, late last year, when the Legislative Council resumed the Second Reading of the Road Traffic (Amendment) Bill 2010, which was related to drink driving, I criticized the Government for being excessively conservative with regard to some parts of the amendments at that time and not being bold enough in the extent of some adjustments, as a result, the serious nature of the offence of dangerous driving cannot be reflected in the amendments. At that time, I said that I supported using draconian laws to deter drink driving and other kinds of inappropriate driving behaviour. For this reason, at that time, I supported the amendment proposed by Mr Andrew CHENG on increasing the penalty of disqualification imposed on dangerous driving.

President, today, the Legislative Council resumes the Second Reading of the Bill on drug driving. Under the Bill, the Government proposes to increase the disqualification period to not less than five years and 10 years respectively for a first conviction and a subsequent conviction of dangerous driving causing death.

Nevertheless, in spite of this, as I pointed out last year, I believe the amendment proposals are excessively conservative and do not have adequate deterrent effect, nor can they reflect the serious nature of dangerous driving. For this reason, I support the amendments to increase the penalty for dangerous driving causing death to life disqualification proposed by Mr Andrew CHENG and Mr KAM Nai-wai respectively.

As regards the amendments proposed by Mr Andrew CHENG to increase the period of disqualification for a subsequent conviction of drug driving from a minimum of 10 years for driving under the influence of a specified illicit drug and two years for driving under the influence of a drug other than a specified illicit drug to disqualification for life, I consider them to be too harsh. Just now, many Honourable colleagues pointed out that committing the offence of illicit drug driving again was certainly unacceptable but in enforcement Mr CHENG's amendments may lead to unfairness, for example, instances of the penalty not commensurate with the offence may occur. If repeat offenders did not cause any casualty as a result of drug driving — for example, they only failed to control their vehicles properly but did not cause any accident, or even if they did, the accidents were minor — if they are sentenced to disqualification for life as a

result, I believe their offences do not warrant it, so I cannot support his amendments in this regard.

President, the last point is that this year, as in last year, the Bill may be passed before Christmas and the New Year, which are the peak periods for the offences of drink driving and drug driving. I hope that after the legislature has passed the Bill, the police can step up publicity, education and enforcement, so as to reduce the number of accidents substantially.

I so submit. Thank you, President.

MR IP WAI-MING (in Cantonese): President, first of all, the Hong Kong Federation of Trade Unions (FTU) supports "zero tolerance for drug driving". We have all along opined that drug driving behaviour has a significant impact on the safety of the public. Given that the number of arrests involving drug driving offence recorded an increase last year, we support the Government's proposal of adopting effective measures to impose heavy penalties on drug driving offences.

Drug abuse *per se* is an offence. We consider the behaviour of driving after taking illicit drugs of a minority number of drivers irresponsible. The Administration has proposed to introduce a new offence to prohibit driving after taking any specified illicit drug, and that driving with any concentration of a specified illicit drug in blood or urine is an offence. The FTU agrees to the proposal.

President, given that the six specified illicit drugs are psychotropic substances that could have serious adverse effects on a person's ability to drive, it is appropriate that the Government has included them in the legislation. Furthermore, in the course of deliberations of the Bills Committee on Road Traffic (Amendment) Bill 2011 (the Bills Committee), the public have shown support for the proposed "zero-tolerance offence". The Motor Transport Workers General Union (MTWGU), an affiliate of the FTU, also supports the measure. We opine that in imposing heavy penalties on law-breaking drivers, the legislation will have a deterrent effect on drug driving.

However, it is proposed in the Road Traffic (Amendment) Bill 2011 (the Bill) that a new provision be created in the Road Traffic Ordinance to provide for

the offence of driving or incapability of having control of the motor vehicle under the influence of any drug.

We hold that the Administration must be careful in handling the relevant situation in enforcement. At present, many professional drivers in the transport trades can be categorized as elder workers. After working long hours on a long-term basis, it is easy for them to develop hidden and chronic diseases. As such, they need to take various drugs or patent medicines in accordance with the instructions of doctors on a long-term basis in order to control their conditions.

Many union members have expressed the concern that when police officers are performing impairment tests, some professional drivers may be in such physical conditions at the time or may have taken medicines already. Under such circumstances, in addition to exhaustion after long hours of work, they may fail to pass the tests.

Although the Administration has proposed to provide a defence, that is, if the driver involved has taken his medicine in accordance with the advice given by a healthcare professional or in drug label, this can serve as an excuse of defence, professional drivers are of the view that objective circumstances may put the drivers who have not been drug driving in a disadvantageous position in which there is no way for them to state their cases or voice their grievances. They may even be charged.

Furthermore, in order to save money, a professional driver sometimes will take patent medicines when he is sick. If the Government decided to press charges even without the necessary knowledge, these drivers who live from hand to mouth will have no choice but to accept the decision eventually. Thus, we hope that when the Government enforces the law in the future, it will differentiate the acts of drug driving and driving under the influence of unknown drugs, so as to minimize the possible impact on wage earners.

The protection of employees under the existing relationship between employers and employees as well as the Employment Ordinance is inadequate, putting the wage earners in an unequal position. As a matter of fact, due to the inadequate protection provided by the existing Employment Ordinance, very often when employees are not feeling well, they are not necessarily able to take a break instantly and stop driving.

President, on the other hand, the FTU is disappointed that the Government has not responded to the request of the transport trades with regard to dealing with combating drug driving behavior and prosecution of general road traffic offences separately. Under clause 6 of the Bill, the Administration has substantially lengthened the disqualification period for a person convicted of dangerous driving causing death. It is proposed to increase the disqualification from not less than two years to five years on first conviction, and from not less than five years to 10 years on subsequent conviction. This provision has given rise to dissatisfaction among some professional drivers.

We reiterate that the FTU and its affiliate MTWGU support the Government's introduction of legislative measures to combat drug driving. However, in the course of the legislative process, we hope that the prosecution of drug driving and general road traffic offences will be dealt with by different sections, instead of dealing with offences of different nature at the same time.

Moreover, at the time when the MTWGU submitted its views to the Administration last July, we had clearly pointed out that the behaviour of driving after taking dangerous drugs or illicit drugs should be presented as "drug driving" in the legislative provisions, and should be differentiated from the driving behaviour of law-abiding drivers who have taken medicines due to illnesses, so as to avoid confusion. However, we were surprised that in the course of deliberations of the Bills Committee, when the Administration mentioned drug driving, the two were not distinctly differentiated. It was only in response to the request of the Bills Committee that the Administration eventually distinctly differentiated the two.

In quoting examples, the Administration had not distinctly differentiated cases of arrests involving drug driving from the offences of general dangerous driving in tabulated form. We are also dissatisfied with this, and we consider the Administration unfair in doing so.

The MTWGU has all along pointed out that the roads of Hong Kong are narrow with very heavy traffic. In addition to busy traffic, numerous variables on the road are also attributable to traffic accidents. Under such circumstances, professional drivers not only have to bear the brunt of being injured in the accident, but also face charges by law-enforcement officers soon after the accident when they are still in a state of shock. Even though eventually they

may not be convicted, they have to suffer enormous pressure physically and psychologically.

With regard to prosecution, we have all along opined that the police should do a better job. The MTWGU has always pointed out that in some cases, the police will make the decision to charge the driver lightly without understanding the road conditions or the circumstances of the time, or instantly charge the driver of dangerous driving causing death in many instances. Even if the driver is acquitted by the Court after trial, he has already been subjected to pressure of a certain level.

Moreover, we have read from newspapers that in many cases, it is only after experts and witnesses have given evidence that the accused are acquitted. Why can the police not do a thorough job of investigation before they lay charges? We think that if the police can do a better job in this regard, the burden on professional drivers will be alleviated.

In some recent cases, we have found that the views of the police and the Department of Justice are polarized. An accused was initially charged with murder but the charge was later adjusted to dangerous driving causing death. There is a huge gap between the two. We have all along opined that the burden on professional drivers will be alleviated if the police can do a better job in this regard.

Finally, we consider that the majority of professional drivers are responsible. They know very well the importance of good driving behaviour and transport safety. They are self-disciplined so as to ensure the safety of themselves and members of the public. I wish to stress again that although we support amending the ordinance to combat drug driving and drink driving, we have to reiterate that the Administration does not have sufficient grounds to further increase the penalties on drivers who have never committed drink driving or drug driving, which render them being wrongly accused. We also hope that when the Administration conduct a review of the offences of drug driving or drink driving in future, it should deal with the offences and the behaviour of general dangerous driving separately. We think it is only in this way that professional drivers can be respected and fairness achieved.

President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now invite the Secretary for Transport and Housing to reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, first of all, I have to thank the Chairman, Ms Miriam LAU, and members of the Bills Committee on Road Traffic (Amendment) Bill 2011 (the Bills Committee) for their efforts in scrutinizing this Bill and expressing valuable views that are helpful to further improving the Bill. We have drafted amendments with reference to these views, and I will move the relevant amendments at the Committee stage.

The Government is very concerned about the trend of driving under the influence of illicit drugs or medicinal drugs in recent years. There were 84 arrest cases involving drug driving in 2010 and 48 cases between January and November this year, seven times and four times more than the figure in 2009 respectively. Among the arrest cases, about 90% of them involved ketamine and the rest involved cocaine, cannabis and other drugs. Among these cases, 12 and five cases respectively caused traffic accidents. Although under the existing section 39 of the Road Traffic Ordinance (Cap. 374) (the Ordinance), it is an offence to drive a motor vehicle on any road under the influence of drugs to such an extent as to be incapable of having proper control of the motor vehicle, there are no provisions that require a person suspected of committing this offence to provide blood or other body fluid specimens for drug analysis. This makes a charge difficult to prove.

There is a consensus in society supporting a vigorous clamp-down by the Government on drug driving. Members also hope that the Government will introduce stricter control and implement the relevant measures as quickly as possible. At the beginning of last year, when there was an upsurge in the number of drug driving cases, I announced that the Government would draft proposals expeditiously to combat drug driving. Colleagues in the Transport and Housing Bureau also commenced the work immediately. An

inter-departmental working group was formed immediately to study, jointly with the Security Bureau, the Hong Kong Police Force, the Transport Department, the Government Laboratory, the Department of Health, the Hospital Authority, and so on, how to combat drug driving by improving the existing legislation. The working group made reference to overseas legislation and visited Victoria in Australia and the United Kingdom to understand how the local enforcement authorities implement the Impairment Test and gain a deeper understanding of the effects of drug abuse on driving ability. After completing the study, we submitted our initial proposals on combating drug driving to the Legislative Council Panel on Transport in July last year and consulted the transport trades, the relevant committees, bodies and members of the public. Regarding various bodies, we consulted the Transport Advisory Committee, the Road Safety Council and various medical and pharmaceutical professional bodies. All the responses were very positive. The consultation reflected a strong support for the Government in adopting stringent measures to combat drug driving. After the public consultation, we drafted the Bill at full steam and completed the drafting within three months. In May this year, we gained the approval of the Executive Council to table the Bill to the Legislative Council.

Under the Bill, a package of proposals is put forward to impose more stringent control on drug driving and confer the necessary law-enforcement powers on the police to combat drug driving, and other related amendments are also made. In the following speech, I will explain the various proposals under the Bill.

First, we propose to introduce a new "zero-tolerance offence". Taking such illicit drugs as ketamine is an offence under the Dangerous Drugs Ordinance (Cap. 134) and attracts severe penalties. In view of the strong public expectation for severe punishment for the irresponsible behavior of driving after taking illicit drugs and the great danger posed by such acts to other road users, we propose to introduce a new offence to prohibit driving after taking any specified illicit drug (referred to as "zero-tolerance offence"). Driving with any concentration of a specified illicit drug in blood or urine is an offence even if the driver does not show any signs of being under the influence of such drugs. The penalties will be aligned with that for tier 3 of the drink driving offence. A person who commits the zero-tolerance offence is liable to a fine of \$25,000 and to imprisonment for three years. The person is also liable to be disqualified from driving for a period of not less than two years for a first conviction and five

years for a subsequent conviction. Under this newly created offence, "specified illicit drug" refers to the following six common drugs of abuse, *viz.* heroin, ketamine (commonly known as "K"), methamphetamine (commonly known as "ice"), cannabis, cocaine, and 3,4-methylenedioxymethamphetamine (commonly known as "ecstasy"), which are either narcotics or psychotropic substances that could have serious adverse effects on a person's ability to drive. The list of specified illicit drugs as set out in Schedule 1A to the Bill will be updated from time to time to reflect changes in drug abuse trends.

Second, we propose to create a new provision in the Ordinance to provide for the offence of driving under the influence of a specified illicit drug, to such an extent as to be incapable of having proper control of the motor vehicle (referred to as "illicit drug driving offence"). The person who commits the offence is liable to a fine of \$25,000 and to imprisonment for three years, as well as severe disqualification penalties. The person is liable to be disqualified from driving for a period of not less than five years for a first conviction and 10 years for a subsequent conviction. Driving under the influence of an illicit drug is extremely irresponsible behaviour. During the consultation period, a group proposed that drivers who had committed the illicit drug driving offence should not be allowed to drive on the road again within a short period of time after the commission of the offence as they may have to receive drug addiction treatment and that a long period of disqualification could ensure the safety of road users. We have taken on board this view by setting the minimum disqualification period for the illicit drug driving offence at the highest level among all traffic offences under the law and set it at the same level as the proposed minimum disqualification period for the offence of dangerous driving causing death (DDCD). Moreover, we propose to provide in the legislation that if the person has previously been convicted of the same offence and the Court considers that, having regard to the circumstances in which the offence is committed and the behaviour of the offender, it is undesirable for him or her to continue to be allowed to drive a motor vehicle, in addition to imposing the penalties stipulated for the offence, the Court may make an order disqualifying the person from holding or obtaining a driving licence for life. This proposal has the merit of maintaining the current system of mandating the minimum period for driving disqualification on the one hand, and setting the parameters within which a life disqualification may be imposed on the other. It should send a clear message to the community that life disqualification may be considered by the Court or Magistrates for repeated conviction of very serious traffic offences.

Third, we propose to create a new provision in the Ordinance to provide for the offence of driving under the influence of a drug other than a specified illicit drug, to such an extent as to be incapable of having proper control of the motor vehicle (referred to as "general drug driving offence"). The penalties for this offence will be aligned with tier 1 drink driving offence. A person who commits the general drug driving offence is liable to a fine of \$24,000 and to imprisonment for three years. He is also liable to be disqualified from driving for a period of not less than six months for a first conviction and two years for a subsequent conviction. The definition is that a person will commit the general drug driving offence if his or her ability to drive properly is for the time being impaired, and if the concentration of the drug in the person's blood or urine would usually result in a person being unable to drive properly. To protect the general driving public who have taken appropriate measures to avoid general drug driving, a defence is proposed. For a person who consumed or used the drug in accordance with the advice given by a healthcare professional or on the drug label, and who did not know and could not reasonably have known that the drug would render him or her incapable of having proper control of a motor vehicle if consumed or used in accordance with the advice, such a ground can be cited as the defence.

Fourth, in order to effectively enforce drug driving offences, it is proposed to include provisions to empower the police to require a person who is suspected of driving after taking an illicit drug or under the influence of a drug to undergo the preliminary drug test(s). The purpose of the proposed preliminary drug test(s) is to provide a scientific and objective basis for police officers to decide whether to require a driver to provide blood or/and urine specimens for laboratory drug analysis, which is essential to establishing whether or not the accused has taken any drug and, if so, the concentration of the drug in question. The preliminary drug tests proposed to be introduced, namely (i) Drug Influence Recognition Observation (DIRO), (ii) Rapid Oral Fluid Test (ROFT) and (iii) Impairment Test are drawn up with reference to the practices of overseas jurisdictions that are experienced in combating drug driving. In terms of procedures, after conducting the DIRO, if the police officer is of the opinion that the driver is under the influence of drug, the police officer may require the driver to undergo a ROFT and/or Impairment Test. The ROFT is capable of detecting drugs at low levels, and would be an effective preliminary test for the "zero-tolerance offence". As the technology involved in the ROFT is still maturing and as there is a need to search for and develop a ROFT device suitable

for use in Hong Kong, initially, the DIRO and Impairment Test will be deployed as the main preliminary drug tests for drug driving offences. The ROFT will be introduced when a suitable device is identified for use in Hong Kong.

It is proposed that a police officer may require a driver to undergo one or more preliminary drug test(s) in any of the following circumstances:

- (i) the police officer suspects that the driver is driving under the influence of a drug;
- (ii) the driver is involved in a traffic accident; or
- (iii) the driver has committed a moving traffic offence.

A driver who, without reasonable excuse, fails to undergo a preliminary drug test commits an offence. The penalties for this offence will be aligned with drug driving offences involving illicit drugs of abuse.

Fifth, laboratory drug analysis of a suspect's specimen of blood or/and urine is necessary to ascertain whether the suspect has taken any drug and, if so, which drug, and its concentration. Hence, the results of laboratory analysis constitute an important piece of evidence in prosecutions for drug driving offences. We propose to empower the police to require a person to provide specimens of blood or urine or both for laboratory analysis if the result of the ROFT indicates a specified illicit drug is present in the person's oral fluid; or the result of the Impairment Test indicates that the person's ability to drive is for the time being impaired; or if the person suspected of drug driving is unable to perform a preliminary drug test due to medical or other reasons, he or she will be required to provide specimens of blood or urine for laboratory analysis. It will be an offence for a driver to refuse to provide the required specimens for laboratory analysis. The penalties for this offence will be aligned with drug driving offences involving illicit drugs of abuse.

Sixth, as drug and alcohol metabolize quickly in the body, there is a need to ensure that blood specimens are taken from suspected drink or drug drivers in a timely manner for evidence purposes. Making reference to overseas practices and having balanced human rights and public safety considerations, we propose that a medical practitioner may, at the request of a police officer, if the medical

practitioner thinks fit, take blood from a suspected drink or drug driver even if he or she is incapable of giving consent. When the person is in a position to consent, the police will require him or her to consent to have the blood tested, and refusal to do so will be an offence.

Seventh, we propose that a driver who fails in the ROFT or is assessed to be impaired in an Impairment Test or refuses to provide specimens of blood or/and urine will be required to surrender his driving licence to the police for 24 hours, as he is unfit for driving immediately. It is proposed to apply the same to a driver whose alcohol level is found to have exceeded the prescribed limit in an evidential breath test, or who refuses to perform screening or evidential breath tests. It will be an offence for the driver to fail to surrender a driving licence, or to drive when the licence is surrendered.

Eighth, we also propose some related amendments. At present, a person convicted of the DDCD offence is liable to a maximum fine of \$50,000 and 10 years of imprisonment. The person is also liable to be disqualified from driving for a period of not less than two years for a first conviction and five years for a subsequent conviction. Following the introduction of a new drug driving offence with longer disqualification periods, we consider that there is a need to enhance the disqualification period for the DDCD offence having regard to the seriousness of this offence. We propose to increase the disqualification period to not less than five years and 10 years for a first conviction and a subsequent conviction respectively. Similar to the illicit drug driving offence, we propose to provide in the legislation that the Court may make an order disqualifying a subsequent offender from holding or obtaining a driving licence for life.

Ninth, under the existing legislation, a person is not eligible to apply for a full driving licence to drive commercial vehicles or for a driving instructor's licence if convicted of the DDCD offence or the offences of driving under the influence of drink or drugs under the existing section 39 of the Ordinance, during the five years immediately preceding the application. Besides, a person will not be issued, allowed to renew, or hold a driving instructor's licence if convicted of the foregoing two offences. Following the introduction of the drink driving offences and other serious traffic offences, we propose to also prohibit a person who is convicted of any of the proposed drug driving offences, the drink driving offences or the causing grievous bodily harm by dangerous driving offence from applying for a full commercial vehicle driving licence; or from holding, applying

for or renewing a driving instructor's licence. This is to ensure the quality of drivers of commercial vehicles and driving instructors. We also propose to add to the Road Traffic (Driving-offence Points) Ordinance the newly created drug-related driving offences with 10 driving offence points for each offence.

President, during the consultation period, some professional drivers' organizations were concerned that the taking of medicinal drugs may make them liable for a criminal offence, and about the administration of the Impairment Test. We have explained to them that the Impairment Test is designed to screen out persons who are grossly impaired by a drug to the extent of being incapable of properly controlling a vehicle, and that most medicinal drugs, if taken in accordance with medical advice, will not cause impairment to the extent of being unable to properly control a vehicle. The Impairment Test is a scientifically based and systematic assessment that has long been widely adopted in overseas countries. We will ensure that the Impairment Test will be suitably adapted to the local situation and that stringent operation procedures are in place before it is adopted formally. Therefore, drivers do not have to be unduly concerned.

In addition, some groups requested the authorities to shelve the proposal to increase the minimum disqualification period for the DDCD offence. We have explained to them that the aim of the proposal is to ensure the consistency of penalties for serious traffic offences and that it is necessary. Otherwise, the maximum disqualification period for the DDCD offence will be lower than that for the illicit drug driving offence, thus resulting in disproportionate and inappropriate penalties for various serious traffic offences.

We believe that the proposals in the Bill have struck a balance among various views in society appropriately and fully taken into consideration public interest and the safety of road users. I am pleased that the Bills Committee supports the Bill. Just now, a number of Members have expressed support for our main direction. I implore Members to support and pass the Bill, so that the relevant measures can be implemented as soon as possible to enable us to curb drug driving effectively.

If the Bill is passed, the Government will table the two pieces of required subsidiary legislation, that is, the Commencement Notice and the Notice on Impairment Test, for scrutiny by the Legislative Council as soon as possible. The police and various departments will subsequently make preparations,

including providing police stations with the facilities and equipment for carrying Impairment Tests. The two aforementioned notices can be tabled to the Legislative Council early next year at the soonest and the scrutiny period will end in the first quarter of next year. We will make the aforementioned preparations within the scrutiny period of the subsidiary legislation, in the hope of implementing various measures against drug driving in the first quarter of next year after the end of the scrutiny period for the subsidiary legislation. At the same time, we will make appropriate efforts in education and publicity.

President, regarding the amendments proposed by Mr Andrew CHENG and Mr KAM Nai-wai, they will give rise to the problem of proportionality of the penalties, giving people the wrong impression that taking illicit drugs and abusing general drugs do not equally pose danger to road safety. I will explain this in detail during the discussion on the specific amendments later on.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Road Traffic (Amendment) Bill 2011 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): The Road Traffic (Amendment) Bill 2011.

Council went into Committee.

Committee Stage

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

ROAD TRAFFIC (AMENDMENT) BILL 2011

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

CLERK (in Cantonese): Clauses 1, 2, 3, 13 and 15.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 4 to 10, 14, 16, 17, 18 and 20 to 26.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has given notice to move amendments to clauses 4 to 8, 14, 16, 17, 18 and 20 to 26. The Secretary for Transport and Housing has also given notice to move amendments to clauses 4 to 10, 14, 16, 17, 18 and 20 to 26. In addition, Mr KAM Nai-wai has given notice to move amendments to clause 14.

The Committee will first put to vote Mr Andrew CHENG's amendments to clauses 5(1), 6(2), 6(3), 6(4A), 6(5), 6(7) and 6(9).

If Mr Andrew CHENG's amendments are passed, the Secretary for Transport and Housing may not move the amendments to clauses 5(1), 6(3) and 6(9); but she may move the amendments to clauses 4, 5(2), 6(10), 7, 8, 14, 16(1), 16(9), 17, 18 and 20 to 26. If Mr Andrew CHENG's amendments are negated, the Secretary may move the amendments to clauses 4 to 8, 14, 16(1), 16(9), 17, 18 and 20 to 26.

As regards whether Mr KAM Nai-wai may move his amendments, it will depend on whether the amendments of the Secretary for Transport and Housing and Mr Andrew CHENG are passed or not. If the Secretary's amendments are passed (irrespective of whether or not Mr Andrew CHENG's earlier amendments to clauses 5 and 6 are passed), Mr KAM Nai-wai may move his amendments to further amend clause 14. If the Secretary's amendments are negated, and Mr Andrew CHENG's amendments to clauses 4 to 8, 14, 16, 17, 18 and 20 to 26 are passed (irrespective of whether or not his earlier amendments to clauses 5 and 6 are passed), Mr KAM Nai-wai may not move his amendments; but if Mr Andrew CHENG's amendments are negated, Mr KAM Nai-wai will withdraw his amendments.

After the above amendments have been dealt with, irrespective of whether or not the various amendments are passed, the Secretary for Transport and Housing may move the amendments to clauses 9, 10 and 16(2).

CHAIRMAN (in Cantonese): Members may now have a joint debate on the original clauses and the amendments of Mr Andrew CHENG, the Secretary for Transport and Housing and Mr KAM Nai-wai. I will first call upon Mr Andrew CHENG to speak and move his amendments, and then call upon the Secretary for

Transport and Housing and Mr KAM Nai-wai to speak, but they may not move the amendments at this stage.

MR ANDREW CHENG (in Cantonese): Chairman, I move that clauses 5(1), 6(2), 6(3), 6(4A), 6(5), 6(7) and 6(9) be amended.

Just now, the Chairman read out the relevant procedure from pages 9 to 10. I believe it was the colleagues of the Secretariat who worked quite hard to prepare the procedure for dealing with our amendments. First, I thank the colleagues of the Secretariat for their effort because the procedure is really complicated. Of all the amendments that I have proposed to date, the ones this time around are more complicated because various clauses and subclauses are involved, so it is necessary to deal with them in this way. However, I am going to give a simple elaboration, in the hope of securing support for all my amendments from Honourable colleagues. That would be enough.

If Honourable colleagues do not support all my amendments, I ask them to support the Government's amendments because basically, this also represents a kind of positive interaction. Mr KAM Nai-wai called on Members to support him and this is only natural. I believe that various amendments, including those proposed by Mr KAM and the Secretary, and the entire Amendment Bill for that matter, have actually won the support of various parties. Although various views were voiced at the resumed Second Reading debate just now, they were just side tracks. Generally speaking, be it the public, society, trade unions or the business sector, I believe we all share the same belief, that is, it is necessary to clamp down on driving under the influence of a specified illicit drug. This is because the problem of illicit drugs is indeed very serious in Hong Kong and worldwide. In many civilized societies, vigorous measures have already been taken to tackle the problem of driving under the influence of a specified illicit drug.

No matter if my amendments are passed or not, just now, I have listened to the views for and against them very carefully. On Mr WONG Yuk-man's use of the word "admiration" in his comments on my views, of course, I feel rather flattered because between him and me, apart from having fiery debates with each other at times and holding different views, it seems it is difficult to describe our mutual feelings with the word "admiration". Although concerning this

amendment, Mr WONG Yuk-man used the word "admiration", he still refuses to support my amendments. What he takes issue with the most is that there is no arrangement for exercising discretion in my amendments.

Chairman, in this regard, I wish to make a further elaboration. This is one area in which my view differs from those of Mr WONG and other Members. My intention is precisely not to give the Court too much discretionary power. Of course, in some cases or in some laws or penalties, it is necessary to put in place the arrangement of discretion but the amendments moved by me today mainly targets at two areas, that is, dangerous driving causing death and driving a motor vehicle without proper control under the influence of specified illicit drugs.

Driving under the influence of a specified illicit drug and dangerous driving causing death are both very serious offences. If the Court is given room to exercise discretion, in my view, this would really create a lot of difficulties for the Court; the judicial process would be longer and more resources would be required. Moreover, the message that "maybe one can take chances" would be sent to society. If someone who takes illicit drugs has been convicted of the offence once, then on the second occasion, when he is heavily drunk, he would remember that he has been convicted of the offence before, so this time, he cannot drive again and that he definitely must not do so, rather than thinking that he can see how the Court would rule and that perhaps he could get another chance. Such a small difference may pose a serious threat to road safety.

Just now, an Honourable colleague considered that although the offence of driving under the influence of a specified illicit drug is serious, if nobody is hit and killed, maybe nothing would happen after all, and that it only so happens that such instances were discovered in random checks. However, we hope to stress one point. Taking illicit drugs will surely have a great effect on a person's will and driving behaviour. If he did not knock down or kill anyone, this may just be sheer luck but this kind of sheer luck is not guaranteed. Therefore, I hope that by proposing the amendments on this occasion, the message of "zero tolerance" can be struck home, that is, subsequent offenders will surely receive the ultimate penalty of disqualification. Such a message is necessary. Chairman, there is not much that I need to add to my speech on the resumed Second Reading debate delivered just now. I only wish to delve into a couple of points, in the hope that Honourable colleagues would support my amendments. Even if they do not, I

still want to put my views on record because I believe the amendments to and reviews of the relevant legislation will come in succession in future.

Why do I have to impose disqualification from driving for life on an offender on subsequent conviction for the offence of failing to undergo a preliminary drug test without reasonable excuse or failing to provide specimens of blood or urine for analysis? Just now, Miss Tanya CHAN of the Civic Party voiced her queries about this and as on the last occasion, I am also being queried in this regard. Honestly, I have been pondering over this matter all the time, wondering if it is really necessary to go so far as to take this step. However, if such a provision is not laid down, Members can see that at present, many people who drink drive would refuse to take such tests, knowing full well that their alcohol levels have exceeded the limit.

Recently, there was a case in which the driver could not provide a sample in a breath test despite trying to do so for 10 times. He huffed and puffed, telling himself that he must not succeed in taking the test because if he did, his alcoholic level would surely be high, so he pretended not to be able to do it and to be out of breath. Frankly speaking, where there is a measure, there is bound to be a counter-measure. How can the law ensure that these people cannot evade responsibility? Since it is evident that an offence has been committed, if someone is unwilling to take a breath test or a drug test or provide urine and blood specimens for analysis, I believe he surely has a guilty conscience.

Of course, Members may say that he may not really be in serious trouble, that maybe there is nothing wrong with him, only that he is too scared. However, a good citizen has to co-operate with the police. If he is involved in an accident or is suspected of driving under the influence of a specified illicit drug, he has to take a test. If he is unwilling to do so and again Chairman, I do not mean that one has to be disqualified from driving for life upon the first conviction. It is only on the second conviction that one will be disqualified from driving for life. Frankly speaking, I only want to send a message. I wish to send the clear message to people whose driving behaviour is inappropriate that since they already have a bad record — the record of causing other people's death and a record of driving under the influence of a specified illicit drug — if they subsequently commit the offence again, they have to be disqualified from driving for life.

Some people hold that the punishment is not commensurate with the crime. True enough, there is still a lot of scope for reviewing the penalties for the offences under discussion today. I understand that drink driving, driving under the influence of a specified illicit drug, driving under the influence of any other drugs and dangerous driving causing death are all relatively speaking more serious offences. The Government and those Honourable colleagues who do not lend me their support may think that if heavy penalties are imposed only on dangerous driving causing death and driving under the influence of a specified illicit drug alone, does this mean that the other offences are not too serious? If so, the penalties are not at all commensurate with the offences.

Chairman, I wish to point out one thing. Such acts as dangerous driving causing death and driving under the influence of a specified illicit drug are all very serious, whereas the other offences are indeed comparatively speaking not so serious. However, we do not mean that the other offences relating to driving with alcohol concentration above prescribed limit tier 2 are not too serious. In fact, drink driving will also result in the imposition of penalties and is also a criminal offence. Not only will one be fined, one may also be disqualified from driving, only that the periods of disqualification may vary. Therefore, I do not quite understand this view on "relativity". I will listen to this view again later because I may still have the chance to speak again. However, I really cannot agree readily with the comments on "relativity", nor can I understand them.

Chairman, is the offence of driving under the influence of a specified illicit drug so heinous as to warrant disqualification from driving for life? To me, dangerous driving is a kind of reckless behaviour, a criminal offence. Taking illicit drugs is also an offence and so is driving after taking illicit drugs. I believe it is heinous to commit such an offence repeatedly. This is because doing so would harm oneself physically as well as affect road safety. In view of this, I believe the implications are great. In fact, being disqualified from driving is not the end of the world. To people taking illicit drugs and hooked to them, being disqualified from driving may be a blessing because should their luck run out, they may die in a car crash if they drive after taking illicit drugs.

Some Members representing the relevant trade unions or occupations may think that I am not being sympathetic to wage earners, but I must stress again that driving is only an occupation to them. If someone is penalized due to repeated acts of dangerous driving causing death, that means he is not at all suitable for the job. If someone takes illicit drugs but still wants to be a professional driver, he

is all the more unsuitable for the job. How can he possibly be qualified to drive? Therefore, if Honourable colleagues representing trade unions or the business sector are looking at this issue from the viewpoint of workers, frankly speaking, I am also judging such a person from the viewpoint of professional aptitude. If a professional driver repeatedly causes deaths by dangerous driving and repeatedly drives after taking medicinal or illicit drugs, such a person should not work in such capacities. Such a penalty is also good for him, his family members and road safety.

Therefore, Chairman, I really cannot accept this viewpoint as the ground for giving people chances. It is not true that we have not given them any chance. In fact, a chance is given when a person is convicted of the offence of dangerous driving causing death the first time. When a person commits the offence of driving under the influence of a specified illicit drug for the first time, a chance is also given. However, not too many chances of this kind should be given. For those victims who were knocked down and killed, who would give their family members another chance? I hope Members will understand that although in refusing to give them another chance, it looks as though they had committed a heinous crime and as if they had to be driven to a dead end, this is not the case. Even if one loses one's driving licence, one can still do other kinds of work. Moreover, it simply may not be suitable for such people to work as professional drivers. Therefore, from this angle, I hope Honourable colleagues and professional drivers can understand that my intention is not to deprive professional drivers of their means of living. On the contrary, I want to help them and make contribution to road safety.

Chairman, as you said in the introductory remarks, the series of amendments proposed by me here comprises of many clauses. I stress again that so long as Members fully support my amendments, whether Members understand the procedure spelt out by the Chairman just now or not is not very important. Thank you, Chairman.

Proposed amendments

Clause 5 (see Annex I)

Clause 6 (see Annex I)

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Chairman, our amendments to clauses 6, 7, 8, 9(5) and 10(3) are meant mainly to carry the recommendations of the Legal Adviser to the Bills Committee on Road Traffic (Amendment) Bill 2011 (the Bills Committee), so as to amend the Road Traffic (Amendment) Bill 2011 (the Bill) to make it possible for the Court to convict a person, who may not be guilty of an offence within the category of dangerous driving, of the new drug driving offences if supported by evidence.

The provision of an alternate offence caters for the following situation: When the Court is not satisfied that the accused has committed the main offence being charged, the accused will be convicted of the alternate offence if the alternate offence is established by evidence.

Dangerous driving may be caused by drug driving, and the two categories of offences can be interrelated. The existing Road Traffic Ordinance (the Ordinance) already provides for the alternate offence for various types of dangerous driving offences, that is, the current offence of driving under the influence of alcohol or drug as provided for in the legislation is already an alternate offence for various types of dangerous driving offences. The recommendations of the Legal Adviser to the Bills Committee will facilitate prosecution, as it will not be necessary to have laid an alternative charge in the first place even if the Court is satisfied that the defendant is not guilty of the main charge but guilty of the alternate offence. This will also pre-empt the situation in which the defendant pleads guilty to the alternative charge in order to circumvent the perhaps heavier penalties carried by the main charge.

To provide for consistency, we further propose that the dangerous driving offence and careless driving offence be made alternate offences to the offences of driving under the influence of alcohol, driving with alcohol concentration above the prescribed limit, driving under the influence of a specified illicit drug, driving under the influence of any other drug and the zero-tolerance offence.

The amendments to clauses 9(3), 9(4), 10(1) and 10(2) seek to improve the drafting of the Chinese text of sections 39(4) and 39(5), as well as sections 39A(4) and 39A(5) in the existing legislation, so as to give greater clarity and accuracy to these provisions.

In addition, our amendments to clause 14 seek to take on board the suggestions of the Bills Committee, whose members hoped that drug driving offences should be dealt with and presented in different clauses, so as to send a clear message to the community that these two types of behaviour are distinct in nature and severity and highlight the differences in penalties between the two.

Under the Bill, drug driving offences already attract different penalties. Notwithstanding this, the Administration has accepted the rationale behind Members' proposals. We now propose to deal with and present these two kinds of behaviour clearly as two different offences in two different clauses of the Bill in order to further highlight the difference between the two. The changes will only be textual and will not change the original legislative intent.

Our amendments to clauses 4, 5, 6, 7, 16(1) and (9), 17, 18 as well as clauses 20 to 26 are amendments consequential to dealing with the two types of drug driving offences separately.

The amendment to clause 16(2) seeks to improve the drafting by deleting "expiration of the term of imprisonment or detention the person is ordered to serve" and substituting "person finishes serving that term". This serves to achieve the objective of clarifying that when a person is sentenced to imprisonment and also to attending driving improvement courses (DICs), he should use the expiration of the term of imprisonment as the starting point for the attendance and completion of DICs, so as to avoid confusion.

The above amendments proposed by the Administration are supported by the Bills Committee. We hope that Members can support the relevant amendments.

Chairman, just now, Mr Andrew CHENG moved amendments to clauses 5 and 6 to further lengthen the minimum disqualification period for a second or subsequent conviction of the "dangerous driving causing death" (DDCD) offence from the 10 years proposed by the Administration to disqualification for life. Mr CHENG also proposed to delete the provision for the Administration to set parameters for the Court on ordering life disqualification on convicting a person of the DDCD offence.

We consider it inappropriate to adopt Mr CHENG's proposal. First of all, the Administration's proposed penalties for the DDCD offence are already very severe and should have adequate deterrence. We propose to double the disqualification period from not less than five years to 10 years for a subsequent conviction of the DDCD offence. In fact, the minimum disqualification period for a subsequent conviction was increased from three years to five years in the Road Traffic (Amendment) Ordinance 2010 passed last year. Our proposal in the Bill further increases the disqualification period to 10 years. In other words, the disqualification period is more than three times that before the amendment last year.

Second, what the Bill proposes is the minimum disqualification period. If the Court considers that the circumstances of a case warrant an aggravation of the penalties, it may hand down a longer disqualification period. In order to convey a clear message, we propose to further provide in the legislation that if the person has previously been convicted of the same offence and the Court considers, having regard to the circumstances under which the offence is committed and the behaviour of the offender, that it is undesirable for him or her to continue to be allowed to drive a motor vehicle, in addition to imposing the penalties provided for the offence, the Court may make an order for life disqualification.

This proposal is more appropriate than Mr CHENG's proposal. It has the merit of maintaining the current system of mandating the minimum period for driving disqualification on the one hand, and setting the parameters within which a life disqualification may be imposed on the other. The proposal can also send a clear message to the community that the Court or the Magistrates may consider life disqualification for repeated conviction of very serious traffic offences that pose great dangers to road safety.

With our introduction of circumstances of aggravation and the consecutive enforcement of imprisonment and disqualification terms, coupled with the proposals in the Bill, the aggregate effect — and I stress "the aggregate effect" — is to remove dangerous drivers with extremely irresponsible driving attitudes and involved in serious violations of the law from our roads for a long period.

For instance, if a person is convicted of the DDCD offence, the maximum imprisonment term at present is 10 years, but if that person has a body alcohol

concentration at tier 3 or any one of the six specified drugs in any amount at the time of the commission of the offence, the maximum imprisonment term applicable to the person will be increased to 15 years. If the person is a repeat offender, the minimum disqualification period will be further increased from 10 years (as opposed to five years at present) to 15 years under our present proposal in the Bill.

If a driver is sentenced to 15 years in prison and disqualified for 15 years, the disqualification period will only start to run after the imprisonment term has expired. In other words, the person will not be allowed to drive for a period of 30 years upon conviction. The Court may also make an order for life disqualification.

We think that the penalties proposed in the Bill are already very severe and they also meet the expectations of members of the public, and road users in particular, of assuring road safety.

Chairman, for the foregoing reasons, we do not agree with the proposed amendments to clauses 5 and 6 moved by Mr Andrew CHENG. I implore Members to negative his amendments.

Thank you, Chairman.

MR KAM NAI-WAI (in Cantonese): Chairman, first of all, I wish to talk about the Government's proposal to deal with driving under the influence of a specified illicit drug and driving under the influence of any other drug separately. The Democratic Party supports this proposal because in this way drivers will know the distinction between these two offences more clearly, so we support this principle.

However, the Democratic Party does not quite agree with the claim made by the Secretary just now, that is, on the proposal put forward by Mr Andrew CHENG on driving disqualification for life for a subsequent conviction. The Secretary said that the existing penalties have already sent a very clear message to some extremely irresponsible drivers. I do not think the message is clear because in respect of people who are convicted of a subsequent offence, that is, drivers who hit and killed someone while driving and are convicted of such an offence, at present, the law leaves it to the Court to decide whether or not the

penalty of driving disqualification for life should be imposed, so is this message not extremely unclear? I believe all members of the Hong Kong public would not agree that drivers who had hit and killed someone while driving and been given a chance before should be given another chance if they committed the offence again. I really cannot imagine how we can consider a clear message to have been sent by a law with such a provision. I believe many popularly-elected Members here will appreciate the aspiration of the public. Moreover, even in the case of professional drivers, if they have knocked down and killed people on two occasions, I believe they would not dare drive again. Does one mean that they can still bear to do so? Therefore, I hope that a clearer message can be struck home in this regard.

Since the amendments proposed on this occasion are rather complicated, if I should make any mistakes in my speech later, I hope the Chairman can remind me because I am also quite confused. Concerning the amendments proposed by the Democratic Party in respect of illicit drugs, in particular, the specified illicit drugs, should I also express my views on the relevant provisions now? Because judging from the script, it seems I will have no further chance to speak later on. My understanding is that this is the only chance for me to speak and after all Members have spoken, votes will be taken, will they not? If that is the case, in this speech, I will

CHAIRMAN (in Cantonese): Mr KAM, after other Members have spoken, you still have one more chance to speak.

MR KAM NAI-WAI (in Cantonese): Fine, let me talk about this issue at the same time, so that Members here can understand the amendments proposed by the Democratic Party. Concerning specified illicit drugs, in fact, on what should be considered as "specified illicit drugs", the idea did not come from us, but the Government. They include six types of illicit drugs, namely, heroin, ketamine, "ice", cannabis, cocaine and "ecstasy". Some of these illicit drugs, like "ecstasy", are referred to by their common names. These six types of illicit drugs are more common in being taken illegally in Hong Kong. As we all know, taking these six types of specified illicit drugs is an offence and the maximum penalty prescribed by the Government for driving under the influence of a specified illicit drug is a fine of \$25,000 and imprisonment for three years.

The Democratic Party proposes that the penalties be raised to a fine of \$50,000 and imprisonment for five years.

Members may not have read all the papers in detail, so they may not know that in fact, the maximum fine and period of imprisonment prescribed by the Government for driving under the influence of a specified illicit drug are actually the same as those for drink driving and dangerous driving, which are also \$25,000 and three years for both offences, and this is what the Government means by consistency. However, the minimum period of driving disqualification for the offence of driving under the influence of a specified illicit drug prescribed by the Government is different from that for dangerous driving and drink driving. The minimum disqualification period for first conviction is five years, and 10 years for a subsequent conviction.

The Secretary often says that our proposals lack consistency but in fact, insofar as drink driving and dangerous driving are concerned, the minimum driving disqualification periods for drink driving offences and drink driving offences of the most serious nature are just two years and five years respectively, and the same applies to dangerous driving. Even in the case of dangerous driving causing serious injury or death, it was only recently that the minimum disqualification periods were changed to five years and 10 years respectively.

As I said just now, the Democratic Party believes that since the Government has set the minimum disqualification period for dangerous driving causing death at five years on first conviction and 10 years for subsequent conviction and since under the Government's present proposal, the penalties for driving under the influence of a specified illicit drug is also five years for first conviction and 10 years for subsequent conviction, why are the penalties in terms of the fine and imprisonment period not raised accordingly? We believe that herein lies the inconsistency. Since the provisions on the minimum disqualification period for this offence are the same as those for dangerous driving causing death, being also five years for first conviction and 10 years for subsequent conviction, the maximum penalties in terms of the fine and imprisonment period should also be raised to \$50,000 and five years. In this way, consistency can be achieved.

Meanwhile, is driving under the influence of illicit drugs, that is, driving after taking the aforementioned six types of specified illicit drugs, more serious or

is drink driving more serious in nature? We must understand that drinking is not an offence and only driving after drinking too much alcohol is. However, taking illicit drugs already constitutes an offence. Therefore, we believe that a clear message should be conveyed to the public, that is, driving after taking the six types of specified illicit drugs would result in penalties that are heavier than those for drink driving. The existing maximum penalty for drink driving is a fine of \$25,000 and imprisonment for three years, but we propose that the penalties of a fine of \$50,000 and imprisonment for five years be prescribed for driving under the influence of a specified illicit drug.

In addition, at present, although there is no legislation on driving under the influence of illicit drugs, records of past sentences on drink driving and dangerous driving are available. In that case, what kind of sentences did the Court impose on dangerous driving and drink driving in the past? The existing penalties in this regard are a fine of \$25,000 and imprisonment for three years, just like the penalties for driving under the influence of illicit drugs. In the past five years, the minimum fine imposed by the Court on drink driving was \$100. It was only a mere \$100 and the minimum period of imprisonment was only 12 days. As regards dangerous driving, do Members know what the situation in the past five years was? How much was the minimum fine imposed? The answer is \$300. How long was the minimum period of imprisonment imposed? It was 14 days. Even the offence of dangerous driving may attract a period of imprisonment of just 14 days. It can thus be seen that even if the maximum fine is set at \$25,000 and the maximum period of imprisonment is set at three years, in the past, the Court only imposed a minimum fine of \$100 and the minimum period of imprisonment of 12 days on some offences of drink driving and dangerous driving, so can any deterrent effect be achieved?

In view of this, the Democratic Party believes that first, the deterrent effect of the maximum fine and maximum period of imprisonment prescribed for driving under the influence of illicit drugs is inadequate; second, driving under the influence of illicit drugs is a more serious offence than that of drink driving, so the penalties of the former should be heavier than those of drink driving; and third, from the angle of consistency of provisions in law, after making reference to the other relevant laws, we believe that it is only by raising the period of imprisonment and the amounts of the fines that the penalties for drink driving, driving under the influence of illicit drugs and dangerous driving can be made

consistent. Therefore, based on the foregoing three principles, we proposed the amendments in this regard.

Just now, an Honourable colleague asked if we had put forward these proposals at the meetings of the Bills Committee. Some of the Honourable colleagues who are members of the Bills Committee, and even the Chairman of the Bills Committee, all confirmed that we had put forward these proposals in the Bills Committee in advance. In fact, in the hearings conducted by the Bills Committee, we also raised questions in this regard and discussed with the people attending the hearings. Therefore, we have discussed this issue in the Bills Committee and listened to the views of the sectors concerned and those of members of the public who are concerned about this issue. Of course, in the end, the Bills Committee may not support our view but in the course of scrutiny, we have already raised this view for discussion.

In addition, in an attempt to prove that our amendments are problematic, the Government advanced some arguments but I think its claims are very odd. The authorities said that if heavier penalties were prescribed for driving under the influence of the six types of specified illicit drugs, some drivers who originally took them may switch to taking other types of unspecified illicit drugs in an attempt to evade the heavier penalties. The Government went so far as to advance this kind of argument, saying that drivers would switch to taking other types of illicit drugs on account of the lighter penalties. Such a claim is really odd. These six types of illicit drugs were specified by the Government, not by us. If such instances involving other types of illicit drugs or even a seventh type of illicit drug really occur, how would they be dealt with? Are they beyond the ambit of the law? The Government has to answer this question. Since these six types of illicit drugs were specified by the Government, if it says that drivers would avoid taking these six types of illicit drugs, even if my amendments are not passed, the Government still has to reply as to what would happen if a seventh or eighth type of illicit drug is involved?

These six types of illicit drugs are specified by the Government, for purposes of prescribing penalties. My amendments are intended to raise the fines and extend the period of imprisonment in this regard. Even if my amendments are not passed, the minimum driving disqualification periods proposed by the Government are actually still longer, that is, five years for first conviction and 10 years for subsequent conviction, so does the Government have

the same concern? Perhaps my amendments will not be passed, but the Government's amendments will almost definitely be passed, so I ask the Government to answer this question later: How can it be ensured that drivers will not be able to evade the penalties prescribed by the authorities for these six types of illicit drugs?

Therefore, I believe the justifications cited by the Government in this process are not adequate. We wish to send a very clear message to the public, to let them know that the offence of driving under the influence of illicit drugs is more serious than that of drink driving. Just now, an Honourable colleague raised an issue on the sentences imposed by the Court and I have already said that the penalties in this regard are indeed relatively light. If heavier fines and longer periods of imprisonment can be prescribed for the specified illicit drugs, that is, the six types of illicit drugs mentioned just now, I believe the whole piece of legislation will have greater deterrent effect and as a result, the people concerned would not dare act in defiance of the law and the legislation will be more effective.

Chairman, I so submit.

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

MS MIRIAM LAU (in Cantonese): Chairman, the amendments read out by you just now appear to be very complicated and have many provisions, so Members are all very confused. Which are the amendments moved by Mr Andrew CHENG and which are the ones proposed by Mr KAM Nai-wai? In fact, simply put — I ask the Chairman to correct me if I am wrong — I think the amendments proposed by Mr KAM Nai-wai are actually very simple, that is, to raise the penalties for a person who commits the offence of driving under the influence of a specified illicit drug (the illicit drug driving offence), or refuses to undergo drug test(s) or to provide blood or/and urine specimens from a fine of \$25,000 and imprisonment for three years to a fine of \$50,000 and imprisonment for five years. They are just that simple. Moreover, Mr Andrew CHENG's amendments are also very simple. First, he adopted the pattern of Mr KAM Nai-wai's amendments and second, he proposes to impose mandatory life disqualification upon subsequent conviction of the offences of dangerous driving,

driving under the influence of an illicit drug and refusal to provide specimens for drug analysis. It is provided that disqualification is mandated for subsequent conviction of these offences.

As Mr Andrew CHENG said, the differences between his amendments and those of the Government are very small. First, Mr Andrew CHENG proposed mandatory driving disqualification on subsequent conviction and there is no room for discussion. Even if an emperor were to intercede, it would still be useless and one must be disqualified from driving. However, the Government proposes that the Court be allowed to the legislation provides that in the event of a subsequent conviction, it is up to the Court to decide whether or not to allow the person in question to drive on the road again and that it can order life disqualification. The difference only lies in whether or not the Court has the power to consider the circumstances of a case and make a decision according to the behaviour of the person concerned. Mr Andrew CHENG's amendments do not confer such a power on the Court, rather, they seek to withdraw the power and stipulate in the law that one will definitely be disqualified.

On this point, I only wish to say that Hong Kong is a society practising the rule of law and we have always highly respected the decisions made by the Court. We also have trust in the Judges in making the most astute and correct judgments on various types of cases. If we do not trust our Judges, it would be rather difficult to support the rule of law. I also wish to point out that this time around, the Bill makes severer provisions to target at drug driving. In that case, why is the offence of dangerous driving causing death (DDCD) also dealt with? In fact, the aim of the Government in this exercise is not to deal with the DDCD offence, nor is it the case that a large number of incidents of DDCD attracting light penalties have happened in society all of a sudden. This is not the case, rather, in order to target at drug driving, the Government wants to introduce severer provisions, for example, by increasing the disqualification period from two years and five years to five years and 10 years. In that way, the penalties for the DDCD offence would not seem to be lighter. Therefore, the penalties have to be increased. We must not make any mistake in distinguishing between the major character and the minor role. The major character is drug driving and the minor role is dangerous driving. However, since Mr Andrew CHENG thinks that an opportunity has arisen and he must not miss it, he proposed this particular amendment.

Concerning the relevant amendment proposals, the transport trades have also expressed some views at the meetings of the Bills Committee. They thought that what was at issue was not the offence of dangerous driving and it seemed that the opportunity was taken to make amendments to this offence as well. However, ultimately, they accepted it. I think they accepted it because it would not do to keep the penalties for dangerous driving at a low level if the penalties for the illicit drug driving offence were increased. Therefore, they all considered that the penalties should be increased to align with those for the illicit drug driving offence. However, this is by no means an opportunity to turn the relevant penalties into such things as mandatory life disqualification, as proposed by Mr Andrew CHENG.

Just now, the Secretary also said that now, increasing the minimum disqualification period for the DDCD offence to five years and 10 years can already make the people concerned there is definitely the opportunity to take him off the road for a long period of time by depriving him of the right to drive. This is because in addition to the present maximum period of disqualification of 10 years, if there are aggravating circumstances, the penalties can be increased by 50%. The disqualification period can also be increased by 50%, so the period of driving disqualification can be increased from 10 years to 15 years. In addition, the DDCD offence can also attract a maximum term of imprisonment of 10 years and if there are aggravating circumstances, a term of imprisonment of 15 years can be imposed. If the penalties are enforced consecutively, after someone has been in prison for 15 years, he will then be disqualified from driving for another 15 years, so the total is 30 years. Whoever is in question, I think this is tantamount to disqualification for life. Judging from the existing legislation, I think the penalties for the offence of dangerous driving is by no means too light. In fact, the relevant penalties are already quite severe. In particular, after this amendment, the period of driving disqualification will be lengthened substantially, so it should already have some deterrent effect.

Coming back to illicit drug driving, Mr Andrew CHENG himself also said that the penalty of life disqualification had to be imposed immediately. In making this law, we understood that society had strong views against illicit drug driving and so does the transport sector. I have consulted members of the relevant sectors on Mr Andrew CHENG's proposals and they all agreed with the proposals. In their opinion, disqualification has to be imposed even on first conviction and that the people concerned should never be allowed to drive again.

Why? Because members of the transport trades have seen too many instances of this kind and they have suffered too much. Therefore, emotionally, if you ask them whether or not life disqualification should be imposed, they would not condone such behaviour at all. However, the question is: Should this measure be taken simply because a group or a Member considers it necessary to do so? We have to look at the whole picture.

On illicit drug driving, the Amendment Bill introduced this time around in Hong Kong is definitely far severer than those in other places. For example, after the amendments have been made, the term of imprisonment in Hong Kong will be three years but the minimum disqualification period for first conviction will be five years, and 10 years for a subsequent conviction. In Australia, where the provisions targeting at illicit drug driving were introduced earlier than those in Hong Kong, first offenders are not imprisoned and repeat offenders are only sentenced to 12 months in jail. The minimum disqualification period for first offenders is one year, and only two years for repeat offenders. We can also look at Singapore. First offenders are imprisoned for six months and disqualified from driving for a year, and repeat offenders are only disqualified from driving for one year and imprisoned for one year. In the United Kingdom, the maximum term of imprisonment for first offenders is six months and the minimum disqualification period is one year. The maximum term of imprisonment for repeat offenders is six months and the minimum disqualification period is three years. In other countries, there are also strong views against illicit drug driving and it is also understood that illicit drug driving can pose great dangers to the driver and other motorists. However, we can see that the penalties in the legislation of these countries are lighter than those in the legislation that we propose to pass today. Of course, since we attach great importance to the issue of drug driving, we support the introduction of severer laws in Hong Kong but the penalties in them already have considerable deterrent effect. At least, ours are already far severer than those of other regions.

Chairman, here, I also wish to talk about what kind of penalties are considered adequate. What kind of penalties are adequate in deterring members of the public from violating the law? In fact, this is very hard to say. Just now, Mr KAM Nai-wai said that the amount of fine now is \$25,000 and that it is very small and has insufficient deterrent effect, so the fine should be set at \$50,000. In that event, is a Judge not allowed to impose small amounts of fines, such as several hundred dollars or several thousand dollars? In that event, is it necessary

to increase the fine to \$100,000? If \$100,000 is not enough, is it necessary to increase the fine to \$200,000? I personally do not believe blindly in penalties. It is certainly necessary for penalties to be proportionate and carry a certain degree of deterrent effect. However, it does not mean that increasing the penalties will surely result in greater deterrent effect.

I personally believe that to combat such problems as drug driving and drink driving, publicity and education are very important and the effects that they can achieve are even greater. Apart from publicity and education, in order to target at drink driving, we have been increasing the penalties over the years but what is the most effective measure in combating drink driving? It is the random breath test introduced in February 2009. After its introduction, the effect was immediate and it can be seen that the relevant legislation is effective. The figures tell us that compared with the year 2008, the number of traffic accidents involving drink driving decreased by 67% in 2009. In 2008, 1 495 drivers were arrested for drink driving but in 2009, the number dropped to 1 024 and as of October this year, the number decreased further to just 847 people, so the drop was significant. What is the reason for this? Just now, Miss Tanya CHAN also said that nowadays, when drinking and eating out, people would remind each other not to drink drive because no one knew if they would be stopped by police officers in the street and asked to take breath tests. No one wants to take any risk, nor do they want to take chances and gamble, so people just refrain from driving. As a result, less people drive.

The same applies to illicit drug driving. I believe the most effective method now is to introduce the equipment for carrying out the ROFT as soon as possible. In fact, we are being too slow in doing so. In other regions, penalties and tests targeting at illicit drug driving were introduced in 2002 or 2000 to deter motorists or motorists under the influence of illicit drugs from taking chances and some results have been achieved. Therefore, although we began to consider this matter only in 2009 or 2010, it is still not too late. At present, the most important task is to expedite the introduction of the ROFT. Moreover, such tests have to be conducted randomly, just like the random breath tests. Even without any incident and without any ground for suspicion, drivers can still be stopped at any time and asked to take the ROFT. I believe this approach is more effective than any other penalties with the so-called deterrent effect because no one can avoid it.

I have to reiterate that the amendments moved by Mr Andrew CHENG as they stand are very similar to those of the Government. We are also convinced that after the penalties in the legislation have come into force, repeat offenders of the DDCD offence will surely be banned from driving on the road for long periods of time and offenders of the illicit drug driving offence will also meet the same fate. To combat illicit drug driving, I believe that in terms of the proportionality and effectiveness, we can try to implement the present penalties proposed by the Government first but if it is found in the future that they do not work, we can then consider if it is really necessary to introduce the penalty of mandatory life disqualification, and whether or not doing so would be more effective. We will have to consider this further. I have to tell Mr Andrew CHENG that on illicit drug driving, the transport trades do not object life disqualification. They completely agree with addressing this issue with heavy penalties and strict laws. However, at the same time, I would consider if it is really necessary to completely deprive the Court of its discretionary power or the power to consider the circumstances of a case. Do we distrust the ability of Judges in making appropriate decisions? At the present stage, I do not think we should distrust the Court and must specify in the law that the commission of an offence will definitely attract life disqualification. I think it may not be necessary to go so far.

Chairman, another point that I wish to raise is that publicity, education and the reactions and voices of the community are all very important. I remember that in 2009, I raised the question of drug driving in the Legislative Council but the Government did not respond actively. However, subsequently, strong voices calling for a clamp-down on illicit drug driving could be heard in society. Subsequently, in 2010, the Government launched a consultation and in the course of consultation and the tabling of the Bill, there were continued discussions in society and some effects could be seen. We can see, and the Government also said just now, that in 2010, an average of eight people per month were involved in illicit drug driving but subsequently, due to the voices in society and the tabling of the Bill by the Government, people are now all saying that illicit drug driving should not be condoned, so I can already see some effects this year — in 2011, when an average of only 4.3 people per month were involved in illicit drug driving.

Therefore, it can thus be seen that with the concern and concerted efforts from all of us, this kind of illegal behaviour not tolerated by society can be curbed.

Thank you, Chairman.

MR RONNY TONG (in Cantonese): Chairman, many people agree that Marcus Tullius CICEROM, a famous politician and orator in the Roman Empire period, was the first academic to propose separation of powers. Chairman, he once said, to this effect, "The penalty must fit the crime." It originally meant that the penalty must be neither too light nor too heavy.

In common law countries, there were initially three criteria for the criminal law: First, vengeance or punishment; second, deterrence; and third, rehabilitation. In the development of criminal law in modern times, however, more experts on criminal law have actually abandoned punishment or vengeance and instead focused on the need for adequate deterrence while serving the purpose of rehabilitation to prevent offenders from repeating offences. Hence, at the time of enacting legislation to lay down the criteria for penalties imposed for certain offences, we need to examine, as usual, whether each penalty is set at a reasonable level having regard to the needs of society.

Chairman, as the Chinese saying goes, "Severe law is necessary in times of chaos". Heavy penalties are required when many people are found to have committed some crimes with serious consequences. Chairman, have we come to such a state? I believe the answer is in the affirmative when it comes to certain traffic offences under discussion at the moment. Hence, the Government has proposed this Amendment Bill to increase the penalties for a series of traffic offences. Nevertheless, Chairman, the amendments proposed by the two Members have, on the contrary, taken the Government's proposed penalties farther in different areas. Chairman, if a simple method is adopted, we might as well vote in favour of the amendments since they are proposed by Honourable colleagues and there is nothing wrong about them. In my opinion, however, this is not necessarily what a responsible Member should do. Hence, running the risk of showing off before the experts here, I would state some of my views on the proposal put forward by Honourable colleagues to revise the penalties.

Chairman, these penalties cannot be generalized, for each of them has a unique background and is influenced by different factors. Perhaps let me begin with a situation that is relatively easy to handle. Should the most severe penalty, namely disqualification, be imposed for repeat drug driving or drink driving causing death? Chairman, I find it easier for a decision to be made on issues of this kind. To start with, drug driving and drink driving are certainly unacceptable to the community. In addition to drug driving and drink driving, the act of injuring others as a result of taking drugs or intoxication is unacceptable to the community, too. It is even more unacceptable if more than one life is taken as a result. Hence, I consider the amendments proposed by Mr Andrew CHENG sensible and worth supporting.

Nevertheless, is there a difference between drink driving, drug driving and dangerous driving? Chairman, I think there is indeed a difference. In my opinion, dangerous driving is less unacceptable to the community than drug driving and drink driving. Very often, dangerous driving is caused by momentary carelessness rather than a particular decision. This is not the case for drink driving and drug driving, because a conscious decision is involved. The drivers committing such offences are not forced by someone else to drink or take drugs; they have only themselves to blame for their decisions to do such things. Hence, right from the start, drink driving and drug driving are different from dangerous driving. Such being the case, in terms of criminal liability there should be distinction. The maxim by CICEROM that "the penalty must fit the crime", which I mentioned just now, is very sensible.

Chairman, when it comes to offences related to "refusal to provide a specimen", how should they be dealt with? Chairman, these offences are a different type of offences in that they seek to evade detection by law-enforcement officers with the attempt of avoiding legal sanctions. Hence, they are different from the possibly associated offences of dangerous driving, drink driving or drug driving. I agree that these offences should be punished severely, but should they be punished even more severely than dangerous driving, drink driving or drug driving? Not necessarily. Hence, Chairman, although I consider that the penalties for these offences can be raised, there should still be a disparity between them and the penalties for other associated traffic offences. In my opinion, it still makes sense even if the former are brought on a par with the latter.

Therefore, Chairman, the amendments today are relatively complicated, because numerous and different amendments are involved. If the amendments are dealt with according to the fundamental principle proposed by us just now, it might not be too difficult to make a decision. Meanwhile, I hope Honourable colleagues can understand that, even if the Civic Party holds a different view on the amendments, it is not due to some particular reasons. It is just because we believe that the penalty must fit the crime.

Chairman, the last point I would like to raise is that some penalties that may be meted out as a matter of course have actually deviated from our judiciary system, because it has all along been considered a proven system for a judge to decide whether the maximum penalty should be raised according to the different merits of a case. If we are to rule out the possibility of a judge using different approaches having regard to the different merits of cases, then I think we should only consider taking such power from him when dealing with some extreme behaviour.

Chairman, in principle, I am more inclined to trusting our judiciary system being pretty comprehensive and up to the international standard. Hence, it has always been acceptable to us for a judge to deal with a case having regard to its merits. We should continue to accept such administration of justice, too. Furthermore, I would like to point out here that this might be one of the reasons why our view is different from those of other Members. Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Mr KAM Nai-wai, do you wish to speak again?

MR KAM NAI-WAI (in Cantonese): Chairman, I would like to respond to the speech delivered by Ms Miriam LAU just now. Ms LAU said that the trade considers that harsh penalties and stringent laws should be put in place to tackle the relevant issues, but then she added that education is very important, regardless of the deterrent effect of the penalties. Just now, Mr Ronny TONG pointed out

that whether a law is effective is very much dependent on whether it has deterrent effect. Regarding the view expressed by the trade that harsh penalties and stringent laws are essential, honestly, we are not talking about harsh penalties and stringent laws because our amendments merely seek to raise the penalties by one tier from the original fine of \$25,000 to \$50,000 and from the original imprisonment term of three years to five years, and that is all. I cannot see how the amendments proposed by the Democratic Party will turn the legislation into harsh penalties and stringent laws.

During the relevant discussions, everyone asked the same question: Is it necessary to amend the law now? Many colleagues share the view that, as mentioned by Ms LAU earlier, the number of drug driving cases has continued to rise and, in particular, some people have even been found taking "ice". It is precisely because the situation in the community has changed, and we can see from television news footage accidents caused by drivers operating their vehicles unsteadily with white foam seeping out of their mouths. It is very hard to imagine such people can be allowed to drive a motor vehicle in Hong Kong. People in the trade, particularly professional drivers, must hate these people bitterly.

Therefore, if the penalties imposed by us do not achieve a certain degree of deterrent effect, they will be unable to achieve the desired results. Even Ms Miriam LAU agreed that the success in combating drink driving is attributed to the random breath tests, not heavy penalties. Just imagine this. If the breath tests carry no penalties, will the public be afraid of taking the tests? Therefore, penalties are most crucial. We have all along maintained in the discussions that such penalties are neither too light nor too heavy. If we all agree that drug driving, particularly when a specified illicit drug is involved, is more serious than drink driving, then this should be reflected in the penalties prescribed in the law. Therefore, we propose that the fine be raised from \$25,000 to \$50,000 and imprisonment from three years to five years. The increased penalties are precisely twice the penalties for drink driving to reflect that drug driving is more serious than drink driving.

Chairman, this is the point I would like to add.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Chairman, first of all, I wish to say that I strongly agree with the points raised by Ms Miriam LAU just now, in particular, her analysis of the entire issue because ultimately, it is necessary to gain the acceptance of society and weigh the effects on various parties. She mentioned, *inter alia*, that Hong Kong is a place practising the rule of law, and Mr Ronny TONG also raised this point. We must have trust in the ability of the Court to mete out appropriate penalties. Therefore, it is not fair for Mr KAM Nai-wai to talk only about the amount of fine and the term of imprisonment without considering the circumstances of a case because all along, we trust that the Court is capable of imposing appropriate penalties.

Mr KAM Nai-wai also proposes an amendment to clause 14, which provides that the maximum term of imprisonment and the maximum fine for the offence of driving under the influence of a specified illicit drug should be increased from three years and \$25,000, as proposed by the Government, to a maximum term of imprisonment of five years and a maximum fine of \$50,000. He also proposes to increase the penalties for refusal to undergo preliminary drug tests, or to provide blood and/or urine specimens for analysis without reasonable excuse correspondingly.

Chairman, we propose in the Bill that the penalties of maximum imprisonment and maximum fine in respect of the category of drug driving offences (including the "zero-tolerance offence", driving under the influence of a specified illicit drug and driving under the influence of any drug other than a specified illicit drug) should be set at three years and \$25,000 respectively. Just now, Mr KAM Nai-wai said he could not see any problem with that. Perhaps let me explain it to him now — this is actually quite easy to understand and I do not know why Mr KAM does not understand it — that means a drug other than a specified illicit drug covers a wide range of drugs, including drugs that have wide medicinal uses but are abused by users at the same time. If the proposals of these two Members were adopted, that is, a longer imprisonment term and a higher fine were imposed only on illicit drug driving but not general drug driving, often, some drivers who do not just abuse Ketamine may switch to other kinds of drugs with medicinal properties that can also be abused. They may switch to taking other non-specified illicit drug(s), which may be equally dangerous, to avoid the penalties. We have to understand this point. In this regard, I have sought advice from some medical practitioners and learnt that nowadays, apart

from Ketamine, there is another kind of drug called "Piperazine" — I have no idea why it is called "Piperazine" — which also has medicinal properties, that many drug addicts have started to abuse. Therefore, we have to understand that both drug addiction and drug abuse pose dangers to road safety. Perhaps, on this point — Dr PAN Pey-chyau is not in the Chamber now but he is a psychiatrist, so I believe he is well-versed in this — Mr KAM may approach him. I do not mean he should seek consultation from him. I mean that he should ask him about the latest trend in drug abuse. I wish to point out that if we do so, it will make the overall penalties proposed by us to deter various drug driving offences lack integrity and their effect undermined. Hence, Mr KAM Nai-wai's amendments will lead to other problems, so we do not consider them preferable. Therefore, I implore Members not to support Mr KAM's amendments.

Honourable Members, the proposed imprisonment terms and fines for various drug driving offences are not only consistent among themselves, they are also the same as the penalties for drink driving offences, be it tier 1, tier 2 or tier 3 offences, as well as those for the offence of dangerous driving. These offences are similar in gravity in terms of the consequences and the driving manner (all involve driving manner that may endanger the drivers themselves and other road users). This is our fundamental view in respect of proportionality. To set heavier imprisonment term and fine for drug driving but not amending those for the other offences will affect the relativity and proportionality of the penalties. Doing so is obviously inappropriate. If we accept Members' proposals, we must consider raising the penalties for drug driving as well as the offence of dangerous driving in order to maintain the integrity and effectiveness of the entire regulatory regime. Raising the penalties for drug driving offences and the offence of dangerous driving will have significant impact on drivers, the transport trades, and so on. If we really have to do so, in order to be fair, the public must be consulted afresh. In that event, the passage of the Bill and the implementation of the proposed measures would be delayed. Therefore, we have to bear in mind that if we want to increase the penalties for other traffic offences, they must be deliberated carefully and supported by strong justifications. In addition, a consensus has to be reached in society.

We agree with the public opinion that the behaviour of drug driving should be curbed and drivers convicted of such offences should be kept off the roads for a longer period of time. In this regard, in the Bill, a particularly long "minimum disqualification period", that is, five years on first conviction, and 10 years on

subsequent conviction, has been prescribed. The Bill also provides for relevant parameters for the Court to consider ordering life disqualification on conviction of drug driving in specified circumstances. I must point out that drivers who drive under the influence of a specified illicit drug will also be prosecuted for other offences, such as the possession of a dangerous drug under the Dangerous Drugs Ordinance (Cap. 134) if there is evidence, and be subjected to heavy penalties on conviction. According to the Dangerous Drugs Ordinance, a person who is convicted of the possession of dangerous drug offence is liable to a fine of \$1 million and imprisonment for seven years. A person who is convicted of the trafficking in dangerous drugs offence is liable to a fine of \$5 million and imprisonment for life. This should serve as a sufficient deterrent. Therefore, while detesting drug driving, we should also bear in mind that there are other laws to punish these people.

The penalties proposed under the Bill in respect of drug driving offences are amongst the severest when compared with those for similar offences in overseas jurisdictions. Earlier on, Ms Miriam LAU has already helped me elaborate the situations in such places as Singapore, the United Kingdom and Australia. In fact, the Bills Committee has also considered the penalties and fines in overseas jurisdictions. We think that the proposed penalties should be introduced as soon as possible to clamp down hard on irresponsible driving behaviour. Therefore, we will certainly continue to review the effectiveness of the relevant provisions and consider further changes or enhancements as necessary.

Chairman, our proposed penalties in the Bill are effective and have already balanced various different factors, including the seriousness and consequences of the actual offence, the proportionality with other penalties and public views. For the foregoing reasons, we do not agree with the amendment to clause 14 proposed by Mr KAM.

I call on Members to support the Government's amendments and negative Mr KAM's amendment. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Andrew CHENG, do you wish to speak again?

MR ANDREW CHENG (in Cantonese): Chairman, I hope other Members will continue to support my amendments after listening to the Secretary's speech because she did not raise objection to my amendment in her last remark.

Chairman, I wish to respond briefly to the Government's explanation mentioned by Mr KAM Nai-wai, that should his amendments be passed, some people will take other drugs instead of the six illicit drugs.

I think that the Government's explanation is illogical. The Government has separately dealt with the penalties for driving under the influence of the six illicit drugs and other drugs. If humans really behave as what the Government thinks, I believe the number of people taking these drugs might diminish. As these drugs are specified in the Schedule, they can thus be amended, and we may have amendments to provide for the seventh, eighth and ninth illicit drugs inevitably. Therefore, the explanation given by the Government to call on Honourable colleagues not to support Mr KAM's amendments is untenable because the types of drugs will change with constant social changes. As a result, penalties should also be revised accordingly, and consequential amendments have to be made as well.

Chairman, I have a lot of reflections about the speeches delivered by Ms Miriam LAU and Mr Ronny TONG, and I have some response to make. First of all, I would like to emphasize that I do not wish to hear colleagues say that, should Andrew CHENG aim for "one-step accomplishment", thereby disqualifying repeat offenders from driving for life and disallowing the Court from exercising discretion, it means that he has no faith in the Court, judges and the rule of law.

Chairman, this is actually not the case. If this concept is adopted to examine each piece of legislation, such penalties as a minimum 10-year or five-year disqualification period should not be imposed, and judges should be allowed to exercise discretion instead? This is the legislative intent, spirit and attitude, and then the Court should be given a clear message. Mr Ronny TONG is not in the Chamber now. I do not recall whether or not he is a member of the Bills Committee. Nonetheless, I recall that on one occasion, Ms Miriam LAU, being Chairman of the Bills Committee, asked a relevant and thought-provoking question. I believe Ms LAU also remembers this — because paragraphs 47 and 48 have pointed this out and served as a reminder to me. Ms Miriam LAU was

concerned that the proposal of providing the parameters for the Court to exercise discretion might have the unintended effect that, where such a provision (the provision that the Court can exercise discretion) is absent in other road traffic legislation, it might be construed to mean that the Court has no power to order life disqualification where necessary.

To address the concern, the legal adviser to the Bills Committee has suggested that if members wish to make it clear that the proposed sections and the parameters should not affect the imposition of life disqualification in respect of any other traffic offences that are provided in other ordinances, these sections may be amended by adding words to the effect that each subsection is not to be construed as limiting the power of the Court or Magistrate to impose life disqualification under other road traffic legislation.

There were discussions on these issues as well as the relations between the Judiciary and judges. After consideration and consulting the Department of Justice, the Administration advised that, while the parameters in the proposed sections may be relevant to construing other Road Traffic Ordinance (RTO) provisions, in the absence of a clear intent in other legislation, the parameters are not relevant to construing provisions in other legislation. The Administration therefore considered that our proposed amendments are not necessary.

Members must understand that the legislative intent is most crucial in the discussion on this issue. As representatives of members of the public, do Members of this Council have a clear concept of repeat offenders of dangerous driving causing death or drug driving? Is it simply about revoking their licences? The legislative intent is very important. If it is not clear, it will have adverse consequences on the community. It is not the case that I have no faith in judges because of this view of mine. A clear legislative intent is essential to the Court, too. We are very clear about many provisions, too. Even the Government's amendments have a clear legislative intent, right? We propose upgrading the punishment for drink driving, drug driving and dangerous driving before introducing a minimum requirement. Should the concept of "crime and penalty" mentioned by Mr Ronny TONG just now be adopted, we can only say that Members have different judgments. Even though there is a gap between their judgments on the gravity of dangerous driving causing death and drug driving, Members should not falsely accuse me of having no faith in the judges. Excuse me, I am a lawyer, too. How can I have no faith in the judges in Hong

Kong? How can I disrespect the rule of law in Hong Kong? This concept must not be used to support the claim that this point of view will be affected by my amendments.

The two paragraphs read out by me just now were discussed by the Bills Committee at that time, too. Our legislative intent must be clear. On behalf of members of the public, we hope to strike home this clear concept, so that the Court can understand the requirements of legislators by imposing a disqualification period of not less than five years for first conviction and not less than 10 years for subsequent conviction. If it is said that a threshold is not required and discretion can be granted to the Court instead, the Court might consider that the disqualification period should be eight rather than 10 years. This is indisputable. Frankly, the purpose of setting a disqualification period is to combat drug driving and dangerous driving causing death effectively. President, it does not matter even if Members have different points of view and judgments. Nevertheless, I hope to clarify that it is not that I have no respect for the Court or faith in the judges in Hong Kong.

Just now, Ms Miriam LAU said that many people in the trade indeed, when I chatted with taxi drivers occasionally, they agreed that it was the right approach to disqualify a driver convicted for the first time from driving. Most of them shared this view because being road users, they had to work 10 to 20 hours a day. In fact, they are the biggest victims in the face of a drug driver or an excessively dangerous driver. Very often, this would remind me of our call for the Government to enact legislation expeditiously when drug driving was initially found and the community envisaged some problems. We did demand the Government to enact legislation expeditiously. Unfortunately, Chairman, I have the impression that some Members in the Panel on Transport supported the Government in putting the matter aside temporarily, which was different from their attitude today. At that time, the Government did not think hard to tackle the matter. Moreover, it considered that the situation should be examined first to determine if measures to combat drug driving should be implemented promptly. Members supporting the Government at that time were all speaking in the same tone — the situation is not at all serious. Let us wait and see. This explains why I have the feeling that I have talked about this repeatedly over the past years.

Chairman, in some cases, Members represent the masses or public interest to monitor the Government. Unfortunately, in some other cases, some Members merely represent a small number of people or functional sectors or merely support the Government by agreeing to do what it wishes to do and citing another reason to justify their refusal to do what it does not want to do. I am very unhappy about this. A Council without a principle will find its legislative spirit weakened, too. Hence, if colleagues representing the trade share the hope of imposing severe penalties for they are aware that many people in the trade — who are also humans of flesh and blood — will be affected by repeat offenders of dangerous driving causing death or drug driving and so they also hope that there can be stiffer laws and punishments — of course, I will say that at this stage it is better to have criminal law than otherwise at the present stage. The Government has indeed adopted some of my views by at least considering the relevant parameters, so that there is still a chance to disqualify repeat offenders from driving for life — such being the case, why does the Government not issue another more detailed and clearer message?

Chairman, when we examine the law, we often need to refer to the situations in other countries. But does it mean that we have to slow down if other countries are not so advanced or stringent? No. We must examine the impact of illicit drugs on Hong Kong society because, due to our proximity to the Pearl River Delta, illicit drugs can easily enter Hong Kong from the Mainland. Young people nowadays are already affected by illicit drugs because since time unknown, the proliferation of illicit drugs in Hong Kong is affecting not only the masses but also drivers and road safety. Hence, we must tackle these drugs even better and faster. If the legislation in other countries is less stringent, are severe law and penalties still required in Hong Kong? I think the answer is in the affirmative, though it is a matter of judgment.

In the opinion of Mr Ronny TONG, driving under the influence of a specified illicit drug is more severe than dangerous driving. Sometimes, I really find it very difficult to tell right from wrong. This is a matter of personal point of view. Is dangerous driving causing death or driving under the influence of a specified illicit drug more unacceptable? Of course, a person convicted of dangerous driving causing death for the first time might blame the environmental factor, such as poor weather, bad mood, problems with his vehicle, and so on. I do understand this. When he is convicted of dangerous driving causing death

for a second time, it is worthwhile for us to find out and discuss whether this driver should be allowed to drive anymore. Certainly, we need not think too much in case of driving under the influence of a specified illicit drug. Members should agree that taking illicit drugs is an offence. It is a bad thing to drive a vehicle after taking illicit drugs; it is even worse to violate the law for a second time.

Chairman, I have been repeating my conviction, but I still want to reiterate my point of view. Based on the concepts of drink driving, driving under the influence of a specified illicit drug, driving under the influence of a drug other than a specified illicit drug and dangerous driving causing death, I think that it is better to be stringent than being lax. Even if my amendments cannot be passed — I know that they cannot possibly be passed, Chairman, you should know that I have always been pessimistic about the amendments. The reason for me to propose amendments on every occasion is simply to put them on record, for I as a Member of this Council have the principle and responsibility to do so. Whether my amendments are passed or not, I wish to make it clear again that, although I do not see eye to eye with the Secretary and other Members, I applaud the Government's approach, though it is a bit slow, while respecting everyone. Do not always say that we condemn the Government. Do not always say that the Government is condemned indiscriminately for doing something. Excuse me, insofar as these issues and the Government's work on this front are concerned, I share similar views. Of course, the pace is a matter of judgment. We are responsible for enacting rather than enforcing laws, whereas the Government is responsible for administrative work. Certainly, there are a lot of things which require the Government to make judgment. Adequate efforts must be made; if things are not done properly, the Government will be criticized again. I believe great caution must be exercised in this respect. But I hope the Government will understand that sometimes it needs not be over cautious because the enactment of legislation will thus be slowed down and law enforcement delayed as a result. I wish to reiterate once again that I hope the equipment for the oral test and the random breath test can be introduced expeditiously, for I believe they will be the most effective way to combat driving under the influence of a specified illicit drug. Thank you, Chairman.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for five minutes.

(When the division bell was ringing)

CHAIRMAN (in Cantonese): We are now voting on the amendments moved by Mr Andrew CHENG. If his amendments are passed, the Secretary for Transport and Housing may not move her amendments to clauses 5(1), 6(3) and 6(9).

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE, Mr Paul CHAN and Mr CHEUNG Kwok-che voted for the amendments.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the amendments.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN voted for the amendments.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin and Mr LEUNG Kwok-hung voted against the amendments.

Mr Albert CHAN and Mr WONG Yuk-man abstained.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the amendments and 22 against them; while among the Members returned by geographical constituencies through direct elections, 26 were present, 14 were in favour of the amendments, nine against them 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 amendments were negated.

MS MIRIAM LAU (in Cantonese): Chairman, I move that in the event of further divisions being claimed in respect of the remaining clauses of the Road Traffic (Amendment) Bill 2011 or amendments thereto, the Committee do proceed to each of such divisions after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the remaining clauses of the Road Traffic (Amendment) Bill 2011 or amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): Secretary for Transport and Housing, you may now move your amendments.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Chairman, I move that clauses 4 to 8, 14, 16(1), 16(9), 17, 18 and 20 to 26 be amended.

Proposed Amendments

Clause 4 (see Annex I)

Clause 5 (see Annex I)

Clause 6 (see Annex I)

Clause 7 (see Annex I)

Clause 8 (see Annex I)

Clause 14 (see Annex I)

Clause 16 (see Annex I)

Clause 17 (see Annex I)

Clause 18 (see Annex I)

Clause 20 (see Annex I)

Clause 21 (see Annex I)

Clause 22 (see Annex I)

Clause 23 (see Annex I)

Clause 24 (see Annex I)

Clause 25 (see Annex I)

Clause 26 (see Annex I)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the Secretary for Transport and Housing's amendments have been passed by the Committee, Mr Andrew CHENG may not move his remaining amendments.

CHAIRMAN (in Cantonese): Clauses 4 to 8, 17, 18 and 20 to 26 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 4 to 8, 17, 18 and 20 to 26 as amended stand part of the Bill.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

(Mr IP Wai-ming raised his hand)

CHAIRMAN (in Cantonese): Mr IP, what is your point?

MR IP WAI-MING (in Cantonese): I claim a division.

CHAIRMAN (in Cantonese): I have already announced the voting result. Would you please request for division to be claimed before I announce the voting result next time.

CHAIRMAN (in Cantonese): Mr KAM Nai-wai, you may now move your amendment.

MR KAM NAI-WAI (in Cantonese): Chairman, I move that clause 14 be further amended.

Proposed amendment

Clause 14 (see Annex I)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr KAM Nai-wai be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr KAM Nai-wai rose to claim a division.

CHAIRMAN (in Cantonese): Mr KAM Nai-wai has claimed a division. The division bell will ring for one minute.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE, Mr Paul CHAN and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Kwok-him, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mr LEUNG Kwok-hung voted against the amendment.

Mr WONG Kwok-hing, Mr WONG Kwok-kin, Mr Albert CHAN and Mr WONG Yuk-man abstained.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the amendment, 20 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 14 were in favour of the amendment, seven against it and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

CLERK (in Cantonese): Clause 14 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 14 as amended stand part of the Bill.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Secretary for Transport and Housing, you may now move your amendments.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Chairman, I move that clauses 9, 10 and 16(2) be amended.

Proposed Amendments

Clause 9 (see Annex I)

Clause 10 (see Annex I)

Clause 16 (see Annex I)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 9, 10 and 16 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 9, 10 and 16 as amended stand part of the Bill.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 11, 12 and 19

New clause 14A

Section 69A amended
(Start of disqualification
period).

CHAIRMAN (in Cantonese): The Secretary for Transport and Housing has given notice to move amendments to clauses 11, 12 and 19, and add new clause 14A to the Bill.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Chairman, I move the amendments to clauses 11, 12 and 19 and the addition of new clause 14A.

The amendment to clause 11 seeks to improve the Chinese text of section 39B(10)(b) of the existing Road Traffic Ordinance (the Ordinance) to make it clear and readable and more accurate.

The amendment to clause 12 seeks to improve the drafting for the purpose of conveying more clearly that a police officer may only request a medical

practitioner to take a specimen of blood from a person who is suspected of drink driving or drug driving and is incapable of giving a valid consent to the taking of a specimen of blood.

The amendment to clause 19 is a technical amendment. We propose to delete "Methylamphetamine" in Schedule 1A and substituting "Methamphetamine (methylamphetamine)", so as to align the descriptions of this specified illicit drug in the Ordinance and the Dangerous Drugs Ordinance (Cap. 134).

Clause 14A seeks to amend the reference to "the expiration of the term of imprisonment or detention" in section 69A(2) of the existing Ordinance as "finishes serving the term of imprisonment or detention" for the purpose of aligning the relevant reference with that in clause 16 of the Bill to avoid ambiguity.

These amendments, all being technical in nature, are proposed for the enhancement of the Bill without changing its original intent. I implore Members to support these amendments.

Thank you, Chairman.

Proposed Amendments

Clause 11 (see Annex I)

Clause 12 (see Annex I)

Clause 19 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 11, 12 and 19 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 11, 12 and 19 as amended stand part of the Bill.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
Chairman, I move the Second Reading of new clause 14A.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 14A be read the Second time.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 14A.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
Chairman, I move that new clause 14A be added to the Bill.

Proposed Addition

New clause 14A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 14A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

ROAD TRAFFIC (AMENDMENT) BILL 2011

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, the

Road Traffic (Amendment) Bill 2011

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Road Traffic (Amendment) Bill 2011 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

Ms Miriam LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Miriam LAU has claimed a division. Will the Clerk please ring the bell.

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, Dr Raymond HO, Mr LEE Cheuk-yan, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr LEUNG Yiu-chung, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Ms Audrey EU, Mr Vincent FANG, Mr

WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE, Dr Samson TAM, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Mr CHIM Pui-chung abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 49 Members present, 47 were in favour of the motion and one abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Road Traffic (Amendment) Bill 2011.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motion. Five proposed resolutions under the Interpretation and General Clauses Ordinance.

PRESIDENT (in Cantonese): First motion: Extending the period for amending three items of subsidiary legislation relating to avoidance of double taxation made under the Inland Revenue Ordinance, which were laid on the table of this Council on 23 November 2011.

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

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR JAMES TO (in Cantonese): President, at the meeting of the House Committee on 25 November 2011, Members decided to form a subcommittee to study the three items of subsidiary legislation jointly.

As the Subcommittee needs more time to scrutinize the subsidiary legislation, I, in my capacity as Chairman of the Subcommittee, move that the period for scrutinizing the three items of subsidiary legislation be extended to 11 January 2012.

President, the motion has been printed on the Agenda. I urge Members to support the motion.

Mr James TO moved the following motion:

"RESOLVED that in relation to the —

- (a) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Portuguese Republic) Order, published in the Gazette as Legal Notice No. 155 of 2011;
- (b) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Kingdom of Spain) Order, published in the Gazette as Legal Notice No. 156 of 2011; and
- (c) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Czech Republic) Order, published in the Gazette as Legal Notice No. 157 of 2011,

and laid on the table of the Legislative Council on 23 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 11 January 2012."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr James TO be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Extending the period for amending two items of subsidiary legislation concerning fees and charges relating to civil aviation, which were laid on the table of this Council on 23 November 2011.

I now call upon Mr LEE Cheuk-yan to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR LEE CHEUK-YAN (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011 and Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011, I move the motion as printed on the Agenda.

At the meeting of the House Committee on 25 November 2011, Members agreed to form a subcommittee to study the two pieces of subsidiary legislation laid on the table of this Council on 23 November 2011. As the Subcommittee needs more time for the scrutiny, I urge Members to support the motion of extending the period for scrutiny of the two items of subsidiary legislation to 11 January 2012.

President, I urge Members to support the motion.

Mr LEE Cheuk-yan moved the following motion:

"RESOLVED that in relation to the —

- (a) Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 159 of 2011; and
- (b) Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 160 of 2011,

and laid on the table of the Legislative Council on 23 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 11 January 2012. "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Cheuk-yan be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Third motion: Extending the period for amending the Frontier Closed Area (Amendment) Order 2011.

I now call upon Ms Miriam LAU to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS MIRIAM LAU (in Cantonese): President, at the House Committee meeting of 9 December 2011, Members decided to set up a subcommittee to examine the Frontier Closed Area (Amendment) Order 2011.

Members also agreed that I, in my capacity as Chairman of the House Committee, shall move a resolution to extend the period for scrutiny of the Order to 1 February 2012 so that the Subcommittee can have more time for deliberations.

President, the content of the motion is set out on the Agenda. I urge Members to support the motion.

Ms Miriam LAU moved the following motion:

"RESOLVED that in relation to the Frontier Closed Area (Amendment) Order 2011, published in the Gazette as Legal Notice No. 170 of 2011, and laid on the table of the Legislative Council on 7 December 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 1 February 2012."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU, be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Fourth motion: Extending the period for amending the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011.

I again call upon Ms Miriam LAU to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS MIRIAM LAU (in Cantonese): President, at the meeting of the House Committee on 9 December 2011, Members decided to set up a subcommittee to study the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011.

Members also agreed that I shall move a motion in my capacity as Chairman of the House Committee to extend the scrutiny period of the Order to 1 February 2012, so that the Subcommittee can have sufficient time to conduct deliberations.

President, the motion has been set out in the Agenda. I urge Members to support it.

Ms Miriam LAU moved the following motion:

"RESOLVED that in relation to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011, published in the Gazette as Legal Notice No.171 of 2011, and laid on the table of the Legislative Council on 7 December 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 1 February 2012."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Fifth motion: Repealing the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011.

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

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR JAMES TO (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011

(Ms Miriam LAU stands up)

MS MIRIAM LAU (in Cantonese): President, the public officer concerned is not in the Chamber.

PRESIDENT (in Cantonese): As the Secretary for Financial Services and the Treasury has not arrived yet, I now suspend the meeting.

7.07.17 pm

Meeting suspended.

7.07.46 pm

Council then resumed.

PRESIDENT (in Cantonese): Council now resumes. I now call upon Mr James TO to speak and move his motion.

MR JAMES TO (in Cantonese): President, I move that the motion as printed on the Agenda be passed. In my capacity as Chairman of the Subcommittee on Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011, I now report to this Council the deliberations of the Subcommittee. Later on, I will speak in my personal capacity.

President, the Companies Ordinance (CO) provides that a valuation report has to be set out in a prospectus to contain specified particulars with respect to all interests in land or buildings of a company and its subsidiaries (the group), if the property interests have a value exceeding 10% of the group's asset or have a value not less than HK\$3 million. The purpose of the Amendment Notice is to relax requirements in company prospectuses to allow different valuation and disclosure requirements to apply to different property interests. These exemption proposals include: (a) a company is not required to disclose the valuation report in the prospectus with respect to a property activities interest which has a carrying

amount of less than 1% of the group's total assets provided that the carrying amounts of all such interests when added together do not exceed 10% of the group's total assets; (b) summary disclosure in the prospectus will be allowed for each property activities interest which is not an exempt property interest and has a value of less than 5% of the aggregate value of all property activities interests which are not exempt property interests but the company is required to provide for public inspection the full text of the valuation report; and (c) if the property interest is a non-property activities interest with a carrying amount of 15% or less than the group's total assets, then the company is not required to list the valuation report in its prospectus; and (d) an overview with respect to all exempt property interests which are not covered by a valuation report set out in the prospectus will be required to be included in the prospectus.

The Subcommittee has held four meetings with the Administration and the Securities and Futures Commission (SFC) to discuss the exemption proposals in the Amendment Notice. One of these meetings was held to receive comments from the Hong Kong Exchange and Clearing Limited (HKEx) and some market practitioners.

The SFC advised that the existing property valuation requirement with the threshold of 10% or HK\$3 million applies to all property interests regardless of its value, its materiality to the business of the listing applicant or the relevance of the valuation report to investors' understanding and assessment of the business. The SFC has also advised that Hong Kong is the only jurisdiction that requires valuations for all property interests of listing applicants. The requirement therefore exerts a heavy burden on companies applying for listing here, especially multinational companies. Relaxing the requirements would not only help reduce compliance cost on companies, but also enhance Hong Kong's competitiveness as an international listing venue. The proposed exemptions would also benefit investors. The Amendment Notice is in investors' interest as it would enhance the quality of information provided to investors by differentiating the circumstances in which a valuation report must be obtained for a company's/listing applicant's property activities and non-property activities and imposing different disclosure requirements in the prospectus. Currently, the prospectuses issued in Hong Kong contain valuation reports on numerous properties, thus making the prospectuses lengthy. The production of bulky prospectuses is not conducive to environmental protection and the unnecessary length of prospectuses also does not serve the interests of investors. In this

regard, the SFC has provided information on the listed companies over the past three years to the Subcommittee. The Subcommittee noted that a listing applicant has 2 500 property interests in 30 jurisdictions while the total value of these properties only takes up less than 2% of the total asset value. Although the business of the listing applicant is not related to properties, according to the existing valuation requirement, the company has to obtain independent valuation for each and every one of the property interests of its 2 500 property interests. Such valuations would cost about US\$3 million and the prospectus would have needed to include some 2 000 pages of valuation reports. Under the proposed exemptions, these companies would not be required to obtain valuation reports for the property interests and they would only be required to include an overview on the property interests in the prospectuses.

While Subcommittee members appreciate the relaxation on the valuation and disclosure requirements in prospectuses would relieve the burden on companies, enhance Hong Kong's attractiveness as an international listing venue and raise the quality of information provided to investors, they consider it of paramount importance that the proposed exemptions should not undermine the investors' interest of having sufficient and comprehensive valuation information on property interests of companies. Members are concerned that the use of a company's properties and even its core business may change over time. Property activities interests are often significant assets of a company even if property development is not the core business of the company. Members consider that valuation and disclosure requirements for such interests in the prospectuses are essential to facilitate investors in making informed decisions on investment. The Subcommittee is of the view that the proposed exemptions are too general and has discussed with the SFC various options to improve the proposals. An example is on non-property activities interests. Although members are aware that each individual property interest represents only an immaterial portion of the total assets of the companies, the aggregate amount may take up a significant part of the total assets. If only an overview is provided, it would be too general and unable to reflect the current and potential value of the interests. Therefore, a member urged the SFC to consider putting in place additional thresholds on valuation requirements for companies with non-property activities interests. However, after considering the Member's suggestion, the SFC maintained that the proposals in the Amendment Notice had balanced the views from all quarters and considered that there was to need for amendment.

The Subcommittee notes that the SFC and the HKEx have respective power under section 38A(1) of the CO and the Listing Rules to grant waivers to companies/listing applicants from strict compliance with the property valuation requirements on a case-by-case basis, and a number of large international corporations have successfully obtained such waivers and listed in Hong Kong. Some members therefore believe that should the SFC and the HKEx exercise their discretionary power in a reasonable, transparent and prudent manner and in conformity with precedents, there will be greater flexibility in the exemption regime. Thus, the valuation cost burden on companies/listing applicants can be relieved without the risk of undermining investor protection. At the Subcommittee meeting on 1 December 2011, the members present, that is, Mr WONG Ting-kwong, Mr CHIM Pui-chung and I, agreed that the Chairman of the Subcommittee would move a motion on behalf of the Subcommittee to repeal the Amendment Notice at the Council meeting of 14 December 2011 so that the Administration could reconsider the concerns raised by the Subcommittee.

However, at the House Committee meeting on 2 December 2011, when the Chairman of the Subcommittee gave a verbal report on the deliberations of the Subcommittee, Mr WONG Ting-kwong said that it would be prudent for the Subcommittee to hold a further meeting before proceeding with its decision to move a motion to repeal the Amendment Notice.

Upon the request of some members, an urgent meeting of the Subcommittee was held on 6 December 2011. Members met with representatives from the Administration, the SFC, the HKEx, and some market practitioners. At the meeting, the Subcommittee also received written submissions from two organizations expressing support for the proposals in the Amendment Notice.

At the meeting on 6 December 2011, the SFC, the HKEx and the market practitioners reiterated that the Amendment Notice was the result of extensive market consultation and the proposals therein had received overwhelming support from respondents. The Amendment Notice would benefit investors and Hong Kong as an international listing platform by bringing Hong Kong's requirements more in line with international practice. The waivers granted by the SFC and the HKEx to listing applicants cannot replace the Amendment Notice. It is because other markets would still be able to contrast their more relevant and

simple rules with those in Hong Kong. Also, considerable amounts of cost and time would be involved in making waiver applications and listing applicants are concerned about the lack of certainty in obtaining waiver for their applications. The SFC and the HKEx also stressed that even if the Amendment Notice was passed, the listing applicants would still have a general disclosure obligation under the CO and the Listing Rules to provide information material to investors' assessment in a prospectus. Failure to provide such material information could result in civil and criminal liabilities. It was emphasized that every listing application was vetted by the Listing Committee in a careful manner and listing documents and circulars were subject to requirements under the dual filing system. Companies and market practitioners involved in the listing process would have civil and criminal liabilities for failure to provide material information in listing documents and circulars and making untrue statements.

However, some members considered that the comments and experience from market practitioners would help enhance members' understanding of the concerns of overseas listing applicants and the ultimate aim of the Amendment Notice. After considering the explanation from the SFC and the Administration, the Subcommittee passed a motion moved by Mr WONG Ting-kwong to reverse the decision made at the meeting on 1 December 2011 to repeal the Amendment Notice. Therefore, as Chairman of the Subcommittee, I will not move a motion to repeal the Amendment Notice on behalf of the Subcommittee.

President, the following are my personal comments.

President, about this motion, as I have just said, ever since the second last meeting, the three members including those from the DAB, all agreed that the Amendment Notice should be repealed. The reason is that while the Amendment Notice cannot be said to be good for nothing, we hope that the Government can reconsider carefully whether the line should be drawn at such a lenient position as it is now. But President, I feel the might and force of the financial hegemonists and this has really opened up my eyes. I know that many of these listing applicants, the law firms which act on their behalf or the large financial institutions and multinational companies behind them have all made strong lobbying efforts. These financial hegemonists think that certain rules should be waived or relaxed. They have a tremendous power in that, exerting a strong pressure on Members of this Council and the Government.

President, in the last meeting of the Subcommittee, our previous decision to repeal the Amendment Notice was reversed. About the contents of the Notice, I have made enquiries with the Government. Could these not be told to us in these three or four meetings? The Government said it was not the case. Was there not enough time to do it? The Government also said no. Then what was the reason? The Government said that in a word, it was because you opposed that and so we would have to make you hold another meeting. All the representatives from the SFC and the Government have explained clearly their considerations and also the views of the market and the stakeholders. At first, I did not understand what purpose the last meeting would serve. I came to realize later that there was only one purpose and, that is, to enable Mr WONG Ting-kwong to say that after listening to these views, he thought that they were very useful and so he had to change his position and the decision of the Subcommittee should be reversed. Of course, I see the point that a Member can change his position with the benefit of subsequent access to information of a different light. But I can only say that during my 20-year career as a Member of this Council, I am really amazed to see that a Member can do something to twist the arm in such an arbitrary manner when all the information has been given and considered. The might and force of the financial hegemonists has also been an eye-opener to me.

President, I wish to come back to the point of why I would still insist that this Amendment Notice should be repealed. In the paper from the Government, that is, CB(1)462/11-12, it is set out an analysis on the prospectuses of listed companies over the past three years as we have requested and the problems and changes that would be brought about if valuation reports are exempted to such a great extent. The Government did an analysis on 18 companies listed in the past three years. President, I really know that there are some companies which should be granted waivers. An example is a Mainland bank which has got some 46 000 property interests and these some 46 000 property interests only take up 1.3% of its total assets. In other words, it would be problematic if some 46 000 valuation reports have to be obtained because of this 1.3% of total assets in property interests. So we agree that there is absolutely a need for reform.

But we can also find that there are some companies which have some 70 to 100 properties, but the value of these properties take up more than 30% of the total assets. The company which has got the largest proportion is 36.9%. When these companies are listed, they may claim in a truthful and reasonable

manner that the nature of their business is not in properties, and I can take this as true, but if their properties take up some 30% of their total assets — those three companies at the last of the list have 75, 113 and 92 properties respectively — and if they are not required to submit valuation reports and if they are only required to present an overview What in fact is an overview? For instance, I can only say that I have got a certain type of properties with a total floor area in a certain province in China or a certain district in Hong Kong, like Sha Tin, then it would be okay. There is no need whatsoever to provide the address of each property. That is to say, there is no need to state the address of these some 70 or 90 properties and there is no need to submit any valuation report.

President, it is evident in this example that the relaxation on this occasion is excessive. To be frank, when a company seeks a listing, even if it says truthfully that its core business is not in properties, we cannot rule out how investors may consider what the direction of its long-term investment is. Investors can only get hold of some detailed information concerning a company and that is during the time when it is to be listed. Since a company may have as much as some 30% of its total assets in properties, if we can get hold of this golden opportunity when it is to be listed and compel the company to disclose more information on the valuation of its properties, then international investors can have a better understanding of that company, including whether it may change the nature of its business later to property development, for example. So investors should have more information to aid their decision whether they should invest in a company on a long-term basis. A company may not engage in properties as its core business at present, but we can never tell what it will be like in the future. Hence this is what I think to be one of the reasons why the argument is flawed.

President, the second argument about environmental protection is even more ridiculous. Mr WONG Ting-kwong put forward this argument in the first few meetings. Admittedly, it is important to consider environmental protection reasons. But since there are electronic methods and if people just put up environmental protection as an argument and say that there is no need to obtain property valuations and this would make prospectuses handier, or if only an overview of the property valuations is all that is needed, and one has to go to that company concerned personally to take a look at the entire valuation reports, then how great the trouble it would create. Hong Kong is an international financial centre, and if an IPO application is made in the United States and if someone thinks that these valuation reports are very important, should he fly all the way to

Hong Kong just to look at the full text of these valuation reports? I would think that if it is really due to environmental protection reasons, these reports can be stored by electronic means for access. But the Government does not mandate that this practice should be taken. President, with these two points I have just raised, the Government should know that the relaxation of the requirements concerned on this occasion is way overboard.

Mr James TO moved the following motion:

"RESOLVED that the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011, published in the Gazette as Legal Notice No. 143 of 2011 and laid on the table of the Legislative Council on 26 October 2011, be repealed."

PRESIDENT (in Cantonese): I now propose the motion to you and that is: That the motion moved by Mr James TO be passed.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, at present, every prospectus offering shares or debentures to the public must comply with various requirements under the Companies Ordinance (Cap. 32) (the Ordinance). One of the requirements is to set out a valuation report that contains specified particulars with respect to all interests in land or buildings (property interests) of a company and its subsidiaries (the group) if the property interests have a value exceeding 10% of the group's assets or have a value of not less than HK\$3,000,000.

The property valuation requirement was enacted about 40 years ago in pursuance with the Companies (Amendment) Ordinance 1972. Apart from being outdated, the existing property valuation requirement does not differentiate whether the property interests are the listing applicant's core business. As a result, the listing applicant has to conduct valuation on a large number of property interests which are not related to its core business. This is costly and time-consuming. Providing in the prospectus valuations on numerous properties which are not related to the core business of the listing applicant cannot help

investors either. On the contrary, this practice will only cause the material information to become lengthy and unclear and make it difficult for investors to focus on the key information.

For example, it is mentioned in a document submitted to the Subcommittee by the Securities and Futures Commission (SFC) earlier on that for one multinational corporation engaging in mining activities with approximately 2 500 property interests in 30 jurisdictions, all of which are non-property activities interests, valuations of all its property interests would cost about US\$3 million and the prospectus would have needed to include some 2 000 pages of valuation reports.

The Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 (Exemption Notice) seeks to impose different valuation requirements for property interests depending on whether they are property activities (that is, holdings, purchasing or developing properties for sale, letting or retention as investments) or not.

As for Mr TO's proposal to set a lower threshold for those exempt property interests of non-property activities, so that all such interests added together will not have a value exceeding 15% of the total assets of the company, since once the threshold is reached, the listing applicant must conduct valuations for the property interests of the non-property activities, including all small properties or properties with zero value. In this way, the proposal cannot achieve the objective of the Exemption Notice, which is to allow a listing applicant not to conduct valuation for its non-property activities interests, and it also does not comply with the principle of imposing different valuation requirements for property interests depending on whether they are property activities or not.

Some Members are concerned that the use of a company's properties and even its core business may change over time, for instance, the land for a production plant may be sold for housing development. I wish to point out that in other major markets, listing applicants are not required to conduct valuation for properties on the basis of the development potential of the land because valuation is conducted on the existing use value of the properties. Moreover, the Ordinance requires listing applicants to ensure that the prospectus contains sufficient particulars and information to enable a reasonable person to form as a

result thereof a valid and justifiable opinion of the shares or debentures and the financial condition and profitability of the company at the time of the issue of the prospectus, taking into account the nature of the shares or debentures being offered and the nature of the company, and the nature of the persons likely to consider acquiring them.

Under the proposals in the Exemption Notice, the listing applicant is still required to provide an overview of the exempt property interests in the prospectus setting out the information including the total number, nature, approximate size range, uses, and a general description of the locations. A Member mentioned that the overview is too general for even the address is not provided.

We think that insofar as the property interests that are not related to the listing applicant's core business are concerned, providing the relevant information in the form of an overview would indeed help investors grasp the material information. For example, a general description in an overview of a certain property interest in the central business district of a certain province or municipality would be more meaningful to investors rather than setting out the detailed address of a certain property interest.

A Member suggested that a listing applicant can go on to apply to the SFC for the granting of waiver on a case-by-case basis if the Exemption Notice is repealed. I wish to emphasize that such an arrangement will undermine Hong Kong's competitiveness as an international capital-raising centre and the wavier approach cannot replace the Exemption Notice. First of all, a listing applicant will be uncertain as to whether a waiver will in fact be granted. Moreover, a considerable amount of costs and time will be incurred in making a comprehensive analysis of all the properties in its possession when preparing for the wavier application. After a waiver is granted, but before the formal submission of a listing application, the listing applicant still has to update any change to its waiver application documents and submit a fresh application for waiver when there is any change to its property interests. This will pose a major obstacle to the entire listing plan. In consideration of such worry and trouble, the consultant assisting the listing of the company may also suggest the company concerned to go to another market for listing, thereby substantially undermining Hong Kong's competitiveness as an international listing venue.

The Government fully recognizes the importance of investor protection. The Exemption Notice will not affect investor protection. Rather, the proposals can bring Hong Kong's requirements more in line with other international financial centres and provide investors with more focused information of real relevance to facilitate them in making investment decisions. If the Exemption Notice is made, our valuation requirements will still remain the most stringent when compared with other international financial centres. Therefore, we oppose the motion to repeal the Exemption Notice.

Thank you, President.

MR WONG TING-KWONG (in Cantonese): President, listing activities are very important to consolidating the status of Hong Kong as an international financial centre. Although some large-scale international mining companies and up-market brands have gradually been listed in Hong Kong in recent years, facing competition from other regions, Hong Kong must create a desirable investment environment and continue improving the listing regulations before more international enterprises can be attracted to seek listings in Hong Kong.

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

While taking care of the investors' interests and the public's right to know, we have to balance whether the substantial effect of the listing rules can facilitate the former. The proposals presently made by the Securities and Futures Commission (SFC) in the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 (the Exemption Notice) help to enhance the competitiveness of Hong Kong as an international listing centre and are also beneficial to investors. Hence, the DAB and I support the Exemption Notice and we oppose Mr James TO's motion which seeks to repeal the Exemption Notice.

First of all, the current property valuation requirements were formulated in 1973 in accordance with the Companies (Amendment) Ordinance 1972. As time changes, the economic environment has also seen substantial changes. The

financial industry is developing very quickly with a wide range of activities. There are overseas companies seeking listings in Hong Kong. The nature of listing activities has also been noted to show substantial changes. Land is not necessarily the major item in the statements of assets and liabilities of these companies. Therefore, the existing valuation requirements are indeed a little out of date as it can no longer satisfy the current needs of Hong Kong as an international listing platform.

Besides, other international financial centres also do not require listing applicants to conduct valuation on each and every property item. The United States and Australia basically do not require listing applicants to conduct any property valuation. The United Kingdom and Singapore only require valuation for major or material property items. The international accounting standards also do not require valuation for properties that are part of non-property activities. In comparison, the system of Hong Kong is over stringent and its competitive edge is definitely outshone by others.

At present, many large-scale international or Mainland enterprises have thousands or tens of thousand production sites or retail outlets, and they hold numerous property interests. For instance, Prada possesses over 413 property interests in 30 jurisdictions in the whole world, while Samsonite possesses over 527 property interests in 34 jurisdictions in the world. In order to acquire individual valuation for the property interests, these enterprises need to pay a huge amount of charges. Take Prada as an example, it is estimated that it has to spend about US\$250,000 to US\$300,000 as the valuation cost. In case the Exemption Notice is not carried, I believe many potential listing applicants will be deterred from seeking listings in Hong Kong. This will greatly weaken the competitiveness of Hong Kong as an international listing platform.

Since the SFC can grant waivers in the light of the actual situation of individual cases in the current practice, I raised my query on the function and necessity of the Exemption Notice during a Subcommittee meeting. However, after listening to the views of market practitioners subsequently, I learnt from their actual experience in assisting applicants to seek listings that some applicants had criticized the valuation requirements of Hong Kong being too stringent and out of date. They said that this would affect their consideration of whether or not to choose Hong Kong for listings. The market practitioners also emphasized

that it is not ideal to only rely on the existing waivers granted by the SFC. It is because listing applicants still have to spend a lot of time and money on waiver applications while they are unsure whether waivers can be granted eventually. Once they are informed that waivers are not granted, they will have to conduct property valuations urgently and it is probable they will miss the listing opportunity. Therefore, the existing right of the SFC in granting waivers carries some uncertain risks to listing applicants, and this is one of the major obstacles to the layout of the listing plan. Hence, it is conceivable that in order to avoid spending time to no avail or spoiling the entire project just because of the wish to make some small savings, applicants may switch to other markets to seek listings.

Besides, numerous property items will render the content of a valuation report too vast, and the main points will be unclear when the prospectus is too voluminous. Trivial and unimportant information does not serve the need of investors. In the example of a listing applicant who is a manufacturer, his property interests include factories and employee quarters. Since these property interests are not for sale or development purposes, the valuation information on these property items will have little meaning to investors. Thus, requiring an applicant to provide valuation reports for all his property interests will render the material information inconspicuous as a result of being overshadowed by information of lower relevance. This may affect the understanding and investment decisions of investors in respect of the listing enterprise.

Therefore, I agree with the authorities in proposing amendments to the property valuation requirements in prospectuses, and I also think that the Exemption Notice has already struck a balance between lessening the burden on listing applicants and protecting the interests of investors. With the Exemption Notice, the regulation requirements of Hong Kong are closer to the practice of international market, while the listing cost is more effective as the listing procedures are streamlined. This helps to attract international corporations to seek listings in Hong Kong. More importantly, this will not harm the interests of investors. And the investors will be able to obtain useful and focused information to facilitate their investment analyses.

During the course of deliberations, members of the Subcommittee basically recognized the amendment purpose of the Exemption Notice and the advantages just mentioned by me. They only argued whether the criteria set by the

authorities in regard to disclosure of non-property activities interests are appropriate. They were worried that if the criteria are so loose that listing applicants do not need to provide any valuation reports or extracts, the potential value of property interests may be overlooked, and the investors may thus be unable to grasp fully the information about the listing enterprise and the investment may suffer as a result. It is undeniable that I did have such a worry. However, considering that the amendment proposal has been put through consultation and supported by the industry, I believe the proposed threshold reflects the experience of the industry and the professional views. After such relaxation, the requirements are still more stringent than those in other areas and are not overly relaxed. Besides, Schedule 3 of the Companies Ordinance specifies the general obligations of disclosure to ensure that the company concerned has to provide investors with sufficient information on property and non-property activities interests of the company. Moreover, sections 40 and 40A of the Companies Ordinance specify that a person who makes any untrue statements (including omission of material information) in the prospectuses could result in civil and criminal liabilities. Therefore, I think there is already sufficient protection for investors. Furthermore, in regard to the appropriateness of the amended threshold, I reckon that the effectiveness will only be known after implementation. To carry out a review and improvements after a period of implementation will be more meaningful than making no progress with a sceptical mind.

With these remarks, Deputy President, I support the Exemption Notice of the Government and oppose Mr James TO's motion.

MR CHIM PUI-CHUNG (in Cantonese): Deputy President, as the saying goes, the Chinese character "官" has two mouths (which means that public officers may speak in bureaucratese), but I consider that these officers have three mouths as they may choose to use the upper or lower mouth to speak, such that they may mean this or that as they like. Why should I say so? It is because the Government and the Securities and Futures Commission (SFC) treat the Legislative Council as a rubber-stamp, as all the legislation tabled should be enacted. Could we not make any amendment? Given that the SFC behaves so unruly, undoubtedly it is making it clear that no amendment will be made and we

should only accept whatever proposal wholesale. By every possible means, they are making the Legislative Council to deal with it and make the Legislative Council a rubber-stamp in a blatant way regardless of whether or not the content of such legislation is correct. For this reason, we should duly denounce this kind of behaviour. We hope the authorities will conduct a review after this incident, in particular the SFC, as it is rather different from the entire government structure. As soon as something happens, the Financial Services and the Treasury Bureau will always say that the SFC is not within its purview thus it cannot regulate the SFC's behaviour. But when a problem arises, the Legislative Council will be urged to provide assistance in a menial way.

Deputy President, in Hong Kong this international financial centre, the international norm should be observed in any case. But in reality, under all existing laws and regulations, the SFC will deal with all listing applications made by all institutions in a disclosure-based manner and it will adhere to the principle of disclosure.

The problem is that when the SFC grants all sorts of approvals in the enforcement of whatever ordinance, has any government department, including the Financial Services and the Treasury Bureau and its immediate boss, the Financial Secretary, or other relevant government departments, questioned the SFC's wrongdoings in exercising its powers? I believe there is none. Since this is the case, insofar as this exemption legislation is concerned, in fact both the SFC and the Stock Exchange of Hong Kong (SEHK) have the power to grant waivers, in particular the SFC, then why can it not deal with the matter from stem to stern? As I said just now, which department has questioned its misfeasance? As nobody has questioned it, it should not act in that way, and because it has the relevant power, it should not ask the Legislative Council to legislate when it has to bear its own responsibilities. If the law is not made, which leads to the result that no companies from other regions or countries are coming to Hong Kong to make investments, then it will put the blame on the Legislative Council. But actually it is due to its own fault as it has not done its own job properly. The management of these organizations are earning a fairly high wage; this is not a matter out of jealousy, but a question I have raised in this Council before. I queried why the SFC and SEHK had to recruit foreigners as their CEOs. Just as I have been saying over the years, instead of discrimination, this is a question

about why the Government discriminates against locals in its policies. Since Hong Kong considers its role of being a financial hub so important, and as we have the talents, why should we not make good use of them?

That said, the competition from many other regions, cities and countries all over the world is posing significant threats to Hong Kong's listing business, and the Government is now requesting the exemption of land valuation. The purpose of that is to facilitate the listing of mining shares in Hong Kong. Nevertheless, I wish to ask conversely how well the SFC and SEHK know about these mining shares. As far as we know, one cannot deny that it is not very easy for these mining industries and natural resources shares to get listed. According to the international rule and customary practices, only the listing applications of two or three companies are, or even one application of out of a hundred companies, have been successful. This has nothing to do with whoever's fault, but a matter of the nature of the entire business. Why?

For example, although a certain region has the resources, due to its vast expanse, it is still unknown which part of it is rich in resources. However, at present, neither the SFC nor the SEHK has the talent in this respect. But rather than reviewing their own attitude and practice, they simply ignore that, and from among a hundred global companies which seek listings, they just bid for one or two successful listed companies to come to Hong Kong for listing. It is not a proper move to require companies which fail to comply with the requirements and needs of other regions in the world to make a valuation on a vast expanse which is claimed to be used for the development of the relevant mining business. However, a more important task is to review the conduct of other businesses and laws and regulations. But the relevant authorities are just sticking to the established practice and trivialities, leaving important parts untouched.

We hope that the status of Hong Kong as a financial hub should carry some kind of symbolic significance, but it should not be as offbeat as the gambling industry of Macao. When people enter a casino, they all know the rules very well. Who will blame a casino for unfair treatment after they have gambled and lost their money? Why did the Lehman Brothers incident happen in Hong Kong? Regarding all sorts of investment products, or even accumulator, how many investors have filed their complaints to the governments concerned in other places? All of these are attributable to the unclear rules and regulations made by

the relevant departments, as they do not know much about them, so they can only rely on the SFC and the SEHK to regulate, as a result, they do not dare to speak directly about many problems.

Deputy President, in principle and in essence, I personally do not consider that the Government should not facilitate the listing applications of companies from other places in Hong Kong, as the preparation process for listing may create job opportunities. The problem with this piece of legislation is not absolutely related to investors' right to know, or the influence on studies in all other aspects, but it is related to incoherence in the authorities' policy.

Hong Kong claims itself as an international investment centre and financial hub, but the authorities should not brag and boast about that, as it should formulate rules and regulations that other people considered fair and reasonable. There are no stupid investors or stupid persons in this world, for there are only greedy investors and greedy persons. Therefore, any ordinance or rule should be made crystal clear. Just as I have said in the past, the Secretary is a scholar, so to a scholar, all that have been written down in the book are solid things, and those that have not been written down simply do not exist. However, rules are nothing more than dead objects, and we human beings should treat these dead objects in a flexible way, because "those who suit their actions to the time are wise", and we should understand and adapt ourselves to different circumstances.

Now that the most important thing is, just as the Secretary said, a lot of lands for the mining industry need not be valued, but if no valuation is made, what should they be deemed? It is absolutely correct not to make any valuation, but we should deem them as something valuable. The issues raised by the SEHK and the SFC are far more than several hundred pages! Sometimes, this will make the trade think that the SEHK and the SFC are offbeat abnormal: These salaried staff are having fun by way of making the lives of listed companies difficult while they consider that an honour and a brilliant job done to prevent such companies from listing; but this is another story. Nevertheless, as to the issue concerning IPO prospectus, Deputy President, even no valuation is made on property interests, at present, are the prospectuses of other companies not as thick and heavy as telephone directories? Since society is advocating digitization and paperless operation, even if we are not going to abolish the requirement of issuing

prospectuses, we should at least minimize their quantity, so that the requirement in all aspects will be made more realistic.

The major work involved for the time being is to make exemption for the valuation requirement. I consider that if we can put it into practice, even if the Legislative Council has not enacted the relevant legislation, the SFC is already vested with the relevant power; only that it is not exercising such a power. Mr WONG Ting-kwong said just now that such power can only be established by way of legislation, but as I said earlier, has anyone ever challenged the SFC and pointed out that acting in this way will violate certain provisions in law? None, but the SFC has not dealt with that, and instead of dealing with that, it is so irresponsible as to put the blame on others. As this is the case, why should it force the Legislative Council to legislate on that?

Perhaps it may argue that it is not passing the buck to the Legislative Council, but there is a need to make some more well-defined stipulations so as to enhance the confidence of foreign companies. Then, it may as well explain clearly to the industry its power, and inform the industry that as long as the trade complies with certain rules, no valuation is needed, and businesses not engaging in property interests can also be exempted from the valuation requirement. As I said just now, has the Legislative Council, the Financial Services and the Treasury Bureau or even the Financial Secretary challenged that and questioned such a treatment as inappropriate? Or have they pointed out that it should make legislation for that purpose? Nothing has been done. As this is the case, it can actually execute the task smoothly, but it passes the buck to the Legislative Council simply because it considers that it has made the lives of other people difficult and it has a guilty conscience. Then, it speaks with eloquence that it does not mean to make their lives difficult, but because the relevant legislation has not been enacted over the years, so it dares not pass the line. Otherwise, when the Legislative Council inquires into the matter, it will no longer be able to deal with that and it cannot enact any law.

This is actually not the fact, and the *carte blanche* is in their hands. They not only shirk the responsibility. They even say that they are right through the Secretary, but on the contrary, the Legislative Council which intends to deliberate on the matter is wrong. In fact, what is wrong with it? We have provided all the assistance and views, yet it has instigated the trade to make representations to

the Legislative Council, trying to prove that the Legislative Council has been unfair.

Therefore, insofar as this matter is concerned, the fact has been distorted in the first place. Actually, it has been defying the aspirations of the trade. People from the trade, be they brokers or intermediaries, only make a living by earning the service fees. They do hope that something can be done to bring Hong Kong in line with international practice. However, the relevant authorities have been playing politics all along; even the SEHK has been playing politics, because the Listing Committee also holds the *carte blanche* most of the time. I hope the Secretary will clearly state that he will look into the matter personally, and see if they have complied with the disclosure-based policy and principle, or whether or not they have just stuck to the approval-based policy. Once such applications and the relevant papers are approved, the SEHK and the SFC can never get away should any liability arises.

The first page of many prospectus and papers will state clearly that the listed company or the applicant will assume the liability for the consequence, and the SEHK and the SFC will have nothing to do with that. Deputy President, you are also a lawyer, so you know only too well the essence in detail. Since we are adhering to the disclosure-based practice, listed companies should bear all the legal liabilities. Since the SEHK and the SFC have been scrutinizing every word of the relevant papers in detail all along, why should they shirk their responsibilities? Will such a practice encourage companies from other places to seek listing in Hong Kong? The responsibilities rest with the relevant authorities.

MR ALAN LEONG (in Cantonese): Deputy President, in the course of scrutinizing the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 (Exemption Notice) on behalf of the Civic Party, we only considered the most important viewpoint, that is, whether or not this change will reduce the protection for investors, or whether or not this change will undermine investors' right to know.

Some incidents occurred in the course of the scrutiny. At the stage further back from now, there were victims in the Lehman Brothers incident, and now, many of problems of these Lehman Brothers victims have not been completely dealt with or resolved. Yet a nearer incident was the Occupy Wall Street (OWS) movement, and outside the doorway of the headquarters of HSBC, the local OWS movement is protesting against financial hegemony. For that reason, when the Civic Party scrutinized the Exemption Notice, we were concerned very much about whether or not investors' right to know would be fully protected during the listing of a certain company. We have all along been concerned about whether or not investors' right to know would be compromised because of the content of the Exemption Notice.

We can see clearly that the Exemption Notice proposed by the Government this time around has actually dealt with companies with property interest activities and companies without property interest activities separately, which is formulated according to the specific circumstances of Hong Kong so that certain businesses involving land can be dealt with from a more sensitive perspective. The controversy in the Subcommittee was actually triggered by a document cited by Mr James TO just now, namely the Appendix 2 attached to it listed 12 companies with non-property activities, five with property interest activities and one with property interest activities and non-property activities. The authorities used this list to make a comparison and stated under the existing mechanism the extent of disclosure to be made by the companies concerned, and what kind of disclosure should be made under the proposed exemption mechanism.

The focus of the controversy was on company 10, 11 and 12, and all of these three companies have non-property activities. According to the existing design under the Exemption Notice, as long as the value of a single property does not exceed 15% of the total assets value of a company, the company needs not provide the valuation report according to the existing mechanism. Nevertheless, we can see that the total values of the property interest activities of these three companies were 33.4%, 34.4% and 36.9% respectively. Members of the Subcommittee pointed out that if the total property interests of a company were as high as 35%, then the ratio was rather high and therefore questioned whether or not we should seriously study if the proposal in the Exemption Notice too lenient?

The Government provided another paper subsequently, which was the one with the paper number CB(1)506/11-12(02). In this paper, the most important detail disclosed was that as far as the valuation surplus/total assets ratio of these three companies was concerned, the valuation surplus of company 10 only accounted for 1.63% of its total assets, zero for company 11 and 0.03% for company 12. What exactly is valuation surplus? In the paper, valuation surplus was defined as "the valued amount minus book value based on cost". Since these companies were not engaging in property interest activities, their property assets were only in the form of plants and perhaps some were in the form of quarters, and others were structures under construction. After examining the further disclosure of companies 10, 11 and 12, I could set my mind at ease because at least we could see the valuation surplus/total assets ratio only accounted for a very minimal percentage.

Since the design of the Government's Exemption Notice this time around is to separate companies engaging in property interest activities from those engaging in non-property activities, therefore, the Subcommittee's view on the supervision of companies with property interests is rather undisputed, that is, we consider the approach problem-free. It is because the regulations concerned are rather strict and the total assets of the company have to be disclosed if the percentage of the property interests exceeds 1%.

Deputy President, the focus of the question falls on companies with non-property interests. As for companies with non-property interests, I think that when a company is listed, investors will not particularly be interested in the property value of the company when they are considering whether or not to buy the shares of the company concerned, because such a company is not engaging in property interest activities. Instead, investors will care more about whether or not the business activities of the company are profitable. During the deliberations of the Subcommittee, of course it was mentioned that — just now a number of Subcommittee members have also mentioned this — if the properties in question carry value, then what should be done? Moreover, if the management of that company decided to restructure the company by transforming it from a company with non-property interests to a company with property interests, then what should be done?

Deputy President, the Subcommittee has the opportunity to meet with legal professionals engaging in listing businesses and the Chairman of the Listing Committee of SEHK in its final meeting. They put forward a viewpoint which I consider most convincing. When Hong Kong investors are about to decide whether or not to invest in a certain listed company, their protection does not solely come from the provisions carried or covered by the Exemption Notice. The investors may rely on the Companies Ordinance, such as sections 40 and 40A, as the two sections which deal with the civil and criminal liabilities for misstatements in prospectuses are rather stringent. If there is any misstatement which involves the whole listing process, both the person in charge of the company and the professional will be sued.

Furthermore, if a company wishes to list in Hong Kong, it should pass the scrutiny of the SFC and obtain the approval of the Listing Committee of the SEHK. For that reason, if professionals or persons in charge really want to intentionally conceal the fact that they wish to transform the company with non-property interests into a company with property interests when applying for listing — I am unable to conceive that for the time being, but if the concealment is beneficial to them during that process — and to wheedle others into making the investment, such practice is regulated by sections 40 and 40A of the Companies Ordinance as I mentioned just now.

As our focus is on the disclosure requirements on companies with non-property interests during their listings, regarding the potential values of the properties and the future restructure or transformation of these companies, I consider that if we consider the listing mechanism against a basket of factors, there is indeed very little leeway as far as the protection for investors is concerned. Moreover, if any major restructuring of a company happens in future, we will certainly require the company concern to disclose such matter to investors in the relevant listing requirements. For that reason, after taking a basket of factors into consideration, I agreed on behalf of the Civic Party in the Subcommittee's final meeting that this Exemption Notice would not deprive or restrict investors' right to know and the protection of their lawful rights.

On such a premise, the Civic Party cannot support the motion proposed by Mr James TO concerning the repeal of the Exemption Notice. However, the Civic Party very much appreciates the good intention of Mr James TO, because

small investors are the weak ones when they face big listed companies. For that reason, they should have more protection. Of course, I also understand that this mechanism has been put in place for decades, that is, if the ratio reaches 10% or \$3 million, then adequate valuation and disclosure on each and every property should be made. Besides, as this has been operating for many years, there are certain habits and we may also be sceptical to any changes. We may not necessarily clarify everything and speak out in a loud and clear voice today that what will be induced by such concerns, but on the whole, we do not feel so comfortable.

Let us take a look at markets which may compete with us in listing business. All of them have not imposed similar requirements on companies with non-property interests as Hong Kong does, not even requirements after the relevant provisions are amended. For that reason, I only wish to make a closing remark that when we make a decision now, we have to overcome this kind of habits. Any consideration which makes us sceptical but cannot fully explain why we have the reservation should not make us hesitate to move forward. On the contrary, we should carry on with the stringent monitoring of the entire system. Meanwhile, upon the implementation of the new mechanism, we should look at it from a critical, stringent and oversight perspective and see if things which we feel uncomfortable but cannot fully explain will really happen. If they actually happen, then we may look into the matter and see whether or not there is a need to review once again the mechanism presented by the Exemption Notice today.

On these bases, Deputy President, the Civic Party opposes the motion proposed by Mr James TO to repeal the Exemption Notice. I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment)

Notice 2011 (Exemption Notice) proposed to impose different valuation requirements for property interests depending on whether they are property activities. I wish to stress again that the Government completely recognizes the importance of investor protection and the proposals under the Exemption Notice will not affect investor protection. On the contrary, the proposals can bring Hong Kong's requirements more in line with other international financial centres and provide investors with more focused information of real relevance to facilitate them in making investment decisions.

Earlier on, a Member pointed out that no other international financial centre has a requirement for property valuation for each property. In the United States and Australia, listing applicants are not required to conduct any property valuation at all. In the United Kingdom and Singapore, valuations are only required for principal or material properties. And the International Accounting Standards do not require any valuation for any property interest of non-property activities.

Insofar as properties that are part of non-property activities (such as the tenancy of a shop of a certain retail merchant or the tenancy of a factory building of a certain factory operator) are concerned, under the proposals in the Exemption Notice, property valuation by the listing applicant is not required. However, a full valuation report shall be set out in the prospectus for individual non-property activities interests which have a carrying amount of 15% or more of the company's total assets.

For property activities interests, under the proposals in the Exemption Notice, the provision of a full valuation report for all properties that are part of property activities is required except for a property activities interest which has a carrying amount of less than 1% of the group's total assets, provided that the carrying amounts of all such property activities interests when added together do not exceed 10% of the group's total assets.

Therefore, the proposals in the Exemption Notice can bring Hong Kong's requirements more in line with the requirements around the world. The new requirements will still remain more stringent than the requirements around the world and they will not affect the protection for investors.

Besides, many international and large-scale Mainland enterprises have thousands or tens of thousand production points or sale outlets throughout the country or even all over the world. If the Exemption Notice is not passed, many potential listing applicants may lose their interest in coming to Hong Kong for listing, thereby substantially undermining Hong Kong's competitiveness as an international listing venue.

Therefore, repealing the Exemption Notice is not in the interest of protecting investors or enhancing Hong Kong's status as an international financial centre. We reiterate that we oppose the motion on repealing the Exemption Notice.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now call upon Mr James TO to reply. This debate will come to a close after Mr James TO has replied.

MR JAMES TO (in Cantonese): Deputy President, when we ponder over this issue, I think we may take two approaches.

First, some Members or a considerable number of Members, or actually those in the Subcommittee, were worried about the proposals made by the Government and they asked the Government what would happen to those companies which are not property companies but with property interests taking up more than 30% of their total assets, and what would happen if we do not relax such requirements up to the threshold prescribed by the Government but draw another line instead. Take the example of the 18 companies for which the Government has done an analysis and provided the information to us, Deputy President, I have made a suggestion that we can use the threshold of, say, 15% of the total assets. We do not have to talk about companies with business in property development, because we do not have any disputes over that point. For the remaining 12 companies with a non-property nature of business, nine of them have already been granted full exemption. In other words, we have already waived the requirements on a large scale so that the two companies mentioned by Honourable colleagues earlier, that is, Prada and Samsonite, they can be exempted as well. For these two companies, one has property interests taking

up 11.7% of its total assets and the other has such interests taking up 7.5% of its total assets. There is even one company which is exempted even though its property interests take up 14.5% of its total assets. So as we have drawn this line, will it make Hong Kong unable to couple with the international community and greatly undermine the chances of companies coming here for listing? The answer is no. On the contrary, if we adopt the line suggested by me, it would mean a great step forward.

For many companies, and as Mr CHIM Pui-chung has mentioned, there is yet another kind of exemption, that is, the exercise of discretionary power. Mr CHIM Pui-chung may have exposed the truth of the matter and that is, both the Government and the SFC are unwilling to take up any responsibility. They want to relax all the requirements in one go. I have once asked, in fact, it was not me who asked the question but another Honourable colleague who asked this: if this line is relaxed to the threshold as now suggested by the Government, would there be any need for the Listing Committee or the SFC to exercise their discretionary power? The Government gave an answer which was frank enough, and that was, there would rarely be any need for that. But we should remember the reason why there is such an Amendment Notice and the discretionary power exercised by the SFC and the HKEx under our regime at the same time. The reason is that these two are complementary.

If we were to draw a line and make a big leap forward — we can leave aside thoughts of making overnight and monumental changes — and if there is no need to exercise any discretionary power, then this step we take would be too large. But if we were to use the line of 15% which I have just talked about, then just in the last three years, roughly three quarters of those non-property companies could have been exempted and there was no need for them to obtain any valuation. For the remaining three companies, as Mr Alan LEONG has said, if it is true that the remaining value is so small, the Government can exercise discretion and grant them a waiver. So these two lines can be used concurrently.

But remember, I can also cite an extreme example like the following. If these three companies, that is, companies 10, 11 and 12 which have been analysed are not mining companies, catering chains or renewable energy companies but companies with other kinds of businesses and which have got 40% of their total assets in the form of properties here in Hong Kong, and if they have many properties and if these do not add up to 15% of their total assets but 30% or

40% of their total assets, then what should we do? When these companies are listed, they will truly think that they are not property companies because these properties are only manufacturing facilities and plants. But why are we so sensitive about properties? What are the historical reasons? Of course, no company would come here for listing in the past, and those which listed here were mostly property companies related to the real estate sector. This is a historical reason. The second reason is that we have far too many examples here and as Mr Alan LEONG has said, they are related to the hegemony of the real estate developers and the financial industry. And this has given us an uneasy feeling and a sense of danger.

Deputy President, I can cite an example. There is this Hong Kong company which does not have its core business in properties and its properties take up 40% of its total assets. Although the number of properties it owns is plenty, it says that these are all factories and the residual value may not be that low. But, sorry, I have to say that under the proposed requirements, they are all exempted. There is no need to include any information on such properties in the overview of the companies and people cannot even know the addresses of these properties when the company is to be listed.

Deputy President, if we are to make a thousand steps backwards and if my approach is taken, I think we can at least take three quarters of the step forward, so to speak. Mr WONG Ting-kwong said earlier that there would be a need to conduct a review even if this step is taken. He did say that in the meeting. What does he mean? His meaning is, if we have relaxed too much — and this could well be what Mr Alan LEONG is thinking — we might have to tighten up, withdraw or narrow down something in the future.

Deputy President, I would think that if we were to facilitate those international investors or those who want to list their companies in Hong Kong, we have already taken three quarters of the step forward required. If we were to go on in that direction, we could take a step forward two years later. But I can cite some actual examples to show that there could be problems if we were to relax the requirements to the extent suggested by the Government, and we might even feel uneasy and uncomfortable about it. Then do we have to take such a step at all?

Deputy President, I have once asked the Government whether or not the proposed extent of relaxation is based on some absolute truth and whether or not

this line must be taken and there is no alternative. Deputy President, the Government has not said that this is so because that is impossible. Then if it is impossible, why can we not take three quarters of that step? After all, there are only two possibilities. One is that both the SFC and the Government care very much about their face. When they have said that something should be done, it would not matter if the whole Council, including Members from the DAB, will rise and demand that a review be conducted. They will say, sorry, you can oppose it if you dare. So this is how the Government will stand up to opposition.

The second possibility is that there are far too many of these hegemonists in the financial industry. There are far too many of them. Please remember, there may be many companies, according to Mr CHIM Pui-chung, that have European and North American capital, that is, the so-called imperialist financial hegemonists. What are imperialist financial hegemonists? They are very powerful and they can use all sorts of ways to make the Hong Kong Government think that certain things should be done if we want to do business. These imperialist financial hegemonists would say, we have been asking you for years, why do you not relax all the rules?

This is far too overbearing and they are so overbearing that the Government has to throw in the towel. The Government felt that it was powerless and so it told them to talk to the Honourable Members of this Council. The Government was really desperate about it. Deputy President, during the last meeting of the Subcommittee, government officials wore a sad and long face and many other officials called nonstop and asked us to meet with those people from the sector for the latter wanted to convey their views to us, for fear that the officials might not have given a good explanation to Members. What does that imply?

It implies that the Government was terrified. If Members could really repeal the Notice, how is it going to make itself accountable? If it fails to do so, then it would mean that it fails to make itself accountable to all the financial hegemonies in the whole world. Deputy President, as Chairman of the Subcommittee and after going through these four or five meetings, I can see from the facts that the chances for the second scenario becoming true are greater than the first one. This is because during the last two meetings, government officials were really dejected. What they wanted to say was, would Members please

meet with these big wigs. They had exerted such great pressure on the Government. The Government hoped that a meeting could be arranged for them to vent their feelings. But I said, everything had been said by the Government and well enough. The new Chairman of the SFC, or the CEO rather, also came here and he was worried that his subordinates had not presented the case well enough.

I have to be fair, Mr Brian HO is a fellow classmate of mine in university and as I have said in the inquiry into the Lehman Brothers incident, he is a more capable person than me. But I am not jealous of him. In fact, he has talked about all his views at the previous meetings. They are very forceful arguments, leaving nothing out. But he has forced us to hold another meeting. Why? To make us listen once more to those views we have heard before. The only difference is that this time the views would be presented by these big wigs, those big names from the financial industry and who have made huge amounts of money by listing companies after companies.

Deputy President, I have once asked the Chairman of the Listing Committee. She used to be a lawyer in listing activities. I asked her, if we did not make any amendments and if we just relied on the discretionary power of the HKEx, would that be safe? Deputy President, her reply was frank enough. She said, it would be quite safe because there were so many precedents we could refer to. So there are many precedents in waivers granted. Companies like Prada, Samsonite, and many Mainland banks have all been granted waivers. But the question is, when rules are outdated, discretionary power can be exercised. But now when the rules have become outdated, do we have to make such a step as to effect some overnight and monumental change?

Now I would suggest, and actually, many Members have been trying to consolidate enough force in the Subcommittee to make the Government give in a little bit and do not make us feel so uneasy. But the Government pulled all the stops. Deputy President, why do I give an account of the whole story in such great detail? Because I wish the record to go down in history.

If in future something like the Lehman Brothers incident happens again, and even if there is only one incident of this kind caused by this Notice, Deputy President, can we not feel ashamed before the investors? And the number of these investors can be just five, or 50, or it can be 50 000.

Deputy President, Mr CHIM Pui-chung has put it nicely that they have always been talking about the mining business. I would think that he has not been too explicit about this. Let me make that plain. As I said on the last occasion when we amended the law regarding professional investors, one of the kinds of investors I am worried about is not those from Hong Kong or overseas, but those from the Mainland. They are our compatriots. They have greater confidence in Hong Kong compared to other places. They think that we can do a better gate-keeping job. And this applies even to investors from Taiwan. Why are they also victims in the Lehman Brothers incident? Because they thought that Hong Kong had got better regulation and so they came to Hong Kong and invested as a group and through a certain investment instrument. They all invested in the Lehman Brothers products. This is the same case with the Chinese from the Philippines. I know that some Chinese Filipinos have approached Honourable colleagues for assistance, especially those Honourable colleagues from the pro-establishment camp.

So if we are move right up to the extent as suggested by the Government if we do not press the Government to draw a line which is good enough despite the uncertainties, ambiguities and uneasiness we feel, or ask whether it can only take two small steps, then this Council will be renouncing its powers. This will send people outside the message that this Council is yielding to the financial hegemonists.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for five minutes.

(While the division was ringing, THE PRESIDENT resumed the Chair)

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE, Mr CHIM Pui-chung and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Kwok-him and Dr PAN Pey-chyou voted against the motion.

Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Audrey EU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr Albert CHAN voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, four were in favour of the motion, 16 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 12 were in favour of the motion and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): It is unlikely that we can finish all the items on the Agenda before midnight today. I will suspend the meeting at around 10 pm until 9 am tomorrow.

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): First motion: Capitalizing on the opportunity presented by the building of a cruise terminal to develop Kowloon East into a business and tourism district.

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

I now call upon Mr Paul TSE to speak and move the motion.

CAPITALIZING ON THE OPPORTUNITY PRESENTED BY THE BUILDING OF A CRUISE TERMINAL TO DEVELOP KOWLOON EAST INTO A BUSINESS AND TOURISM DISTRICT

MR PAUL TSE (in Cantonese): President, it is unlikely that this motion will arouse much controversy. As a matter of fact, I believe the movers of amendments to this motion and those Members who wish to speak in the debate will find the direction suggested in the motion agreeable.

Since the announcement of the Policy Address this year, President, everyone has become aware that a spirit of happiness, excitement and encouragement has sprung up in the community, particularly in Kowloon East. Everyone is looking forward to a better tomorrow. There will of course be a time gap between now and the actual materialization of the plan of Energizing Kowloon East as proposed by the Chief Executive, and there will also be a change of government in the interim, but the general direction is crystal clear.

President, there is no major difference between the approach I am going to put forward and the latest information provided lately by the current-term Government or the authorities on the initiatives or new directions in Energizing Kowloon East. The only discrepancy is that instead of following the Administration's approach of focusing on the concept of CBD2, it appears to me that this is also the opportune time or the perfect opportunity to consider developing tourism in the district, which is another direction of equal importance. In particular, a cruise terminal will be commissioned in Kowloon East in 2013 and its facilities will be of a relatively good standard as compared to those offered in the rest of the world, thus bringing us new hope for the development of tourism in the district. Therefore, my motion suggests that apart from developing Kowloon East as Hong Kong CBD2, emphasis should also be placed on promoting tourism in the district. Instead of embarking on a single direction of development, the Administration should adopt a two-pronged approach in Energizing Kowloon East, an approach that merits encouragement.

I am going to elaborate mainly, President, on a few observations today which will probably lead to a single request: attention should be paid by the Administration to tourism at the same time. Besides, questions will also be raised on a couple of issues to enquire about their latest progress, then followed by a series of suggestions. Depending on the time available, I will make as

many suggestions as possible and I also hope that more views will be given by other colleagues present, especially the movers of amendments, since they definitely know the district better and are more familiar with both local situations and past occurrences. By moving the motion, it is hoped that active and diversified discussions will be elicited on the issues concerned, especially on the development of tourism in the district.

President, I would like to start by raising two questions. First of all, we have had prolonged discussions on how to develop Kowloon East and there is widespread concern about the progress of the provision of transport infrastructure in the district. To what stage has the project actually proceeded? In particular, the Administration once floated a more concrete option of constructing Trunk Road T2, Route 6 or the so-called Tseung Kwan O — Lam Tin Tunnel. However, the discussions died down suddenly after some time and I cannot help wondering what stage is the plan currently in. I hope the Secretary will, should there be an opportunity, brief us on the latest progress of the development of road network in the district.

The second question is about the monorail system, which is a matter of grave public concern. The monorail network is a most environmentally-friendly system, so to speak, and we are very keen to see its commissioning. However, it will only be a long-awaited facility to all since the system will not come into operation until 2023. In this connection, is it possible to have the system commissioned at an earlier date? I hope the Secretary will find the opportunity to give us answers to these two questions.

Next, I would like to offer my suggestions on some other observations for consideration by the Secretary. Although some of the points I am going to raise may not fall entirely within her portfolio, I believe consideration will be given by the departments concerned as and when appropriate.

Talking about tourism, an issue of keen concern to us is of course the development of new hotels. The problem becomes particularly acute in recent years in the face of a serious shortage of hotel rooms in the territory. Due to high land prices, developers of new hotels have to compete for land with those of commercial buildings and they are often caught in a very disadvantageous position. As an attempt to solve the problem, the Administration has repeatedly suggested to revitalize old industrial buildings in various districts such as Kwun

Tong. This is definitely a good way to deal with the issue but relatively speaking, the progress seems to be far from satisfactory.

Apart from revitalizing industrial buildings, should the efforts be complemented by an appropriate tax policy? For example, as far as the development of industrial buildings is concerned, it is noticed that under section 34 of the very archaic Inland Revenue Ordinance, an initial allowance equal to 20% of the capital expenditure on the construction of such buildings will be made for the first year of assessment, while an annual allowance equal to 4% of the capital expenditure will be made for all subsequent years. If such tax concessions are made available to developers of tourist or hotel facilities, will it be helpful to speeding up the pace of revitalizing industrial buildings?

Besides, I found that in the granting of waivers for payment of regrant premium, different arrangements are respectively adopted at present for the redevelopment and conversion of industrial buildings. From the perspective of environmental protection and practicality, old buildings cannot always be converted to hotels appealing to tourists merely through casual alterations and renovations. Rather, splendid or unique designs are required to achieve the aim. Such being the case, is it possible for the Administration to consider granting the same treatment to redevelopment and conversion projects? What I mean is, should redevelopment be required, will appropriate waivers be also granted?

President, judging from the angle of developing CBD2, I am afraid that the functions currently performed by the Central will be undermined if a cloning approach is adopted to merely produce another CBD of an identical nature as that of the Central. International corporations of a sizeable scale which have already established their base in the Central may not be easily attracted to move to CBD2.

On the contrary, is it possible for us to implement the development of CBD2 with a relatively unique approach? For example, a lot of old industries with a sound foundation have already taken root in Kwun Tong, and the district has become the base of quite a number of creative industries such as advertising and film production. Meanwhile, an increasing number of large-scale travel agencies are now moving to the district. For all these reasons, the Administration should explore the possibility of organizing some unconventional commercial activities specially for such stakeholders or offering them tax concessions. I think these are feasible options that merit consideration. All in

all, we should not focus on the competition for the same kinds of commercial tenants or clients with Central, and consideration should instead be given to unconventional modes of commercial development.

With regard to transport facilities, apart from the monorail system mentioned by me just now, should consideration be also given to water transport? I have repeatedly asked this question: With such a beautiful harbour in Hong Kong, why do we not fully exploit its potential? Consideration can be given to providing water taxi services and in this connection, experience can be drawn from the good example set by Vancouver. Hong Kong harbour has a small maritime space and the distance between the two shores is very short. With water taxis plying between Kowloon and Hong Kong Island, commuters will enjoy greater convenience as they will no longer be required to go on a long detour and travel to the other side of the harbour via various cross harbour tunnels. With the breaking of the sea barrier, an energizing effect will be achieved as if getting the conception vessel and the governor vessel of human body through, thus greatly enhancing our potential for development. It will then take us a few minutes only to travel by sea from the Kai Tak Development Area to the core district in Kwun Tong, or to various tourist facilities or other facilities in the eastern part of Hong Kong Island with greater convenience. It is hoped that in planning the transport network of the district, due consideration can be given to the concept of amphibious movement and dropping the idea of relying mainly on the monorail system.

President, let us get relaxed and say something about tourism. As far as tourist attractions are concerned, people tend to have different preferences and at first sight, there seems to be not many appealing tourist spots in Kowloon East. However, with a more thorough analysis, we will find good potential for the development of tourism on various fronts. Let us start with something relatively simple and take religious tourism as an example. Chi Lin Nunnery in Wong Tai Sin is a religious site readily available for visit and it is also a world-renowned tourist spot. As regards ancient civilization, we have Nga Tsin Wai Village, which is of great value, and Hau Wong Temple in the district. Hong Kong people including I myself should be ashamed because most of the time, we regard these places as nothing but should they be located in some other parts of the world, they will become appealing tourist attractions to us and we will spend a lot of time admiring their beauty. Yet, though located right here in Hong Kong for us, such good places for visits are often overlooked.

With regard to cultural spots, President, there are also some good choices in Kowloon East. For example, we have the so-called "Three gems in Tai Hom Village", including the Stone House which was once home to Mr QIAO Hong, the former Royal Air Force Hangar and the Old Pillbox, and so on. These spots are of course unfamiliar to most Hong Kong people, but they are worth promoting.

Regarding park facilities, the former site of Kowloon Walled City has now been converted into a park, and Nan Lian Garden is another one worth mentioning. As far as eco-tourism is concerned, mountain paths in Wang Tau Hom lead us conveniently to the Lion Rock Country Park and these are valuable resources for promoting tourism. As for dining spots, Lei Yue Mun is definitely a well-known site for promotion, but an ordinary street in Kowloon City, the one on which one of our colleagues has opened a beef noodle shop, is also remembered as a hot spot for diners in the past. It has lost much of its appeal after the relocation of the airport and serious thoughts may be given to restoring its old lustre.

President, there are also a lot of things worth exploring in the military history of Hong Kong. From what I can recall, in some recent articles published respectively in the *Hong Kong Standard* and the *South China Morning Post*, it is revealed that there are over 100 military relics in the territory but they have regrettably been neglected. Some of them are being used as refuse collection points while some are put to other uses. The proper use of such relics will turn them into valuable treasures of Hong Kong.

Talking about military history, I have mentioned earlier that with the provision of water taxi services, we can travel to the opposite side of the harbour from Kowloon East in two to three minutes and over there, a military spot worth recommending is waiting for us. Regrettably, only very few people in Hong Kong know about the Hong Kong Maritime Museum, but it does hold a lot of interesting exhibits. Lei Yue Mun was once a very important military checkpoint and the place was then armed with the most advanced torpedo to guard the harbour. However, not many people have ever had sight of it.

As for new attractions, President, consideration may be given to quite a number of ideas. For example, the Kai Tak Airport was once regarded as the most dangerous airport in the world. This was at least a view shared by many pilots because when landing at the airport, planes had to fly over a lot of buildings

and that was a genuinely dangerous, dramatic and at the same time thrilling moment. We may have a museum on the subject to recount the aviation history created by the Kai Tak Airport.

Furthermore, department stores in Causeway Bay or the Central, such as the Sogo Department Store, are always crowded with tourists and queues can be found everywhere. This is in fact contrary to the spirit of hospitality and in this connection, the Kai Tak Development Area is a perfect site for the provision of an outlet mall featuring international brands. Retailers are actually very interested in opening up outlet malls in Hong Kong but the problem is, we do not have the required land to accommodate such facilities.

Besides, consideration may of course be also given to time is running out. I will talk about other facilities should an opportunity arise. In a nutshell, everyone will have his own views in this regard. If due consideration can be given to the promotion of tourism, a lot of options will in fact be available and there is no need to rely solely on the development of CBD2. In addition to the development of CBD2, we should also make good use of the existing mechanism to promote tourism.

Thank you, President.

PRESIDENT (in Cantonese): Mr TSE, please move your motion.

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

Mr Paul TSE moved the following motion: (Translation)

"That this Council urges the Government to capitalize on the opportunity presented by the building of a cruise terminal by consolidating the existing tourism infrastructure and facilities and building new ones, while implementing the plan of Energizing Kowloon East, with a view to developing Kowloon East into an important business and tourism district."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Paul TSE be passed.

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

I will first call upon Mr CHAN Kam-lam to speak, to be followed by Mr Alan LEONG, Mr WONG Kwok-kin and Mr Fred LI respectively; but they may not move the amendments at this stage.

MR CHAN KAM-LAM (in Cantonese): President, since the relocation of the airport to Chek Lap Kok in 1998, Kowloon residents have wished all along that the development of the old airport site and its neighbouring areas can bring new vitality to the development of old districts. However, from the "Southeast Kowloon Development" proposed in the earlier years to the "Kai Tak Development" rolled out at a later stage, the discussions have been going on for more than a decade, yet today the old airport is still a deserted site. The plan of Energizing Kowloon East announced in this year's Policy Address is in fact a long awaited project to the local residents who wish it would really kick-start the development of Kowloon East.

To promote the development of Kowloon East, the DAB has conducted a number of district consultation exercises, seminars and thematic studies. In addition, it has recently announced the results of a study on the development of the Kai Tak new area and kicked off a series of exhibitions of the development models and forums. The exhibition now being held in MIKIKI Mall in San Po Kong till 16 December will be moved to Park Central next week. The exhibitions are open to all and we welcome everyone's comment.

President, the DAB shares the approach to develop Kowloon East into a core business zone and an important tourism district, hence we agree with the original motion proposed by Mr Paul TSE today. However, should we decide to develop a deserted site of sand and dust into a core business zone that can synergize the renewal of neighbouring districts, we believe that in addition to capitalizing on the opportunity presented by the development of the cruise

terminal, we should cautiously handle the various opportunities and challenges in relation to the development of the Kai Tak new area and the adjoining areas (including the old districts of Kowloon Bay, To Kwa Wan and Kwun Tong). Therefore, based on the original motion, the DAB has put forth a number of proposals to optimize the plan of Energizing Kowloon East.

I recall that when Secretary LAM introduced the Kowloon East development, she particularly raised the concept of "CBD2" to highlight the four main themes of Kowloon East development, namely: Connectivity, branding, design and diversity. Today, I would like to put forth the three key proposals from the DAB's thematic study on the development of the Kai Tak new area so as to echo and refine the four main themes of "CBD2".

Firstly, connectivity. We fully recognize that connectivity is crucial to a core business district. Hence, as early as in 2006, we already proposed to construct a dual-purpose bridge with an environmentally-friendly linkage system across the channel between the south end of the runway and Kwun Tong. We are glad that the Government has adopted our proposals eventually, but we find the monorail construction plan incomprehensive, as it will not reach To Kwa Wan in Southwest Kowloon.

Nonetheless, we are most concerned about the issue that the monorail will not be commissioned until 2023. Everyone knows that the first phase of the cruise terminal located at the south end of the airport will be completed in 2013. During the decade-long period between 2013 and 2023, what modes of transport are supposed to carry tourists and the public to and from the terminal and the urban area? As Secretary Carrie LAM said, the cruise terminal is very close to Kwun Tong, yet it is visible but inaccessible. Hence, we hope the authorities will consider adopting the proposals of our thematic study, namely constructing expeditiously the planned monorail in phases. We suggest that the authorities should construct the sea channel bridge between the south end of the runway and the harbourfront of Kwun Tong in advance and, to cope with the cruise terminal development, build the monorail depot at the Kwun Tong Ferry Concourse instead, so that the first phase of the monorail (the section between the cruise terminal and Kwun Tong Station) can be commissioned expeditiously. As to the other sections of the monorail, they can be commissioned in different phases of the Kowloon East development.

Secondly, the authorities emphasize the branding of Kowloon East. Should we decide to make Kowloon East a successful brand name, landmark buildings are inevitable. We believe that the Lung Tsun Stone Bridge monument built in 1873 will become the core structure with landmark significance in Kowloon East. To this end, we have put forth several planning and design proposals with respect to the Lung Tsun Stone Bridge conservation zone, the purpose of which is to highlight the significance of the monument and to avoid incongruous adjoining architecture and buildings.

Regarding the planning of the Lung Tsun Stone Bridge conservation zone, despite the Government's active response to most of DAB's earlier proposals, the authorities have recently amended the Outline Zoning Plan of Kai Tak and proposed to construct two giant landmark buildings of 175 m in height near the Lung Tsun Stone Bridge conservation zone in order to create an imposing entrance gate. We have reservations about this proposal, as we regard the conservation of the century-old Lung Tsun Stone Bridge monument more important than the construction of a new and artificial landmark. Moreover, the 175-m-tall structures to be constructed adjacent to the monument will inevitably become a visual intrusion to the conservation zone. Therefore, we hope the authorities can conduct further studies when finalizing the design details in order to ensure that the height of the adjoining buildings will be in harmony with the conservation zone.

In our view, apart from the Lung Tsun Stone Bridge conservation zone, another landmark that can enhance the brand and image of Kowloon East is a harbourfront promenade which showcases the Victoria Harbour vista. Despite the 11-km-long harbourfront promenade planned by the authorities, we believe the authorities can take a step further — to extend the harbourfront promenade both eastward and westward so as to construct a harbourfront promenade stretching from Lei Yue Mun to Sham Shui Po. This will not only become a world-class landmark, the promenade will also link up the major tourist spots in Kowloon, such as Lei Yue Mun, Tsim Sha Tsui and West Kowloon, promote pedestrian and visitor flow and forge greater synergy among the areas.

On urban planning and diversity, having studied the harbourfront development experiences of a number of overseas cities, we have come up with a

particular proposal of injecting two elements into the design of the Kai Tak Development Area so as to enrich the urban design of the entire district and increase the diversity of activities in the district.

Firstly, we propose the addition of shopping and entertainment facilities in the green area of the park so as to satisfy the needs of visitors looking for leisure activities and entertainment, and at the same time, to provide the visitors travelling between the Kai Tak area and the cruise terminal an all-weather connection zone.

Secondly, we propose the addition of giant buoyant platforms in the waters off the Metro Park to facilitate the organization of mega events. Moreover, a marina should be set up at the waterfront of the original Kai Tak Nullah as a venue for holding mega yacht shows so as to promote economic activities and water sports activities in the district. We hope the authorities can consider these proposals seriously when finalizing the detail design.

Lastly, Secretary Carrie LAM mentioned that "CBD2" carries another implication — to turn Kowloon East into another Central. Nonetheless, whenever we talk about Central, we think of traffic congestion, in which both the eastbound and westbound traffic lanes are congested with vehicles during busy hours. Although another Central has not yet been formed in Kowloon East, the traffic congestion problem in the district is no less severe than that of Central. A number of trunk routes (including Prince Edward Road, Lung Cheung Road, Gascoigne Road, Kwun Tong Road and the Eastern Harbour Crossing) in the district have almost reached their capacity. In fact, simply the vehicles attracted to the MegaBox mall on Saturdays and Sundays can form queues of vehicles in the new business district of Kowloon Bay. Upon the renewal of the entire district in future, the heavy traffic flow in the district is imaginable. For this reason, we hope the authorities will expeditiously come up with plans to improve the traffic network of Kowloon while planning the transport linkage system for the district, or else the additional visitor, passenger and traffic flows of Kowloon East would not only affect the traffic of Kowloon as a whole, but also substantially restrict the development of Kowloon East.

President, given that the three other amendments are complementary in nature, they can enrich the content of the original motion, and they are also

similar to the DAB's previous proposals in principle, hence we will support these amendments.

I so submit.

MR ALAN LEONG (in Cantonese): President, Kowloon East used to be an important industrial zone. If we take a casual walk in Kowloon Bay and Kwun Tong, we can still find many old industrial buildings in the area, hence Kowloon East always gives people an impression of an ageing community. However, following the announcement of the plan of Energizing Kowloon East in the policy address, we have before us an opportunity that will give Kowloon East and its residents a fresh start.

President, as everyone knows, the supply of office space in the traditional business districts such as Central, Admiralty and Wan Chai has already reached capacity. I always oppose the approach of seeking to satisfy the unlimited demand for office space with the limited land supply. Energizing Kowloon East is exactly a good opportunity through which more commercial space can be provided. This is a win-win solution for on the one hand, given the increase in the supply of office space in Hong Kong, large enterprises would be attracted to move from the traditional core business district to Kowloon East. This can drag down the expensive rent of offices in the core business district and prevent multinational corporations from retreating from Hong Kong due to the excessively high cost of rent. On the other hand, we can make good use of the land in Kowloon East to develop a zone that integrates business, tourism and cultural facilities so as to boost the economy.

President, in fact, there are already many Grade A office buildings in Kowloon East, with about 1.4 million sq m of office floor area having been completed in the district. According to government statistics, the supply of office floor area in the core business district has increased only 4.3% from 8.2 million sq m to 8.6 million sq m over the past decade. But the supply of office floor area in the two districts of Kowloon Bay and Kwun Tong has surged 237% — more than two times — during the same period. This shows that Kowloon East possesses extremely strong development potential. The Kowloon East development plan is expected to provide an additional 4 million sq m of

office space. Coupled with the floor area of existing private buildings, the total office space to be offered in Kowloon East would be enough to accommodate two Centrals.

The plan of Energizing Kowloon East may involve up to hundreds of billion dollars of public money. During the process of planning and implementation, apart from taking care of the interest of major companies and consortia, the question of taking care of those people living in Kowloon East is also very important. This plan will not succeed unless it can facilitate and meet the needs of the residents of Kowloon East. How can we be convinced that everyone has a part in the plan of Energizing Kowloon East? This is a key issue. I know that Secretary Carrie LAM has specially organized a briefing on the plan for developers, but I hope the Government will not only focus on developers, since a mega development project as Energizing Kowloon East must be embraced by the residents of Kowloon East as well. Therefore, President, the major focus of my amendment is on doing a good job of holding discussions with the public, and I believe this approach is not strange to Secretary Carrie LAM at all.

What I mean by the "approach of holding discussions with the public" is certainly not the traditional public consultation which has no bearing on government policymaking, or the Government would stick to its old attitude even after listening to the public's views. When Chief Executive Donald TSANG attended the first Question and Answer Session of this Council after being elected the third term Chief Executive, he strongly emphasized that the traditional public consultation method is outdated, the Government should reach out to the community and he must promote public participation. He particularly mentioned the term "public engagement", which is different from public consultation. He said this is a two-way communication process, in which the Government and the various community groups all have their respective parts to play. While government officials have to reach out to the community, different community groups also need to organize themselves in collecting public opinions and relaying them to the Government in a systematic way. This is the best way to genuinely communicate with each other. The Chief Executive's remark was impressive, but has he fulfilled his undertaking in the last few years? I believe we all know the answer deep in our hearts. In fact, a previous and relatively successful example of public participation that we can immediately cite is the

Harbour-front Enhancement Committee which has become the current Harbourfront Commission.

The plan of Energizing Kowloon East requires the establishment of a Kowloon East Development Office. President, as we have discussed in the meeting of the Public Works Subcommittee this morning, how will the Office co-ordinate with the current Kai Tak Office? What will be their respective scope of responsibilities? How will they interact with each other? These seem to be the issues that should be rationalized. President, should the "approach of holding discussions with the public" be genuinely followed, the precondition is the Government must provide all research information and data that it has on hand for the media and public's perusal, and it must seriously address the public opinions that it will receive afterwards. The Office may only be a government office under a Policy Bureau, but this mode of operation is not acceptable, hence those information must be disclosed for the public's perusal.

President, we should understand that the plan of Energizing Kowloon East covers the Kai Tak cruise terminal, the alignment of the monorail system, the planning of commercial buildings and cultural and entertainment facilities of the two action areas, and so on. In all, it is a project that has a bearing on all of those living in Kowloon East and Hong Kong. With proper planning, Kowloon East would absolutely possess the qualities to become a low-carbon and diversified green zone serving commercial, tourism and leisure purposes as well as complementing the traditional core business district. Hence, public participation is very important. I hope the officials in charge can listen to the voices of the residents of Kowloon East with a humble and open mind.

President, when I recently visited the neighbourhoods concerned, I learnt that the residents are most concerned about the alignment and fares of the monorail, and whether the location of monorail stations would be convenient for them. President, regarding the monorail, I am aware that the Government will consult the opinions of the relevant District Councils and the Panel on Development of the Legislative Council early next year, and will consult the views of the public and concern groups only in the middle of next year before finalizing the implementation details. However, the public has lost confidence in the Government or public organizations in the light of their previous attitude in disclosing the research and financial information of major projects. For instance, all the information of the consultancy study and financing arrangement

of the third runway is treated as state secrets, and when asked to provide the relevant information for consultation purpose, the Government provided them in a manner even worse than squeezing tooth paste from a tube.

As for the implementation details of the monorail project, we have very little information on hand. We only know that the 9-km monorail will link up Kwun Tong, Kowloon Bay and the Kai Tak Development Area; it will pass the Mass Transit Railway stations of Kwun Tong and Kowloon Bay, and the Kai Tak station of the future Shatin to Central Link. We know the monorail involves a construction cost as much as \$12 billion; each train has two compartments that can carry 250 passengers; and the monorail is expected to commence operation in 2023 with a daily capacity of 200 000 passengers. However, President, the public do not know whether they should show their support or not simply based on such information. Should the Government pursue genuine public participation and achieve the effect of holding discussions with the public, it should disclose more information. President, if the monorail is developed and operated by private companies, will the Government enter into agreements with unequal terms which will push up the fares to an outrageous level like the recent sharp increase in tariff by the power companies notwithstanding their enormous profits? We should pay attention to these issues. I believe Secretary Carrie LAM well understands the underlying reasons, and will therefore inject into the Kowloon East Development Office elements of public engagement.

President, I believe many Hong Kong people have reservations about MTR's previous fare hike on the back of its thick profits. Should the Government wish to win public support for the monorail proposal, it should abandon its previous consultation approach of whitewashing — mentioning only the expected economic benefits, but not a single word on the price to be borne by taxpayers. Otherwise the Energizing Kowloon East project would encounter many difficulties and a lot of time would be wasted. I hope the Secretary can learn from the painful experience of the West Kowloon Cultural District and avoid repeating the same mistakes when implementing the plan of Energizing Kowloon East.

I so submit.

MR WONG KWOK-KIN (in Cantonese): President, the cruise terminal to be built at the site of the old Kai Tak Airport is expected to commence operation in the middle of 2013. Given the excellent geographical location of the site, it is an area with great development potential, hence the development of communities in the vicinity of the cruise terminal has been the focus of attention so far. It is widely expected that the cruise terminal, upon completion, is going to boost the economic and human activities of Kowloon East. Therefore, in my view, as the completion of the cruise terminal draws near, we should explore the development of infrastructure support so as to capitalize on the development opportunities brought by the Kai Tak cruise terminal, and actively improve the various developments of Kowloon East with a view to redeveloping Kowloon East into a major business and tourism district, and a new bright spot of Hong Kong.

To develop and energize a community, we must first address the such issues as its connection and transport link with various districts. Currently, Kowloon East's connection with other districts mainly relies on Lung Cheung Road, Kwun Tong By-pass, Tseung Kwan O Road, Shun Lee Tsuen Road, New Clear Water Bay Road and Choi Hung Interchange to connect with Kowloon West and the New Territories. In recent years, given the relatively robust commercial and residential developments in Kowloon East, the above roads has already reached saturation capacity. The existing road network of Kowloon East can by no means cope with the population growth of Tseung Kwan O and Yau Tong. Earlier on, some residents of the districts concerned approached me for assistance and requested improvement to the local traffic. For instance, the residents of Yau Lai Estate called for the extension of some bus routes between Kwun Tong and Lam Tin to Yau Tong by making Yau Tong the terminus of those routes, and enhancement of the bus services between Yau Tong, Kowloon West and even the New Territories. They also suggested that the frequency of the existing bus services be increased and more interchange concessions be provided because, on the one hand, this can facilitate the local residents, and on the other, this would encourage the public to travel to Kowloon East by public means of transport as much as possible. In this way, the traffic load of the road network can be alleviated thereby. In addition, the Government has launched the plan to move some government offices into the Kai Tak Development Area, and the cruise terminal is expected to bring in a large number of tourists. These community facilities are going to attract a great number of cross-district movements, but the traffic congestion is expected to have substantial and negative impact on the forming of a business district in Kowloon East. Hence, I now

suggest that the Government should review the road transport network of the various areas of Kowloon East, project whether the capacities of the existing road networks in the various communities are adequate to dovetail with the future development of the district, and expeditiously implement improvement works in accordance with the review outcomes and development needs. Besides, the Government should expedite the study on its proposed linkage of the new and old areas in Kowloon East by an environmentally-friendly mass transit system (that is, the monorail), and improve the public transport support facilities connecting Kowloon East to other districts, so as to cope with the needs of tourists and businesses in the future. Apart from roads for vehicles, the authorities should perfect the pedestrian linking systems and barrier-free facilities in the new and old areas of Kowloon East, so that tourists and residents can travel between the new and old areas smoothly and without obstruction.

President, the redevelopment of the Kai Tak Airport site may, on the one hand, bring new economic activities and social vitality to the old community, but on the other, it may wipe off the history and culture of residents originally living in there. The FTU has consistently proposed that the authorities should make good use of the site of the former Tai Hom Village, so that the development will not only be in harmony with the geographical environment but also carry the historic, cultural and artistic elements of the former Tai Hom Village. We have proposed that the catchment area of Tai Hom Village near Po Kong Village Road should become an extension of the Kai Tak River and be developed into a theme park of water, where new leisure facilities will be provided and the public can learn about the development history of the Kai Tak River, the flow process from collection to purification of river water as well as the environmental knowledge of recycled water, reclaimed water, and so on. In addition, Tai Hom Village was formerly a famous movie production base. Hence the FTU has proposed the plan to develop part of the Tai Hom Village into a creative movie park. The movie industry can thus use this as a base to produce animation films, while local creative industries can also set up theatrical, music and dance studios in the park. All these can turn Tai Hom Village into a base of local pop culture which promotes the diversity of Hong Kong culture.

President, a number of places in Kowloon East are rich in indigenous cultural characteristics. Take Wong Tai Sin as an example, various religious works of architecture can be found in the district; the Nga Tsin Wai Village in San Po Kong is now the only indigenous village with historic features in the

urban area of Hong Kong, though it will soon be cleared. Over the years, this fortified village has followed the tradition of celebrating the birthday of Tin Hau every year, and a large scale Jiao-festival — an indigenous event with great significance — is also organized every decade. We hope that in addition to developing modern tourist attractions, the Government can make the best use of the heritage and cultural edges of Kowloon East to develop a heritage trail which combines the environmental, historic, indigenous cultural and tourism features of Kowloon East to become an additional attraction of the district. Moreover, bazaars with indigenous characteristics such as temple fairs can be introduced to attract visitors and create employment opportunities. In 2003, a Dragon Market with some 400 booths was organized on a vacant lot near Wong Tai Sin Temple. It attracted over 4 million visitors and created over 2 000 jobs. Subsequently, Creative Arts Playground — a similar initiative to help the unemployed start their own businesses — was organized on the same site. Unfortunately, now the site has been turned into a carpark. It is so very difficult to find another site of similar size in Kowloon East for organizing bazaars of this kind. As the opening of the Kai Tak cruise terminal draws near, we hope the Government can identify some sites for the continual development of bazaars so as to promote the operation of social enterprises, restore local customs and community, facilitate the integration and co-ordination between the development, livelihood, community facilities and cultural characteristics of the new and old districts of Kowloon East and genuinely realize the plan of energizing the community of Kowloon East.

With these remarks, President, I support the original motion and all the amendments.

MR FRED LI (in Cantonese): With respect to this motion proposed by Mr Paul TSE, the four of us who are Members from Kowloon East have all proposed amendments respectively in the hope of enriching this motion.

There has been much discussion on the land use and planning of the Kai Tak Airport site after the Airport's relocation. In 2005 and 2006, the Democratic Party submitted to the Government various proposals on the development of the site. Our proposals are mainly focused on capitalizing the development opportunities of East and South Kowloon so that they can become communities of quality life and districts with excellent potentials in commercial development.

I have got in my hands a concept plan submitted to the Government in 2006. It is proposed that a sky rail (that is, monorail) be built along the promenade as an overhead light rail which plies between the entire Kai Tak area, the Metro Park, the Cruise Terminal and the Tourism and Leisure Hub. At that time, we also hoped very much that the rail could be linked with the Shatin to Central Link (SCL) and the Kwun Tong Extension and that it could go to other places in Kowloon and even to Lei Yue Mun. If the rail could be linked up with the SCL, it could go all the way to Tsim Sha Tsui.

As we review the proposals made by the Government today, in terms of the alignment, it can be said that this almost represents a merger of the proposals we made back in 2005 and 2006. It must be admitted that the coverage of the monorail has become smaller and the line is connected to the stations in Kowloon Bay and Kwun Tong, thus linking up with the convention and trade facilities there. This proposal from the Government is desirable and in the opinion of the Democratic Party, some fine thoughts have been given to it. About this issue and in the long run, we hope that the Government can give more thoughts to the idea and see whether the line can be extended to places farther away. This is because it is an environmentally-friendly public transport system and so more people should stand to benefit if it is extended.

Apart from cost efficiency in transport, in terms of environmental protection, efforts can be made to promote a smokeless city and minimize emissions. From the perspective of conservation and collective memory, the idea of a skyrail when coupled with trains designed with a theme of aeroplanes which run a slightly elevated plane on the old runway can give people a taste of aeroplanes flying out from the old Kai Tak Airport. This experience will blend the aviation culture with the future development of Kai Tak and the monorail can be developed into a tourism icon. It would be much better if the Government can build a sizable aviation museum with some unique characteristics.

On the question of green transport, the Democratic Party has suggested the idea of building a cycling track along the harbourfront and we hope that the Government can look into that. Under the present planning, there will be a waterfront promenade which stretches 11 km, so can an 11 km cycling track be built along it? Such a concept can be found in Stanley Park, Vancouver. There the people can admire the beautiful lake vista as they jog in the jogging trail.

And there is a cycling track there, too. I think this can add to the fun and enjoyment of the people as they tour the waterfront in Kowloon East.

Bicycles are not only meant for recreation. We also hope that people can use bicycles as a means of transport. So we suggest that more passageways for exclusive use by bicycles, parking racks for bicycles and pedestrian precincts should be built in the Kai Tak area. We hope that when the Government studies how best to improve the pedestrian connection system in that area, it should also examine how green transport can be promoted by building dedicated bicycle passageways and bicycle parking facilities in these pedestrian connection systems.

Another natural feature of the Kowloon East development is its 11 km long waterfront promenade. Members of the public can have an intimate encounter with the beautiful bay there and admire the breathtaking beauty of the Victoria Harbour. They can also engage in all sorts of aquatic activities. As I can note from the leaflets published by the Government, dragon boat races can also be held. However, there is a strong odour in the water around the place and I do not think we should row dragon boats there because of the poor water quality. The water near the Kwun Tong Ferry Pier is rather stagnant and contaminated sediments have piled up there for many years. It is therefore very important to improve water quality in the Kwun Tong Ferry Pier. If the water quality there can reach a certain acceptable standard, we can then carry out some aquatic activities with the waterfront promenade in mind.

On the question of planning and development in Kowloon East, we should note that apart from the old Kai Tak Airport which has its own unique historical value, there are also many spots in its vicinity which have historical and cultural significance. Examples are the Song Wong Toi Inscription Rock, the Cattle Depot Artist Village, and the thriving culinary culture found in the many restaurants and eating establishments in Kowloon City. All these do present local colours and they should be preserved for the development of our tourism industry. The Democratic Party once proposed the idea of building a heritage trail linking up spots with historical and cultural values, such as the Cattle Depot Artist Village, the Song Wong Toi Inscription Rock and the Kowloon Walled City Park. What the Government can also do is to turn the 13 streets opposite the Cattle Depot Artist Village into a public arts zone. This can serve to provide a platform for popular culture in the city, thus giving some room of development

to creative industries and cultural activities of all kinds. With the development of the Lung Tsun Stone Bridge archaeological site and the Government's decision to adopt the approach of *in-situ* preservation, this heritage trail can also include the Lung Tsun Stone Bridge archaeological site and the Kowloon Walled City Park, thus integrating the trail with the history of the Walled City. Besides, a multi-purpose stadium complex would be built there and this will enable sports and recreational activities to work in synergy with the historical, cultural, sports and tourism facilities in the district, hence propelling the diversified development there.

As for the second core business district and the question of diversified development, we have long since suggested to the Government that it should make use of the present opportunity of planning and developing Kowloon East to relocate government offices scattered all over the territory to the Kai Tak mixed use area for government and commercial buildings. The government offices and sites thus vacated can serve to relieve the heavy demand for offices in commercial areas. The Government has decided to relocate the two government office blocks in Wan Chai and the Trade and Industry Department in Mong Kok to Kai Tak. The Kai Tak Government Offices will also be built there. We hope that with the reprovisioning of government departments, a vibrant commercial area can be established. This will not only promote commercial development there but also increase job opportunities. Over time, the district will grow into a secondary city centre and it will not only be a place for business and tourism, but also a place well-suited to housing, employment, leisure and living.

President, I so submit.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I welcome this motion on the development of Kowloon East moved by Mr Paul TSE in the Legislative Council today. The Legislative Council Panel on Development has scheduled a meeting on 19 December, that is, next Monday, to discuss the plan of Energizing Kowloon East. The views to be expressed by Members in advance on these occasions today and next Monday will definitely be helpful to us in launching this major initiative.

In the 2011-2012 Policy Address the Chief Executive announced that a visionary, co-ordinated and integrated approach would be adopted to vigorously

develop Kowloon East into another core business district (CBD) outside the traditional business districts, while promoting the transformation of Kowloon East with forward-looking perspectives and determination in implementation, with a view to providing support to Hong Kong's economic development.

Since the announcement of the plan, the response from all quarters of the community has been very positive. So are the views expressed in the Legislative Council Panel on Development some time ago and the opinions expressed by a number of Members earlier. From the comments that I have heard, a larger part of them has described this plan as displaying great foresight and innovative ideas, and a plan that people are expecting with great enthusiasm.

While I welcome Mr TSE's initiative to propose this motion for debate, I think the topic of Mr TSE's original motion is a bit too narrow as it focuses only on the development of tourism and seems to have failed to fully cover the breadth of this integrated development plan of Energizing Kowloon East. But it does not matter, because some Members have proposed amendments to make up for this point in this motion debate of the Legislative Council. To colleagues in the Government, our general impression of amendments proposed by Members to the original motion is that they are adornments hung onto a Christmas tree one after another. But I very much welcome these amendments because it is only through the amendments proposed by the four Members (namely, Mr CHAN Kam-lam, Mr Alan LEONG, Mr WONG Kwok-kin and Mr Fred LI) that our original intent in the development of Kowloon East can be reflected and this debate can be more enriched in contents, because Energizing Kowloon East is not just about capitalizing on the opportunity presented by the building of a cruise terminal to develop Kowloon East into a business and tourism district, but also covers a wide range of aspects. I will explain these aspects one by one when I respond to the amendments proposed by various Members later on. Here, I wish to briefly explain the origin of Energizing Kowloon East.

To enhance the long-term competitiveness of Hong Kong, a sufficient supply of office space is vitally important. As the financial and service industries in Hong Kong have continued to thrive, traditional business districts in Hong Kong can no longer meet the demand of enterprises for quality offices, thus causing rental to rise continuously. This will undermine the competitiveness of Hong Kong in the long term. In view of competition from neighbouring cities, Hong Kong must seriously face up to this challenge. In the meantime, the Kai

Tak Development (KTD), which is among the 10 major infrastructure projects, led by the Development Bureau has brought a good opportunity whereby the Kai Tak Development Area will lead the development of the old Kwun Tong and Kowloon Bay. This urban development strategy of "blending the new and the old" or "the new leading the old" is precisely the impetus for Energizing Kowloon East.

Speaking of Kai Tak, I wish to state once again that Kai Tak is no longer just a large piece of "sunbathing" land. The Kai Tak projects are actively in progress now. The construction of the first berth of the cruise terminal already commenced in November 2009. The first berth and the cruise terminal building are expected to be completed in mid-2013 and will be handed over to the operator for operation and management. Other works projects in the first phase, including public rental housing development, Phase I of the District Cooling System, site formation and relevant infrastructure facilities, and bio-remediation works for treatment of Kai Tak Approach Channel and improvement works for treatment of the contaminated sediments at the seabed of Kwun Tong Typhoon Shelter are being carried out in full swing and expected to be substantially completed in 2013.

The idea of Energizing Kowloon East was inspired by the successful examples in overseas countries to which we have made reference, as well as the visits that I have personally paid to overseas cities where I had exchanges with the relevant officials in recent years, such as Canary Wharf in London, Marina Bay in Singapore and La Défense in Paris. In order to successfully develop a new business district, we cannot rely solely on the market to take up a leading role. Government guidance, planning and co-ordination are indispensable factors. It is on this principle that Energizing Kowloon East is implemented under a district-based integrated development approach.

The original motion proposed by Mr Paul TSE is mainly about tourism development. Following the gradual completion of the transport network and supporting facilities in the Kai Tak Development Area, the cruise terminal will be more conveniently linked to the neighbouring regions. This, coupled with the gradual completion of various projects in the Kai Tak Development Area, will help enhance the tourism and economic benefits of the cruise terminal and the neighbouring regions. Capitalizing on the edge with the completion of the cruise terminal, we will continue to forge close co-operation with the Hong Kong

Tourism Board to enhance the attractiveness of Hong Kong to cruise companies and tourists and stimulate the demand for cruise tours in the market.

In the runway area of the Kai Tak Development Area, eight sites will be designated for tourism-related uses. They include a site of 7.7 hectares for cruise terminal development, six sites measuring 6.3 hectares in total area for hotel use and a site of 5.9 hectares for developing a tourism node. The modern-looking cruise terminal designed by Norman FOSTER is currently under construction. Members passing by the cruise terminal construction site at the runway tip or viewing it from a distance can clearly see these several projects in progress. The site formation works and the construction of the terminal building are being carried out at full throttle. We expect that the cruise terminal building and the first berth can be completed to commence the provision of service in mid-2013 as scheduled.

Besides, the tourism node to be located beside the cruise terminal, which takes up an area totalling 5.9 hectares, can provide a gross floor area of about 229 000 sq m for the development of hotels, dining services, recreational and shopping facilities, a public observation gallery or other facilities for enjoyment by tourists.

Other projects of tourist attraction include Lung Tsun Stone Bridge. The Lung Tsun Stone Bridge is not purely a tourism project as it also has significant historical value. We have conducted extensive consultation and completed a two-stage public engagement exercise. After considering the views collected, we proposed to build a 30-m wide and about 200-m long preservation corridor where the remnants of the stone bridge will be preserved *in-situ* for visits by the public and tourists. The adjacent site of the corridor is also proposed to be designated as a comprehensive development area to ensure that its future development and design will blend in well with the preservation corridor of the stone bridge.

Mr TSE has put forward the view that many tourism projects can be developed in the district, whether in respect of dining or cultural and green tourism. We will definitely explore these options seriously in the next stage of our study.

The Lung Tsun Stone Bridge aside, in the Kai Tak Development Area there are also 102 hectares of land for developing greened areas, parks, and the 11-km waterfront promenade extending from To Kwa Wan to Cha Kwo Ling for enjoyment by the public and tourists.

Mr Paul TSE has mentioned a number of points in his speech and I wish to respond to them. First, Mr TSE is very concerned about the matching transport facilities on this site. I very much agree with him on this point. In this connection, the first letter "C" of the four major themes of Energizing Kowloon East precisely stands for "Connectivity". In respect of matching transport facilities, we are concerned about the intra-regional connectivity of the area or how the two old districts of Kwun Tong and Kowloon Bay can be directly and easily connected to the Kai Tai new development area, and this is why an Environmentally Friendly Linkage System (EFLS) is proposed. We are also concerned about the inter-regional connectivity of Kowloon East. For instance, Mr TSE asked about the transport infrastructure. As for the progress of the Shatin to Central Link (SCL) to date, the Transport and Housing Bureau already published in the Gazette the railway scheme of the SCL on 26 November last year under the Railways Ordinance. Since the SCL is large in scale, its alignment covers many local communities and involves many issues of public concern. The Transport and Housing Bureau gazetted the technical amendments on 15 July this year, and is in the process of preparing the second-stage amendments. The amendments are proposed mainly in response to the concerns and views expressed by the public. The goal of the Government is to complete the statutory procedure of consultation in the first half of next year and seek funding for the project as a whole from the Legislative Council in the second quarter of next year.

As regards Route 6 mentioned by Mr TSE, Route 6 is comprised of Trunk Road T2, Tseung Kwan O — Lam Tin Tunnel, and Central and Kowloon Route. According to the information on hand, the planning of these transport infrastructure projects has commenced one after another.

Another point mentioned by Mr TSE is supporting tourism facilities, particularly the development of hotels. As Mr TSE may be aware, in the beginning of this term of the Government, we were already aware that following the implementation of the Individual Visit Scheme and a substantial increase in the number of visitors, the supply of hotels would be of the utmost importance.

But like Mr TSE, we understand that it may not be cost-effective to hotel operators if they are asked to purchase commercial sites to develop hotels. Therefore, over the past few years, we have implemented a new policy measure to put up "hotel only" sites for sale, and a number of these sites for hotel use have since entered the market.

Another measure which is conducive to the development of hotels is certainly the revitalization of industrial buildings. Particularly in respect of wholesale conversion, many of the applications received so far have actually told us that they wish to convert the industrial buildings for hotel use. It is because the greatest incentive for wholesale conversion is that the premium or the waiver fee as referred to by us will be waived for the remaining tenure of the industrial building. Mr TSE asked whether consideration can be given to providing financial incentives in redevelopment projects. After initial consideration and internal assessment, we came to the view that great difficulties would be involved indeed. Having said that, we have completed the mid-term review recently and extended the deadline for redevelopment projects to 2016. The previous measures adopted for redevelopment can apply to applications for redevelopment of industrial buildings by the owners.

The third point mentioned by Mr TSE is about connectivity by sea and land transport and I fully share his view. In fact, with such a beautiful Victoria Harbour and so many facilities on both sides of the harbour in Hong Kong, increasing the use of sea transport should be very convenient and attractive. In this connection, we are currently undertaking work on two fronts. First, the Harbourfront Commission has recently set up the fourth Task Force, responsible for water-land interface issues. In other words, it is tasked to seriously look into the feasibility of increasing the use of sea transport in the Victoria Harbour or even beyond the harbour. Our second area of work is that, as many Members may know, we have recently reached a certain understanding with the Society for Protection of the Harbour that an appropriate degree or minor reclamation is not entirely out of the question in the Victoria Harbour, provided that such reclamation works are beneficial to the public and are carried out for the enjoyment of the public. This consensus will support the feasibility of the future development of water taxis or other means of transport in the harbour which may require reclamation of a small scale. In view of this, the West Kowloon Cultural District Authority has recently proposed in its development plan the construction of two small-scale piers to facilitate the operation of sea transport in the future.

These valuable tourism resources will definitely be conducive to the development of Kowloon East into a business and tourism district, but these tourism resources in the new development area are surely not the only source of energy of Energizing Kowloon East, and an attractive business district cannot rely solely on tourism development. This is why Mr CHAN Kam-lam's amendment can more comprehensively and fully enrich our discussion today. Indeed, Mr CHAN does not start expressing aspirations for and concern about the development of this district just today and here, I must thank Mr CHAN Kam-lam and friends from the DAB in the district who have, over the years, studied from a pragmatic perspective the development direction of Kowloon East and given many valuable views to the Administration. Their proposals share many common points with the themes in our conceptual master plan for the development of Kowloon East. Members who have read this booklet on Energizing Kowloon East will recall that — as also mentioned by many Members earlier on — there are four major themes of Energizing Kowloon East. They are the broad development strategies which are abbreviated to CBDD in the master conceptual plan. They include: Enhancing Connectivity, Branding the place with quality urban Design, and Promoting Diversity. These happen to coincide with the proposals in the amendment proposed by Mr CHAN today.

In respect of enhancing connectivity, apart from the proposed provision of an EFLS and enhancing intra-regional connectivity that I have just mentioned, we have also proposed to improve the footbridge networks and barrier-free facilities linking MTR stations, the premier office node, the harbourfront and hubs for various activities. A number of Members have coincidentally expressed their aspirations for the EFLS, hoping that we will proceed with its development and complete it expeditiously. We will certainly consider this in detail in our next stage of work but of course, as its connection will require the Kai Tak Station of the SCL, the timetable for the construction of the SCL that I have just mentioned will have a certain bearing on the EFLS. But I heard Mr CHAN suggest that a phased development approach could perhaps be adopted, and we will look into this proposal specifically. But I must say that there is one thing which I find most encouraging today and that is, according to the five Members who have spoken so far, it seems that they tend to be in favour of the development of the EFLS or an elevated monorail system. Having said that, I must add a note here because an elevated monorail system is actually not to the liking of everybody. Take the discussion of the Harbourfront Commission yesterday as an example. Views were divided and some people considered it grossly undesirable and even

described it as disgusting. Therefore, we will be very careful in the public consultation to be conducted in the future.

In respect of branding the place with quality urban design, we will develop Kowloon East into a new-generation quality business district where there will be an abundant supply of land for developing Grade A offices, mega business and retail centres, and hotels or serviced apartments. The district will become a tourism, recreational and entertainment hub with highly efficient transport links and beautified streetscape. Quality architecture and landscape design will also be encouraged. Lastly, in respect of promoting diversity, we will re-designate two government sites for comprehensive development use to promote diversity in land use and activities, thereby providing support to the transformation of Kowloon East into a brand new and vibrant business district. Moreover, we will fully utilize the dam in Kowloon East, which is rarely found in the territory, and give consideration to developing aquatic activities and facilities as well as a marina as suggested by the public or Mr CHAN. We will embark on the development of the 11 km-waterfront promenade step by step to inject diversity into the development of the harbourfront and enhance its appeal to the public. Both Mr LI and Mr CHAN hope that this waterfront promenade will stretch beyond 11 km to become a continuous promenade extending from Lei Yue Mun to Sham Shui Po. This is consistent with the plan that we have been taking forward through the 22 action areas in the Harbourfront Commission. That said, it will take a rather long time before this can be realized.

The only proposal involving difficulties in Mr CHAN's amendment is the extension of the EFLS to To Kwa Wan. But anyway, as the alignment of the EFLS and issues in other aspects will be explored in the public consultation exercise to be conducted later in the first quarter of next year, we will be glad to look into this proposal. However, we still have to pay attention to the difficulties in reality.

In response to Mr Alan LEONG's amendment, I have noticed two new points. Firstly, Mr LEONG often stresses the need of holding discussions with the public; secondly, Mr LEONG hopes that certain developments for the purpose of Energizing Kowloon East can be completed expeditiously or on a priority basis. In fact, in his work relating to the Development Bureau in the Legislative Council over the years, Mr Alan LEONG has expressed the wish that we can hold discussions with the public. I trust our work in recent years has not let Mr

LEONG down. The example mentioned by Mr LEONG is quite far away from now and that is, when the South East Kowloon Development, or today's Kai Tak Outline Zoning Plan (OZP), was studied through the Harbour-front Enhancement Committee (HEC), we had closely discussed with the Subcommittee on South East Kowloon Development Review of the HEC and continuously communicated with the public before achieving the result, with the Approved OZP being eventually implemented without much controversy in end-2007. But there is a more recent example, and I hope Mr LEONG will agree, and that is, we have spent more than two years holding discussions with the public in bringing about the Review of the Urban Renewal Strategy, and even the "flat for flat" option and the "bottom-up" District Urban Renewal Forum, and there is also the regulation of flats with inflated saleable area. All these are examples in which we have adopted the approach of holding discussions with the public before introducing the relevant policies.

Since the KTD was brought forward to the implementation stage, we have continued to adopt the approach of holding discussions with the public in taking forward the KTD. The establishment of the Kai Tak Office has enabled us to be more focused on our work in holding discussions with the public to collect public views. For example, the Kai Tak Office has made great efforts to launch public engagement activities in two stages on Kai Tak River and Lung Tsun Stone Bridge for the public to express their views for incorporation into the final design.

Besides, in the amendment of the approved Kai Tak OZP, we also adopted the approach of holding discussions with the public to fully respond to public aspirations. The amendment of the approved Kai Tak OZP mainly covered Kai Tak City Centre, the South Apron, and the runway area. The amendments relating to Kai Tak City Centre are meant to support the *in-situ* preservation of Lung Tsun Stone Bridge, while those relating to the South Apron and the runway serve to move the roads away from the harbourfront to improve public accessibility to the waterfront area. All these are actual examples of revisions being made to the original plans according to public views gauged after discussions with the public. In taking forward the plan of Energizing Kowloon East, we will certainly follow this work direction through the proposed establishment of the Kowloon East Development Office. To display this concept of our work, we have taken the first opportunity to earmark a government lot of about 3 300 sq m underneath the elevated vehicular flyover of the Kwun

Tong Bypass at Hoi Bun Road in Kwun Tong for the establishment of a provisional site office cum information kiosk. The early establishment of the information kiosk will facilitate activities for holding discussions with the public.

With regard to the second point made by Mr Alan LEONG, I believe Mr LEONG should understand that the SAR Government very much hopes that the infrastructure projects as planned can be launched early. Our determination to do so is beyond doubt. Mr LEONG particularly proposed that some park facilities should be completed on a priority basis. In fact, the Kwun Tong Waterfront Promenade Stage 1, which was completed early last year, is a public open space within the Kowloon East area opened for public use. At a later time in the current legislative year, we will submit the proposed development of Kwun Tong Waterfront Promenade Stage 2 and the Runway Park Phase I at a total cost of over \$400 million to the Public Works Subcommittee and Finance Committee for approval. Subject to the approval of these two projects by the two Committees, the Runway Park Phase I and the entire Kwun Tong Waterfront Promenade, which is about 900 m long, will be completed hopefully in 2013 and 2014 respectively for public enjoyment.

Mr LEONG would like us to also expedite the relocation of the government offices cluster in Wan Chai to Kai Tak. I am glad to report to Members here that the relevant work is underway. We have, in the amended Kai Tak OZP, re-designated a piece of land in the North Apron area originally designated for commercial use to be a "government, institution and community" site for reprovisioning the government offices cluster in Wai Chai.

Here, I also wish to respond to or clarify a point or two raised by Mr LEONG. He said that Energizing Kowloon East will require a huge amount of public money. In fact, apart from the large-scale infrastructure projects in the Kai Tak Development Area, the other areas of work under the plan of Energizing Kowloon East, such as some development projects in Kwun Tong and Kowloon Bay, may not require a huge input of public funds, because we are not going to launch major infrastructure projects there but great benefits will still be generated. Through the transformation of these former industrial areas, we will be able to generate even greater land benefits. Besides, Mr LEONG might have read some press reports and misunderstood that I had promoted these developments to some real estate developers. This is not true. It is because in this year's MIPIM Asia 2011, which is an annual event, I made a luncheon speech on this topic, and the

attending guests were not invited by me either. Therefore, it is not the case that I had given an introduction particularly to the real estate developers. On the contrary, if any district organization is interested in learning more about the details of Energizing Kowloon East, we would be more than happy to give briefings to them. Through the arrangements of the DAB, we have given a briefing to the Kowloon Federation of Associations, and before I came into this Chamber, Mr Fred LI also expressed the hope that we could send colleagues to give a briefing to friends in the Democratic Party in the district. We are glad to do so. In this connection, if Mr LEONG's Civic Party would like us to give them a briefing, please let us know by all means, and we will be all the more pleased to give a briefing to Members as well as people in the district who are concerned about Energizing Kowloon East. We hope that these briefings can promote interactions.

True enough, the public consultation exercise on the EFLS will be conducted only early next year. It is because with regard to the consultancy report released some time ago, we will need to collate a large amount of information and data, but I can assure Members here that for the purpose of public discussion, as views on the EFLS are rather divided and a huge investment will be required, I will certainly take an attitude of providing the fullest possible picture and presenting all the data before Members and the public, including disclosing all financial details, for the public to make a decision.

As regards Mr WONG Kwok-kin's amendment, it is broadly similar to the several other amendments proposed by Members today, except that Mr WONG mentioned Tai Hom Village and the expansion of the United Christian Hospital, which, I think, seem to be deviating a bit too far. We must be focused in implementing district-based integrated development plans. We must not allow our attention to be diverted too much to issues outside the focus, or else I am afraid the objective can hardly be achieved. Likewise, Mr Fred LI mentioned that the opportunity can be taken to deal with the 13 streets and the cattle depot, and I believe when Ms Starry LEE rises to speak later, she will also call on me to "energize central Kowloon", but I think we cannot possibly include all these issues in the plan of Energizing Kowloon East for the time being. This does not mean that I do not care about these issues of concern to Members, such as Tai Hom Village. The Planning Department will follow up its land use planning. So, Mr WONG's views on Tai Hom Village, including the "three treasures" of Tai Hom Village, are well noted. Certainly, I very much agree with Mr WONG's

proposal of linking the new and old areas and restoring the local features, such as the cultural monuments. These will all be included in our study.

In his amendment, Mr Fred LI has put forward another view which is most concrete and important and that is, upgrading the water quality of the Kai Tak waterway. In the last legislative year, a provision of \$717.7 million was approved for us to carry out bio-remediation works for treating Kai Tak Approach Channel and the contaminated sediments at the seabed of Kwun Tong Typhoon Shelter, which are expected to be completed in mid-2013 to tie in with the commissioning of the cruise terminal. Besides, the Drainage Services Department has since 2009 carried out works to improve the drainage and sewerage systems in the hinterland districts of KTD, and construct additional sewage interception facilities to intercept and transfer polluted discharges to the sewerage system. The estimated cost of the works is about \$2 billion. Upon completion of these works, the water quality and the odour problem at the Kai Tak waterfront should have been greatly ameliorated. In fact, if no improvement can be made to the water quality, it will be impossible for the aquatic activities that I mentioned earlier in the context of diversified development or the various types of marine facilities proposed by Mr CHAN to realize. Therefore, this is a very important point.

Mr LI also mentioned cycle tracks. I think Members are aware of the work done by the Development Bureau in the provision of cycle tracks in recent years. The Civil Engineering and Development Department is conducting studies on further extension of the original cycle tracks network in the Kai Tak Development Area. This will enable members of the public to enjoy the cycle tracks networks in and outside the new development area more conveniently and help link up the major tourist attractions in the district. Mr LI hopes that the cycle tracks in Kai Tak can be linked to other places outside the district. We will be glad to explore this proposal in the next phase of our studies.

Apart from being a forward-looking plan, Energizing Kowloon East is also a major test to the implementation ability of the SAR Government. To expedite the transformation of Kowloon East, we plan to set up a new Kowloon East Development Office within the Development Bureau. We are studying the structure of this Office and therefore, we may not be able to provide all the detailed information sought by Mr LEONG today. We plan to consult the Legislative Council Panel on Development on the setting up of the new Kowloon

East Development Office early next year and submit the proposal to the Establishment Subcommittee for consideration at a later time. I hope that Members will throw great weight behind the proposal then, so that the new Office can be set up smoothly for us to expeditiously launch and implement the work for promoting the development of Kowloon East.

President, I will seriously listen to other Members' speeches which may have to be delivered tomorrow morning. I will then further provide supplementary information or give a response. Thank you, President.

MR ALBERT CHAN (in Cantonese): President, thank you for giving me the chance to express my views on the matter before the meeting concludes today. First of all, with respect to the Kai Tak Development, I wish to thank the Secretary for acting on our request and honouring the pledge made by the Government many years ago to set aside certain parts of Kai Tak for urban renewal. The pledge was revoked during the time when Michael SUEN was in office and at that time we condemned the Government for going back on its words and failing to honour its pledge. But I am glad to see now the Secretary has done so.

I would like to make use of this opportunity to discuss with the Secretary and Members the question of planning procedures. On the details, principles and spirit regarding the Energizing Kowloon East initiative, I believe most Members and citizens will show their support and welcome it. But the relevant planning procedures must be handled carefully, for if planning lacks in transparency and when the decision-making process does not see public participation, it would be doubtful if public engagement as the Secretary has just said can be achieved. It is likely that things will just be decided by the executive authorities and it would be hard to figure out the rationale behind the planning and the causes and interests at stake.

Discussions on the development of Kowloon East or Kai Tak began as early as in the 1980s because planning was involved. On this question of planning, I would think that we should discuss it at three levels. The first level is district planning which we are very familiar with. This includes the formulation of an Outline Zoning Plan (OZP), which is a statutory procedure under the charge of a statutory body. The planning concerned must be

transparent and there should be public participation. The Secretary, as an example, said earlier that another round of consultation would be conducted on the Kai Tak OZP. About these planning initiatives made in the past, there are many which I oppose. This applies especially to the building of a stadium in Kai Tak. I oppose it vehemently for it will waste precious land resources in the urban areas. There are statutory procedures and mechanisms related to planning at the district level, but there are no statutory procedures or any related statutory bodies to govern planning at the regional or territory-wide and strategic level. This precludes public participation as a result. And in such circumstances, we have to rely on the benevolence of the executive authorities and the personal preferences of the officials concerned to make any decision on how to gauge public opinion by any open or any special procedures.

About the territory-wide planning which I have just mentioned, in the 1980s, that is, back in 1988, the Government issued some discussion papers on the Metroplan for Hong Kong. A territory-wide consultation exercise was held. After the consultation which spanned many years, the Government arrived at a preliminary decision in 1991 and it was reviewed in 2001 before finalizing a plan. In 2002, some very specific recommendations on the Metroplan were proposed. These recommendations stated clearly that the Government had decided to turn districts like Kwun Tong, Lai Chi Kok, San Po Kong, Quarry Bay and Chai Wan into a commercial hub. And Kwai Chung, Tsing Yi and Kwun Tong would be developed into an intensive commercial district. Now nine years have passed and those decisions remain decisions. Besides, the Government also conducted some consultations and discussions in the year 2000 on Hong Kong 2030: Planning Vision and Strategy.

At that time, both the public at large and I as a Member of this Council thought that the 2030 planning and the Metroplan were reviews conducted at two different levels. In 2000 the Government decided to proceed with the 2030 planning which was on the long-term development of Hong Kong in the next 30 years. Special emphasis was placed on quality of life in the city, land use and such like issues. But the focus of the consultation exercise for the Metroplan was a little bit different. It is clear that in respect of the Metroplan, discussion was conducted to decide which districts were more suitable for commercial development. At that time, it was decided in the Metroplan that places like North Point and Quarry Bay were to be developed into a business hub and it was

also specified that dense commercial buildings would be erected in some other key areas.

But nine years have passed at a wink and we have not heard about many of these projects. In the consultation exercise held for 2030 planning, we did take part and offer our views. And we had also read some very detailed reports. When I read the specific recommendations found in the detailed report for 2030 planning again just now, I found that there are some recommendations on developing the Kai Tak area. But nothing is said about the plan for intense development in places like Kwai Chung, Tsing Yi and Lai Chi Kok being dropped. We should note that such projects have undergone many years of consultation — discussion first began in 1988, announcements were made in 2002 for the second time — and we all have a feeling that these projects will follow through. But all of a sudden, it appears as if we were back to the times of TUNG Chee-hwa — that a plan will cease to exist when it is not mentioned anymore. Now the Chief Executive has made a sudden announcement in his policy address about Energizing Kowloon East. Of course, I welcome any plans to develop Kowloon East. But as a matter of overall planning, there is a need for the Government to do something about its decision made back in 2002, on matters like the development of the commercial hub, and so on. Why do the Chief Executive of the current term and the executive departments of the Government of the same term like to single out Kowloon East? And it now seems that all the decisions made in 2002 about the development of other districts have been forgotten, vanishing into thin air.

So I hope very much that the Secretary I know perfectly well that the Secretary is acting according to the 2030 planning. But Secretary, as I have read the report on the 2030 planning again and again, I found that what is said there are the vision and various plans for development. Nothing is said on development plans which were announced in 2002 and for which a direction was mapped out being dropped in the end. I think this is most unfair to other districts. Of course, Members from Kowloon East and many political parties will certainly welcome the development of Kowloon East, but what about other districts? In 2002 after the Government had made the announcements, many people from the districts expected that similar plans for development would be formulated for their own districts. Moreover, for decisions made after consultations and discussions held for 13 years, how can they be dropped and cancelled all of a sudden without going through any discussions? I cannot agree

to that, and I am disappointed. I hope the Government can make an explanation and give an account on the developments in this regard later.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at five minutes past Ten o'clock.

Annex I

Road Traffic (Amendment) Bill 2011

Committee Stage

Amendments moved by the Secretary for Transport and Housing

<u>Clause</u>	<u>Amendment Proposed</u>
4	By adding “39KA,” after “39K,”.
5(1)	By deleting “(2BA)” and substituting “(2AB)”.
5(2)	By adding “39KA (other than subsections (2), (3), (4) and (5)),” before “39L,”.
6(3)	By deleting “(2BA)” and substituting “(2AB)”.
6(9)	By deleting “(2BA)” and substituting “(2AB)”.
6	By adding— “(10) Section 36(10)— Repeal “or 39A” Substitute “, 39A, 39J, 39K or 39KA”.”.
7	(a) By renumbering the clause as clause 7(1).

- (b) By adding—
- “(2) Section 36A(16)—
- Repeal**
- “or 39A”
- Substitute**
- “, 39A, 39J, 39K or 39KA”.”.
- 8
- (a) By renumbering the clause as clause 8(1).
- (b) By adding—
- “(2) Section 37(9)—
- Repeal**
- “or 39A”
- Substitute**
- “, 39A, 39J, 39K or 39KA”.”.
- 9(3) In the Chinese text, in the proposed section 39(4), by deleting everything after “以下情況，” and substituting “即當作未有掌管汽車：在關鍵時間，按當時情況，只要該人仍受酒類影響，程度達到沒有能力妥當地控制該汽車，該人當時便不可能駕駛該汽車。”.
- 9(4) By deleting everything after “**Repeal**” and substituting—
- ““是否曾有一如第(4)款所述的相當可能”
- Substitute**
- “上述的人是否如第(4)款所述當時不可能駕駛有關汽車”.”.
- 9
- By adding—
- “(5) After section 39(5)—
- Add**

- “(6) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38.”.”.
- 10(1) In the proposed section 39A(4), by deleting everything after “以下情況，” and substituting “即當作未有掌管汽車：在關鍵時間，按當時情況，只要該人的呼氣、血液或尿液中的酒精比例，仍相當可能超過訂明限度，該人當時便不可能駕駛該汽車。”.
- 10(2) By deleting everything after “**Repeal**” and substituting—
““是否曾有一如第(4)款提述的相當可能”
Substitute
“上述的人是否如第(4)款所述當時不可能駕駛有關汽車”.”.
- 10 By adding—
“(3) After section 39A(5)—
Add
“(6) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38.”.”.
- 11(2) In the proposed section 39B(10)(b), by deleting “令該測試得以在令人滿意的情況下” and substituting “使該測試得以令人滿意地”.
- 12(5) (a) In the proposed section 39C(11A)(a)(ii), by adding “or (2)” after “subsection (1)(b)”.

(b) By deleting the proposed section 39C(11A)(b)(i) and substituting—

“(i) (if it is a person referred to in paragraph (a)(i)) he or she may be incapable of providing a specimen of breath and of giving a valid consent to the taking of a specimen of blood, and (if it is a person referred to in paragraph (a)(ii)) he or she may be incapable of giving a valid consent to the taking of a specimen of blood; and”.

12(8) In the proposed section 39C(19)(b), by deleting “令該分析或化驗得以在令人滿意的情況下” and substituting “使該分析或化驗得以令人滿意地”.

- 14
- (a) In the proposed section 39J, in the heading, by deleting “**any**” and substituting “**specified illicit**”.
- (b) In the proposed section 39J(1), by adding “specified illicit” after “influence of a”.
- (c) In the proposed section 39J(1)(b)(iv), by adding “39KA,” after “39K,”.
- (d) In the proposed section 39J(3), by deleting everything after “to be disqualified—” and substituting—
- “(a) for a first conviction, is a period of not less than 5 years; and
- (b) for a subsequent conviction, is a period of not less than 10 years.”.
- (e) In the proposed section 39J(4), by deleting “for the offence of driving or attempting to drive, or being in charge of, a motor vehicle on any road while he or she is under the influence of a specified illicit drug to such an extent as to be incapable of having proper control of the motor vehicle”.

- (f) In the proposed section 39J(5)(a), by deleting “not less than the relevant minimum period” and substituting “of not less than 5 years”.
- (g) In the proposed section 39J(5)(b), by deleting “not less than the relevant minimum period” and substituting “of not less than 10 years”.
- (h) In the proposed section 39J(6)(a), by deleting “less than the relevant minimum period” and substituting “of less than 5 years”.
- (i) In the proposed section 39J(6)(b), by deleting “less than the relevant minimum period” and substituting “of less than 10 years”.
- (j) In the proposed section 39J(7), by adding “39KA,” after “39K,”.
- (k) In the proposed section 39J(8), by adding “specified illicit” after “influence of a”.
- (l) In the proposed section 39J(9), in the Chinese text, by deleting everything from “是否存在” to “有關” and substituting “上述的人是否如第(8)款所述當時不可能駕駛有關汽車時，可不理會該人所受的任何損傷及該”.
- (m) In the proposed section 39J(10), by adding “specified illicit” after “influence of a”.
- (n) In the proposed section 39J(10)(b), by deleting “drug or of the combination of drugs present in the person’s blood or urine” and substituting “specified illicit drug or of the combination of such drugs present in the person’s blood or urine and to which the charge relates”.
- (o) By deleting the proposed section 39J(11).

- (p) By adding before the proposed section 39J(12)(a)—
- “(aa) the specified illicit drug or the combination of such drugs found in the person’s blood or urine and to which the charge relates was lawfully obtained;”.
- (q) In the proposed section 39J(12)(a), by adding “specified illicit” after “the lawfully obtained”.
- (r) In the proposed section 39J(12)(b), in the Chinese text, by deleting “藥物或該藥物” and substituting “指明毒品或指明毒品”.
- (s) In the proposed section 39J(13), by deleting “under subsection (1) with driving or attempting to drive, or being in charge of, a motor vehicle on any road while under the influence of a specified illicit drug to such an extent as to be incapable of having proper control of the motor vehicle” and substituting “with an offence under subsection (1)”.
- (t) In the proposed section 39J(13)(a), by deleting “and” and substituting “but may”.
- (u) In the proposed section 39J(13)(b), by deleting everything after “acquitted of the” and substituting “offence under subsection (1) but may be found guilty of an offence under section 39KA.”.
- (v) In the proposed section 39J, by adding—
- “(13A) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (12) does not apply to those offences.
- (13B) For the purposes of subsection (12), a specified illicit drug is lawfully obtained if it is a specified illicit drug that is prescribed for or administered or supplied to an accused person by a healthcare professional.”.

- (w) In the proposed section 39J(14), in the definition of *advice*, by deleting everything after “that is referred to in” and substituting “subsection (13B), written or oral advice given to an accused person by the healthcare professional who prescribed, administered or supplied the drug;”.
- (x) In the proposed section 39J(14), in the definition of *healthcare professional*, by deleting paragraph (c).
- (y) In the proposed section 39J(14), in the definition of *healthcare professional*, in paragraph (e), by deleting “, (c)”.
- (z) In the proposed section 39J(14), by deleting the definitions of *lawfully obtained drug* and *relevant minimum period*.
- (za) In the proposed section 39K(1)(b)(iv), by adding “39KA,” after “39J,”.
- (zb) In the proposed section 39K(5)(a), in the English text, by deleting “he or she has attended and completed a” and substituting “the person has attended and completed the”.
- (zc) In the proposed section 39K(5)(b), in the English text, by deleting “he or she has attended and completed a” and substituting “the person has attended and completed the”.
- (zd) In the proposed section 39K(6), by adding “39KA,” after “39J,”.
- (ze) In the proposed section 39K(7), by deleting everything after “to prove that—” and substituting—
- “(a) if only one specified illicit drug was present in his or her blood or urine, that drug; or
- (b) if more than one specified illicit drug was present in his or her blood or urine, every such drug,
- was a specified illicit drug that was prescribed for or administered or supplied to the person by a healthcare

professional.”.

(zf) In the proposed section 39K(8), in the Chinese text, by deleting everything after “以下情況，” and substituting “即視為未有掌管汽車：在關鍵時間，按當時情況，只要該人的血液或尿液含有任何濃度的指明毒品，該人當時便不可能駕駛該汽車。”.

(zg) In the proposed section 39K(9), in the Chinese text, by deleting everything from “是否存在” to “有關” and substituting “上述的人是否如第(8)款所述當時不可能駕駛有關汽車時，可不理會該人所受的任何損傷及該”.

(zh) In the proposed section 39K, by adding—

“(9A) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (7) does not apply to those offences.”.

(zi) In the proposed section 39K(10), in the Chinese text, in the definition of *first conviction*, by deleting the full stop and substituting a semicolon.

(zj) In the proposed section 39K(10), by adding—

“*healthcare professional* (醫護專業人員) has the meaning given by section 39J(14);”.

(zk) By adding—

“39KA. Driving motor vehicle without proper control under influence of drug other than specified illicit drug

(1) A person who drives or attempts to drive, or is in charge of, a motor vehicle on any road while he or she is under the influence of a drug other than a specified illicit drug (*non-specified drug*) to such an extent as to be incapable of having proper control of the motor vehicle commits an offence and is liable—

(a) on conviction on indictment, to a fine at

- level 4 and to imprisonment for 3 years;
and
- (b) on summary conviction—
 - (i) on a first offence under this subsection, to a fine at level 3 and to imprisonment for 6 months;
 - (ii) subsequent to a conviction on indictment under this subsection, to a fine at level 4 and to imprisonment for 12 months;
 - (iii) subsequent to a summary conviction under this subsection, to a fine at level 4 and to imprisonment for 12 months; or
 - (iv) subsequent to a conviction under section 39J, 39K, 39N(1) or 39R, to a fine at level 4 and to imprisonment for 12 months.
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (3) or (4) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (3) Subject to subsection (4), the period for which the person is to be disqualified—
- (a) for a first conviction, is a period of not less than 6 months; and
 - (b) for a subsequent conviction, is a period of not less than 2 years.
- (4) If the court or magistrate has ordered a person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified—
- (a) for a first conviction, for a period of not less than 6 months, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
 - (b) for a subsequent conviction, for a period of

not less than 2 years, or until the person has attended and completed the course at his or her own cost, whichever is the later.

- (5) For the purposes of subsection (2), a person to whom subsection (4) applies is disqualified for a shorter period if the period for which he or she is disqualified—
- (a) for a first conviction, is a period of less than 6 months, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
 - (b) for a subsequent conviction, is a period of less than 2 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (6) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction, if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction under subsection (1) or section 39J, 39K, 39N(1) or 39R.
- (7) A person is taken not to have been in charge of a motor vehicle if he or she proves that at the material time the circumstances were such that there was no likelihood of the person's driving the motor vehicle so long as he or she remained under the influence of a non-specified drug to such an extent as to be incapable of having proper control of the motor vehicle.
- (8) The court or magistrate may, in determining whether there was such a likelihood as is mentioned in subsection (7), disregard any injury to the person and any damage to the motor vehicle.
- (9) For the purposes of subsection (1), a person is under the influence of a non-specified drug to such an extent as to be incapable of having proper control of the motor vehicle if—
- (a) the person's ability to drive properly is for the time being impaired; and
 - (b) the concentration of the non-specified drug

or of the combination of such drugs present in the person's blood or urine and to which the charge relates would usually result in a person being unable to drive properly.

- (10) It is a defence for a person charged under subsection (1) to prove that—
- (a) the non-specified drug or the combination of such drugs found in the person's blood or urine and to which the charge relates was lawfully obtained;
 - (b) he or she did not know and could not reasonably have known that the lawfully obtained non-specified drug or the combination of such drugs found in the blood or urine would render him or her incapable of having proper control of a motor vehicle if consumed or used in accordance with advice; and
 - (c) he or she consumed or used that drug or combination of those drugs in accordance with that advice.
- (11) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (10) does not apply to those offences.
- (12) For the purposes of subsection (10), a non-specified drug is lawfully obtained if it is—
- (a) a non-specified drug that is prescribed for or administered or supplied to an accused person by a healthcare professional;
 - (b) a non-specified drug that is a pharmaceutical product as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138)—
 - (i) that is registered as mentioned in regulation 36 of the Pharmacy and Poisons Regulations (Cap. 138 sub. leg. A); and
 - (ii) for the sale of which a prescription is not required by Hong Kong law;

or

- (c) a non-specified drug that is a proprietary Chinese medicine, as defined by section 2(1) of the Chinese Medicine Ordinance (Cap. 549), that is registered under section 121 of that Ordinance.

(13) In this section—

advice (指示) means, in relation to a drug that is referred to in—

- (a) subsection (12)(a)—
 - (i) written or oral advice given to an accused person by the healthcare professional who prescribed, administered or supplied the drug; and
 - (ii) information written on a label, as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138), accompanying the prescribed or supplied drug;
- (b) subsection (12)(b), any information written on a label referred to in paragraph (a)(ii) accompanying the drug; and
- (c) subsection (12)(c), any information on the package insert, as defined by section 2(1) of the Chinese Medicine Ordinance (Cap. 549), supplied with the drug;

first conviction (首次定罪) means a conviction on a first offence under subsection (1) (whether a conviction on indictment or a summary conviction);

healthcare professional (醫護專業人員) means—

- (a) a medical practitioner;
- (b) a registered dentist as defined by section 2(1) of the Dentists Registration Ordinance (Cap. 156);
- (c) a registered Chinese medicine practitioner or a listed Chinese medicine practitioner, as defined by section 2(1) of the Chinese

Medicine Ordinance (Cap. 549);

- (d) a person whose name is entered on the register of pharmacists under section 5 of the Pharmacy and Poisons Ordinance (Cap. 138); or
- (e) a person acting under the direction or supervision of a person referred to in paragraph (a), (b), (c) or (d);

subsequent conviction (再次定罪) means—

- (a) a conviction subsequent to a first conviction; or
- (b) a conviction referred to in subsection (1)(b)(ii), (iii) or (iv).

(14) In this section a reference to a conviction for an offence under subsection (1) includes a conviction pursuant to section 39J(13)(b).”.

- (zl) In the proposed section 39N(1)(b)(iv), by adding “, 39KA” after “39K”.
- (zm) In the proposed section 39N(2)(b), in the Chinese text, by deleting “令該測試得以在令人滿意的情況下” and substituting “使該測試得以令人滿意地”.
- (zn) In the proposed section 39N(8), by adding “, 39KA” after “39K”.
- (zo) In the proposed section 39N(9)(b), by deleting “or 39K(1)” and substituting “, 39K(1) or 39KA(1)”.
- (zp) In the proposed section 39N(9)(c), by deleting “or 39K(1)” and substituting “, 39K(1) or 39KA(1)”.
- (zq) By deleting the proposed section 39P(1)(b)(i) and substituting—
 - “(i) (if it is a person referred to in paragraph (a)(i)) he or she may be incapable of undergoing a preliminary drug test and of giving a valid consent to the taking of a specimen of blood, and (if it is a person referred to in paragraph (a)(ii)) he or she may be incapable of giving a valid

consent to the taking of a specimen of blood; and”.

- (zr) In the proposed section 39Q(1), by deleting “or 39K” and substituting “, 39K or 39KA”.
- (zs) In the proposed section 39R(1)(b)(iv), by adding “, 39KA” after “39K”.
- (zt) In the proposed section 39R(2)(b), in the Chinese text, by deleting “令該分析或化驗得以在令人滿意的情況下” and substituting “使該分析或化驗得以令人滿意地”.
- (zu) In the proposed section 39R(6)(a), in the English text, by adding a comma after “5 years”.
- (zv) In the proposed section 39R(7), by adding “, 39KA” after “39K”.

New

By adding—

“14A. Section 69A amended (Start of disqualification period)

Section 69A(2)—

Repeal

“the expiration of the term of imprisonment or detention, or of any other term of imprisonment or detention which the person is undergoing at that expiration”

Substitute

“the person finishes serving the term of imprisonment or detention, or finishes serving any other term of imprisonment or detention which the person is undergoing at the time he or she finishes serving the first-mentioned term”.

16(1)

By adding “39KA,” after “39K,”.

- 16(2) (a) In the proposed section 72A(3B)(b), by deleting “3 months or more after” and substituting “after a period of 3 months or more beginning on”.
- (b) In the proposed section 72A(3C)(b)(i), by deleting “expiration of the term of imprisonment or detention the person is ordered to serve” and substituting “person finishes serving that term”.
- (c) In the proposed section 72A(3C)(b)(ii), by deleting “of expiration of” and substituting “the person finishes serving”.
- 16(9) In the proposed definition of *disqualification order*, by deleting everything after “39K(2),” and substituting “39KA(2), 39N(4), 39R(3), 41(3), 55(2) or 69(1)(a) that a person be disqualified;”.
- 17 By adding “39KA,” after “39K,”.
- 18 By adding “39KA,” after “39K,”.
- 19 In the proposed Schedule 1A, in item 3, by deleting “Methylamphetamine” and substituting “Methamphetamine (methylamphetamine)”.
- 20 By adding “39KA,” after “39K,”.
- 21 By adding “39KA,” after “39K,”.
- 22 By adding “39KA,” after “39K,”.

- 23 By adding “39KA,” after “39K,”.
- 24 By adding “39KA,” after “39K,”.
- 25 By adding “39KA,” after “39K,”.
- 26(3) (a) In the proposed item 4D, by adding “specified illicit” after
“influence of a”.
- (b) By adding—
- | | | | |
|------|-----------------|--|------|
| “4EA | Section 39KA(1) | Driving, attempting to
drive or being in
charge of a motor
vehicle under the
influence of a drug
other than a specified
illicit drug | 10”. |
|------|-----------------|--|------|

Road Traffic (Amendment) Bill 2011

Committee Stage

Amendments moved by the Honourable Andrew CHENG Kar-foo

<u>Clause</u>	<u>Amendment Proposed</u>
4 NOT PROCEEDED WITH	By adding “39KA,” after “39K,”.
5 NEGATIVED	By deleting subclause (1).
5(2) NOT PROCEEDED WITH	By deleting “39J (other than subsections (2), (3), (4), (5) and (6)), 39K (other than subsections (2), (3), (4) and (5)),” and substituting “39J (other than subsections (2), (3), (5) and (6)), 39K (other than subsections (2), (3), (4) and (5)), 39KA (other than subsections (2), (3), (4) and (5)),”.
6(2) NEGATIVED	By deleting everything after “ Repeal ” and substituting— “a period of not less than 5 years” Substitute “a disqualification period for life”. ”.
6 NEGATIVED	By deleting subclause (3).
6 NEGATIVED	By adding— “(4A) Section 36(2B)(a)— Repeal “; and” Substitute a full stop. ”.
6 NEGATIVED	By deleting subsection (5) and substituting— “(5) Section 36(2B)— Repeal paragraph (b). ”.
6(7) NEGATIVED	By deleting everything after “ Repeal ” and substituting— “for a period of less than 5 years” Substitute “less than for a disqualification period for life”. ”.
6 NEGATIVED	By deleting subclause (9).
6 NOT PROCEEDED WITH	By adding— “(10) Section 36(10)—

Repeal

“or 39A”

Substitute

“, 39A, 39J, 39K or 39KA”.”.

7
 NOT PROCEEDED
 WITH

(a) By renumbering the clause as clause 7(1).

(b) By adding—

“(2) Section 36A(16)—

Repeal

“or 39A”

Substitute

“, 39A, 39J, 39K or 39KA”.”.

8
 NOT PROCEEDED
 WITH

(a) By renumbering the clause as clause 8(1).

(b) By adding—

“(2) Section 37(9)—

Repeal

“or 39A”

Substitute

“, 39A, 39J, 39K or 39KA”.”.

14
 NOT PROCEEDED
 WITH

(a) In the proposed section 39J, in the heading, by deleting “**any**” and substituting “**specified illicit**”.

(b) In the proposed section 39J(1), by adding “specified illicit” after “influence of a”.

(c) In the proposed section 39J(1)(a), by deleting “level 4 and to imprisonment for 3 years” and substituting “level 5 and to imprisonment for 5 years”.

(d) In the proposed section 39J(1)(b)(iv), by adding “39KA,” after “39K,”.

(e) In the proposed section 39J(3), by deleting everything after “to be disqualified—” and substituting—

“(a) for a first conviction, is a period of not less than 5 years; and

(b) for a subsequent conviction, is a period of disqualification for life.”.

(f) By deleting the proposed section 39J(4).

(g) In the proposed section 39J(5)(a), by deleting “not less than the relevant minimum period” and substituting “of not less than 5 years”.

(h) In the proposed section 39J(5)(a), by deleting “; and” and substituting a full stop.

(i) By deleting the proposed section 39J(5)(b).

(j) In the proposed section 39J(6)(a), by deleting “less than the

NOT PROCEEDED
WITH

- relevant minimum period” and substituting “of less than 5 years”.
- (k) In the proposed section 39J(6)(b), by deleting “less than the relevant minimum period” and substituting “of less than a disqualification period for life”.
 - (l) In the proposed section 39J(7), by deleting everything after “a first conviction” and substituting “, if, as at the date on which the offence was committed, at least 5 years have passed since the person’s last conviction under subsection (1) or section 39K, 39KA, 39N(1) or 39R.”.
 - (m) In the proposed section 39J(8), by adding “specified illicit” after “influence of a”.
 - (n) In the proposed section 39J(9), in the Chinese text, by deleting everything from “是否存在” to “有關” and substituting “上述的人是否如第(8)款所述當時不可能駕駛有關汽車時，可不理會該人所受的任何損傷及該”.
 - (o) In the proposed section 39J(10), by adding “specified illicit” after “influence of a”.
 - (p) In the proposed section 39J(10)(b), by deleting “drug or of the combination of drugs present in the person’s blood or urine” and substituting “specified illicit drug or of the combination of such drugs present in the person’s blood or urine and to which the charge relates”.
 - (q) By deleting the proposed section 39J(11).
 - (r) By adding before the proposed section 39J(12)(a)—
“(aa) the specified illicit drug or the combination of such drugs found in the person’s blood or urine and to which the charge relates was lawfully obtained;”.
 - (s) In the proposed section 39J(12)(a), by adding “specified illicit” after “the lawfully obtained”.
 - (t) In the proposed section 39J(12)(b), in the Chinese text, by deleting “藥物或該藥物” and substituting “指明毒品或指明毒品” .
 - (u) In the proposed section 39J(13), by deleting “under subsection (1) with driving or attempting to drive, or being in charge of, a motor vehicle on any road while under the influence of a specified illicit drug to such an extent as to be incapable of having proper control of the motor vehicle” and substituting “with an offence under subsection (1)”.
 - (v) In the proposed section 39J(13)(a), by deleting “and” and substituting “but may”.
 - (w) In the proposed section 39J(13)(b), by deleting everything after “acquitted of the” and substituting “offence under subsection (1) but may be found guilty of an offence under section

NOT PROCEEDED
WITH

- 39KA.”.
- (x) In the proposed section 39J, by adding—
“(13A) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (12) does not apply to those offences.
(13B) For the purposes of subsection (12), a specified illicit drug is lawfully obtained if it is a specified illicit drug that is prescribed for or administered or supplied to an accused person by a healthcare professional.”.
- (y) In the proposed section 39J(14), in the definition of *advice*, by deleting everything after “that is referred to in” and substituting “subsection (13B), written or oral advice given to an accused person by the healthcare professional who prescribed, administered or supplied the drug;”.
- (z) In the proposed section 39J(14), in the definition of *healthcare professional*, by deleting paragraph (c).
- (za) In the proposed section 39J(14), in the definition of *healthcare professional*, in paragraph (e), by deleting “, (c)”.
- (zb) In the proposed section 39J(14), by deleting the definitions of *lawfully obtained drug* and *relevant minimum period*.
- (zc) In the proposed section 39K(1)(b)(iv), by adding “39KA,” after “39J,”.
- (zd) In the proposed section 39K(5)(a), in the English text, by deleting “he or she has attended and completed a” and substituting “the person has attended and completed the”.
- (ze) In the proposed section 39K(5)(b), in the English text, by deleting “he or she has attended and completed a” and substituting “the person has attended and completed the”.
- (zf) In the proposed section 39K(6), by adding “39KA,” after “39J,”.
- (zg) In the proposed section 39K(7), by deleting everything after “to prove that—” and substituting—
“(a) if only one specified illicit drug was present in his or her blood or urine, that drug; or
(b) if more than one specified illicit drug was present in his or her blood or urine, every such drug,
was a specified illicit drug that was prescribed for or administered or supplied to the person by a healthcare professional.”.
- (zh) In the proposed section 39K(8), in the Chinese text, by deleting everything after “以下情況，” and substituting “即視為未有掌

NOT PROCEEDED
WITH

管汽車：在關鍵時間，按當時情況，只要該人的血液或尿液含有任何濃度的指明毒品，該人當時便不可能駕駛該汽車。”。

- (zi) In the proposed section 39K(9), in the Chinese text, by deleting everything from “是否存在” to “有關” and substituting “上述的人是否如第(8)款所述當時不可能駕駛有關汽車時，可不理會該人所受的任何損傷及該”。
- (zj) In the proposed section 39K, by adding—
“(9A) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (7) does not apply to those offences.”。
- (zk) In the proposed section 39K(10), in the Chinese text, in the definition of *first conviction*, by deleting the full stop and substituting a semicolon.
- (zl) In the proposed section 39K(10), by adding—
“*healthcare professional* (醫護專業人員) has the meaning given by section 39J(14);”。
- (zm) By adding—
“39KA. Driving motor vehicle without proper control under influence of drug other than specified illicit drug
 (1) A person who drives or attempts to drive, or is in charge of, a motor vehicle on any road while he or she is under the influence of a drug other than a specified illicit drug (*non-specified drug*) to such an extent as to be incapable of having proper control of the motor vehicle commits an offence and is liable—
 (a) on conviction on indictment, to a fine at level 4 and to imprisonment for 3 years; and
 (b) on summary conviction—
 (i) on a first offence under this subsection, to a fine at level 3 and to imprisonment for 6 months;
 (ii) subsequent to a conviction on indictment under this subsection, to a fine at level 4 and to imprisonment for 12 months;
 (iii) subsequent to a summary conviction under this subsection, to a fine at level 4 and to imprisonment for 12 months; or
 (iv) subsequent to a conviction under section 39J, 39K, 39N(1) or 39R, to a fine at

NOT PROCEEDED
WITH

level 4 and to imprisonment for 12 months.

- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (3) or (4) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (3) Subject to subsection (4), the period for which the person is to be disqualified—
 - (a) for a first conviction, is a period of not less than 6 months; and
 - (b) for a subsequent conviction, is a period of not less than 2 years.
- (4) If the court or magistrate has ordered a person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified—
 - (a) for a first conviction, for a period of not less than 6 months, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
 - (b) for a subsequent conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his or her own cost, whichever is the later.
- (5) For the purposes of subsection (2), a person to whom subsection (4) applies is disqualified for a shorter period if the period for which he or she is disqualified—
 - (a) for a first conviction, is a period of less than 6 months, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
 - (b) for a subsequent conviction, is a period of less than 2 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (6) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction, if, as at the date on which the

NOT PROCEEDED
WITH

offence was committed, at least 5 years have passed since the person's last conviction under subsection (1) or section 39J, 39K, 39N(1) or 39R.

- (7) A person is taken not to have been in charge of a motor vehicle if he or she proves that at the material time the circumstances were such that there was no likelihood of the person's driving the motor vehicle so long as he or she remained under the influence of a non-specified drug to such an extent as to be incapable of having proper control of the motor vehicle.
- (8) The court or magistrate may, in determining whether there was such a likelihood as is mentioned in subsection (7), disregard any injury to the person and any damage to the motor vehicle.
- (9) For the purposes of subsection (1), a person is under the influence of a non-specified drug to such an extent as to be incapable of having proper control of the motor vehicle if—
 - (a) the person's ability to drive properly is for the time being impaired; and
 - (b) the concentration of the non-specified drug or of the combination of such drugs present in the person's blood or urine and to which the charge relates would usually result in a person being unable to drive properly.
- (10) It is a defence for a person charged under subsection (1) to prove that—
 - (a) the non-specified drug or the combination of such drugs found in the person's blood or urine and to which the charge relates was lawfully obtained;
 - (b) he or she did not know and could not reasonably have known that the lawfully obtained non-specified drug or the combination of such drugs found in the blood or urine would render him or her incapable of having proper control of a motor vehicle if consumed or used in accordance with advice; and
 - (c) he or she consumed or used that drug or combination of those drugs in accordance with that advice.

NOT PROCEEDED
WITH

- (11) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (10) does not apply to those offences.
- (12) For the purposes of subsection (10), a non-specified drug is lawfully obtained if it is—
- (a) a non-specified drug that is prescribed for or administered or supplied to an accused person by a healthcare professional;
 - (b) a non-specified drug that is a pharmaceutical product as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138)—
 - (i) that is registered as mentioned in regulation 36 of the Pharmacy and Poisons Regulations (Cap. 138 sub. leg. A); and
 - (ii) for the sale of which a prescription is not required by Hong Kong law; or
 - (c) a non-specified drug that is a proprietary Chinese medicine, as defined by section 2(1) of the Chinese Medicine Ordinance (Cap. 549), that is registered under section 121 of that Ordinance.
- (13) In this section—
- advice* (指示) means, in relation to a drug that is referred to in—
- (a) subsection (12)(a)—
 - (i) written or oral advice given to an accused person by the healthcare professional who prescribed, administered or supplied the drug; and
 - (ii) information written on a label, as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138), accompanying the prescribed or supplied drug;
 - (b) subsection (12)(b), any information written on a label referred to in paragraph (a)(ii) accompanying the drug; and
 - (c) subsection (12)(c), any information on the package insert, as defined by section 2(1) of

NOT PROCEEDED
WITH

the Chinese Medicine Ordinance (Cap. 549),
supplied with the drug;

first conviction (首次定罪) means a conviction on a first offence under subsection (1) (whether a conviction on indictment or a summary conviction);

healthcare professional (醫護專業人員) means—

- (a) a medical practitioner;
- (b) a registered dentist as defined by section 2(1) of the Dentists Registration Ordinance (Cap. 156);
- (c) a registered Chinese medicine practitioner or a listed Chinese medicine practitioner, as defined by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);
- (d) a person whose name is entered on the register of pharmacists under section 5 of the Pharmacy and Poisons Ordinance (Cap. 138);
or
- (e) a person acting under the direction or supervision of a person referred to in paragraph (a), (b), (c) or (d);

subsequent conviction (再次定罪) means—

- (a) a conviction subsequent to a first conviction;
or
- (b) a conviction referred to in subsection (1)(b)(ii), (iii) or (iv).

(14) In this section a reference to a conviction for an offence under subsection (1) includes a conviction pursuant to section 39J(13)(b).”

- (zn) In the proposed section 39N(1)(a), by deleting “level 4 and to imprisonment for 3 years” and substituting “level 5 and to imprisonment for 5 years”.
- (zo) In the proposed section 39N(1)(b)(iv), by adding “, 39KA” after “39K”.
- (zp) In the proposed section 39N(2)(b), in the Chinese text, by deleting everything after “方式，” and substituting “使該測試得以令人滿意地達到其目的。”
- (zq) In the proposed section 39N(5)(b), by deleting “not less than 10 years” and substituting “disqualification for life”.
- (zr) In the proposed section 39N(6)(a), by deleting “; and” and substituting a full stop.
- (zs) By deleting the proposed section 39N(6)(b).
- (zt) In the proposed section 39N(7)(b), by deleting “10 years” and

NOT PROCEEDED
WITH

- substituting “a disqualification period for life”.
- (zu) In the proposed section 39N(8), by adding “, 39KA” after “39K”.
- (zv) In the proposed section 39N(9)(b), by deleting “or 39K(1)” and substituting “, 39K(1) or 39KA(1)”.
- (zw) In the proposed section 39N(9)(c), by deleting “or 39K(1)” and substituting “, 39K(1) or 39KA(1)”.
- (zx) By deleting the proposed section 39P(1)(b)(i) and substituting—
- “(i) if it is a person referred to in paragraph (a)(i), he or she may be incapable of undergoing a preliminary drug test and of giving a valid consent to the taking of a specimen of blood, and if it is a person referred to in paragraph (a)(ii), he or she may be incapable of giving a valid consent to the taking of a specimen of blood; and”.
- (zy) In the proposed section 39Q(1), by deleting “or 39K” and substituting “, 39K or 39KA”.
- (zz) In the proposed section 39R(1)(a), by deleting “level 4 and to imprisonment for 3 years” and substituting “level 5 and to imprisonment for 5 years”.
- (zza) In the proposed section 39R(1)(b)(iv), by adding “, 39KA” after “39K”.
- (zzb) In the proposed section 39R(2)(b), in the Chinese text, by deleting everything after “方式，” and substituting “使該分析或化驗得以令人滿意地達到其目的。”。
- (zzc) In the proposed section 39R(4)(b), by deleting “not less than 10 years” and substituting “disqualification for life”.
- (zzd) In the proposed section 39R(5)(a), by deleting “; and” and substituting a full stop.
- (zze) By deleting the proposed section 39R(5)(b).
- (zzf) In the proposed section 39R(6)(a), in the English text, by adding a comma after “5 years”.
- (zzg) In the proposed section 39R(6)(b), by deleting “10 years” and substituting “a disqualification period for life”.
- (zzh) In the proposed section 39R(7), by adding “, 39KA” after “39K”.

16(1)

NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

16(9)

NOT PROCEEDED
WITH

In the proposed definition of *disqualification order*, by deleting everything after “order made under” and substituting “section 36(2), 36A(2), 37(2), 39(2), 39A(2), 39B(7), 39C(16), 39J(2), 39K(2), 39KA(2), 39N(4), 39R(3), 41(3), 55(2) or 69(1)(a) that a person be

disqualified;”.

17
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

18
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

20
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

21
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

22
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

23
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

24
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

25
NOT PROCEEDED
WITH

By adding “39KA,” after “39K,”.

26(3)
NOT PROCEEDED
WITH

(a) In the proposed item 4D, by adding “specified illicit” after “influence of a”.

(b) By adding—
“4EA Section 39KA(1) Driving, attempting to 10”.
drive or being in
charge of a motor
vehicle under the
influence of a drug
other than a
specified illicit
drug

Road Traffic (Amendment) Bill 2011

Committee StageAmendments moved by the Honourable KAM Nai-wai, M.H.

<u>Clause</u>	<u>Amendment Proposed</u>
<u>14</u> [NEGATIVED]	In the proposed section 39J(1)(a), by deleting “level 4” and substituting “level 5”.
<u>14</u> [NEGATIVED]	In the proposed section 39J(1)(a), by deleting “3 years” and substituting “5 years”.
<u>14</u> [NEGATIVED]	In the proposed section 39N(1)(a), by deleting “level 4” and substituting “level 5”.
<u>14</u> [NEGATIVED]	In the proposed section 39N(1)(a), by deleting “3 years” and substituting “5 years”.
<u>14</u> [NEGATIVED]	In the proposed section 39R(1)(a), by deleting “level 4” and substituting “level 5”.
<u>14</u> [NEGATIVED]	In the proposed section 39R(1)(a), by deleting “3 years” and substituting “5 years”.

Appendix 1

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Aberdeen Boat Club Limited
契約承租人:香港仔遊艇會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數 / 小時
AIL 454, Shum Wan Road, Brick Hill 南朗山深灣道香港仔內地段第454號	2010	Sailing center 帆船運動中心	Schools 學校	Training 訓練	235 hrs 小時
	2009				69 sessions 節
	2008				67 sessions 節

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Bishop of the Roman Catholic Church in Hong Kong
契約承租人:羅馬天主教會香港教區主教

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數 / 小時
Lot 1318, Cheung Chau 長洲地段第1318號	2010	Swimming pool 游泳池	Not applicable. Applications for the use of the camp and the facilities therein are open to the public. 不適用。營舍及其設施均公開接受公眾申請使用。		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: The Boys' and Girls' Clubs Association of Hong Kong
契約承租人: 香港小童群益會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數 / 小時
Lot 642 DD257 Wong Yi Chau, Sai Kung, N.T. 黃宜洲丈量約份 第257約地段第 642號	2010	Sport climbing wall, high rope course, archery and function room 攀石牆、高空繩網陣、 射箭場及多用途室	Not applicable. Applications for the use of the camp and the facilities therein are open to the public. 不適用。營舍及其設施均公開接受公眾申請使用。		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Chinese Recreation Club, Hong Kong
契約承租人: 香港中華游樂會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
IL 8875, No. 123 Tung Lo Wan Road 銅鑼灣道 123號內地 段第8875號	2010	Tennis courts 網球場	NSAs 體育總會	Training/ Tournament 訓練/ 比賽	620 hours 小時
			Schools 學校	Training 訓練	312 hours 小時
			Other bodies (including the public to attend open tournaments) 其他團體 (包括觀賞公開比賽的公眾人士)	Tournament 比賽	524 hours 小時
		Function room 活動室	NGOs 非政府機構	Charity 慈善	36 hours 小時
	2008 - 2009	Tennis courts	NSAs 體育總會	Tournament/ Training/Charity 比賽/訓練/慈善	904 hours 小時
			Schools 學校	Education 教育	5 hours 小時
			Other bodies (including the public to attend open tournaments) 其他團體 (包括觀賞公開比賽的公眾人士)	Tournament 比賽	Over 75.5 hours # 多於75.5 小時

This figure does not include the hours used by outside bodies on a regular basis.
 有關數字並不包括外界團體定期使用設施的時數。

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Clearwater Bay Golf & Country Club

契約承租人: 清水灣鄉村俱樂部

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數 / 小時
Lot 227 DD 241, Po Toi O 布袋澳 丈量約 份第241 約地段 第227號	2010	Main golf course 高爾夫球場	NSAs 體育總會	Tournament 比賽	70 hours 小時
			NGOs 非政府機構	Charity 慈善	40 hours 小時
			Other bodies 其他團體	Tournament 比賽/ Charity 慈善	47.5 hours 小時
		Executive nine golf course 行政人員九洞高爾夫球場	NSAs 體育總會	Tournament 比賽	36 hours 小時
			Schools 學校	Recreation 康樂	3 hours 小時
			Other bodies 其他團體	Tournament 比賽	9 hours 小時
		Tennis court 網球場	NSAs 體育總會	Tournament 比賽	10 hours 小時
		Swimming pool 游泳池	NGOs 非政府機構	Recreation 康樂	4 hours 小時
		Function room 活動室	NGOs 非政府機構	Meeting/ Training 會議/ 訓練	32 hours 小時
			Schools 學校	Meeting 會議	106 hours 小時
			Government departments 政府部門	Meeting 會議	5 hours 小時
		Teambuilding gym 團隊訓練活動室	NGOs 非政府機構	Recreation 康樂	12 hours 小時
			Schools 學校	Training 訓練	3 hours 小時
		Children's playroom 兒童遊戲室	NGOs 非政府機構	Recreation 康樂	14 hours 小時
		Multiple facilities (including auditorium, playroom soccer pitch, swimming pool, table tennis room, kids' party room, basketball court, tennis court and executive nine golf course etc) 多類設施(包括禮堂、遊戲 室足球場、游泳池、乒乓 球室、兒童派對室、籃球 場、網球場及行政人員九 洞高爾夫球場等)	NGOs 非政府機構	Recreation 康樂	128 hours 小時
			Other bodies 其他團體	Recreation/ Charity 康樂/慈善	110.5 hours 小時
Schools 學校	Meeting/ Recreation 會議/ 康樂		6.5 hours 小時		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Club de Recreio
契約承租人: 西洋波會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours
KIL 11098, No. 20 Gascoigne Road 加士居道 20號九龍 內地段第 11098號	2010	Tennis court 網球場	NSAs 體育總會	Tournament 比賽	336 hours 小時
		Hockey pitch 曲棍球場	NSAs 體育總會	Tournament 比賽	216 hours 小時
		Lawn bowls green 草地滾球場	NSAs 體育總會	Tournament 比賽	112 hours 小時
			NSAs 體育總會	Training 訓練	One session per week 每星期一節
	Multiple facilities 多項設施	NSAs/Schools/ Other bodies 體育總會/學校/其他團體	Tournament/ Sport and Recreation/ Meeting 比賽/ 體育及康樂/會議	26 sessions 節	
2007- 2009	Multiple facilities 多項設施	NSAs/Schools/ Other bodies 體育總會/學校/其他團體	Sport/ Meeting 體育/會議	43 sessions 節	

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Community Sports Ltd.
契約承租人: 展能運動村有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
Lot 2322 DD 96, Ma Tso Lung 馬草壟丈量約 份第96約地段 第2322號	2010	Gymnasium hall, natural turf pitch, adventure training facilities and sports climbing facilities 體育館、天然草地球場、 歷奇訓練設施及攀石場	Not applicable. Applications for the use of the camp and the facilities therein are open to the public. 不適用。營舍及其設施均公開接受公眾申請使用。		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Craigengower Cricket Club
契約承租人: 紀利華木球會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
IL 8881, No. 188 Wong Nai Chung Road 黃泥涌道188 號內地段第 8881號	2010	Outdoor lawn bowls green 室外草地滾球場	NSAs 體育總會	Tournament 比賽	126 hours 小時
		Tennis court 網球場	NSAs 體育總會	Tournament 比賽	282 hours 小時
			NGOs 非政府機構	Charity 慈善	8 hours 小時
		Badminton court 羽毛球場	NGOs 非政府機構	Charity 慈善	16 hours 小時
		Table-tennis court 乒乓球場	NGOs 非政府機構	Charity 慈善	7 hours 小時
	2007- 2009	Tennis courts 網球場	NGOs 非政府機構	Sport/ Charity 體育/ 慈善	5 sessions 節
		Badminton court 羽毛球場	Other bodies 其他團體	Sport/ Charity 體育/ 慈善	6 sessions 節

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Director of the Chinese Young Men's Christian Association of Hong Kong
契約承租人: 香港中華基督教青年會董事

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
Lot 147 SD5, Sai Kung 西貢測量約份第5約地段第147號	2010	Swimming pool, rope course, archery & BBQ pitch 游泳池、繩網、射箭場及燒烤場	Schools 學校	Education/ Training 教育/ 訓練	6 sessions 節
			NGOs 非政府機構	Recreation / Training 康樂/ 訓練	7 sessions 節
			Other bodies (including members of the public) 其他團體 (包括公眾人士)	Recreation / Training 康樂/ 訓練	124 sessions 節
Lot 75 DD 254, Sai Kung 西貢丈量約份第254約地段第75號	2010	Basketball court, mini soccer, rope course, air gun range, canoe/shampan, karaoke room & tenting ground 籃球場、小型足球場、繩網、射擊場、獨木舟/舢舨、卡拉OK室及營地	Schools 學校	Education/ Training 教育/ 訓練	10 sessions 節
			NGOs 非政府機構	Recreation / Training 康樂/ 訓練	22 sessions 節
			Other bodies (including members of the public) 其他團體 (包括公眾人士)	Recreation / Training 康樂/ 訓練	47 sessions 節
Sha Tin Town Lot No. 366, 2 On Chun Street 沙田鞍駿街2號 沙田市地段366號	2010	Badminton court, basketball court, natural turf soccer, tennis court, mini-soccer, climbing wall, karaoke room, rope course, archery & indoor sports hall 羽毛球場、籃球場、天然草地足球場、網球場、小型足球場、攀石牆、卡拉OK室、繩網、射箭場及室內體育館	Schools 學校	Education/ Training 教育/ 訓練	51 sessions 節
			NGOs 非政府機構	Recreation / Training 康樂/ 訓練	28 sessions 節
			Other bodies (including members of the public) 其他團體 (包括公眾人士)	Recreation / Training 康樂/ 訓練	160 sessions 節

Remarks : Applications for the use of the camps and the facilities therein are open to the public.

註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Director of the Young Men's Christian Association of Hong Kong
契約承租人: 香港基督教青年會董事

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours
KIL 11105 and Extension, Off Gascoigne Road, Kong's Park 京士柏加士居道側九龍內地段第11105號及其增批部分	2010	Tennis courts 網球場	Schools 學校	Training 訓練	172 hours 小時
			NGOs 非政府機構	Recreation 康樂	22 hours 小時
			Other bodies 其他團體	Tournament/ Training 比賽/ 訓練	385 hours 小時
		Basketball court 籃球場	Other bodies 其他團體	Tournament 比賽	8 hours 小時

Remarks : Applications for the use of the camp and the facilities therein are open to the public.
 註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Duke of Edinburgh's Award Hong Kong
契約承租人: 香港青年獎勵計劃

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours
Lot 602 R.P. DD16, Lam Tsuen 林村丈量約份第16約地段第602號餘段	2010	Adventure-based facilities and obstacle course 歷奇設施及障礙訓練課程	Not applicable. Applications for the use of the camp and the facilities therein are open to the public. 不適用。營舍及其設施均公開接受公眾申請使用。		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Filipino Club
契約承租人: 菲律賓會所

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11096, No. 10 Wylie Road 衛理道10號九龍 內地段第11096號	2010	Lawn bowls green 草地滾球場	NSAs 體育總會	Tournament 比賽	1144 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hebe Haven Yacht Club Limited
契約承租人: 白沙灣遊艇會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 1138 and Extension DD 217, Pak Sha Wan 白沙灣丈量約 份第217約地段 第1138號及其 增批部分	2010	Sail training centre 帆船運動訓練 中心	Schools 學校	Recreation / Training 康樂/ 訓練	217 hours 小時
			NGOs 非政府機構	Recreation / Training 康樂/ 訓練	70 hours 小時
			Other bodies (including members of the public) 其他團體 (包括公眾人士)	Training 訓練	78 hours 小時
		Marine facilities 航海設施	NGOs/Other bodies 非政府機構/其他團體	Recreation / Training / Charity 康樂/ 訓練/ 慈善	42 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Buddhist Association
契約承租人: 香港佛教聯合會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
Lot no. 172 in D.D.4, Tung Chung, Lantau Island 東涌丈量約 份第4約地 段第172號	2010	Badminton court, basketball court, table tennis field and volleyball court 羽毛球場、籃球 場、乒乓球場及 排球場	Not applicable. The camp site was under renovation in 2010. 不適用。營地於2010年關閉以進行裝修。		

Remarks : Applications for the use of the camp and the facilities therein are open to the public.
 註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong, China Rowing Association
契約承租人: 中國香港賽艇協會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
STTL 220, Yuen Wo Road, Sha Tin 沙田源禾路沙田 市地段第220號	2010	Rowing centre 划艇中心	Schools 學校	Recreation/Tournament/ Training 康樂/比賽/訓練	80 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Chinese Civil Servants' Association
契約承租人: 香港政府華員會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
KIL 11048, No. 8 Wylie Road 衛理道8號九 龍內地段第 11048號	2010	Tennis court 網球場	No requisition was made by outside bodies during the year 於有關年度並未接獲外界團體的使用申請		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Country Club
契約承租人: 香港鄉村俱樂部

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
RBL 1129, Wong Chuk Hang Road 黃竹坑道鄉郊建 屋地段第1129號	2010	Tennis court 網球場	NSAs 體育總會	Tournament 比賽	105 hours 小時
			Other bodies 其他團體	Tournament 比賽	22.5 hours 小時
		Function room and the lawn 活動室及草坪	NGOs 非政府機構	Charity 慈善	50.5 hours 小時
		Bowling alley 保齡球場	Other bodies 其他團體	Recreation 康樂	4 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Cricket Club
契約承租人: 香港木球會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
IL 9019, No. 137 Wong Nai Chung Gap Road 黃泥涌峽道137號內地段第9019號	2010	Cricket ground 板球場	NSAs 體育總會	Tournament 比賽	333 hours 小時
		Cricket centre of excellence 板球訓練場	NSAs 體育總會	Meeting / Training / Tournament 會議/ 訓練/ 比賽	58 hours 小時
		Lawn bowls green 草地滾球場	NSAs 體育總會	Tournament 比賽	80 hours 小時
		Squash court 壁球場	NSAs 體育總會	Tournament 比賽	189 hours 小時
		Tennis court 網球場	NSAs 體育總會	Tournament 比賽	308 hours 小時
		Sports hall, bowling alley, grounds, swimming pool, tennis courts & meeting room 體育館、保齡球場、空地、游泳池、網球場及會議室	NGOs 非政府機構	Recreation 康樂	196.5 hours 小時
		Function room 活動室	Schools 學校	Recreation 康樂	4.5 hours 小時
		Ground 空地	Schools 學校	Training 訓練	2 hours 小時
	Meeting room 會議室	NSAs 體育總會	Meeting 會議	5 hours 小時	
	2008-2009	Cricket pitch 板球場	NSAs 體育總會	Various 多項	20 hours (irregular) 8 hours per month (regular) 20 小時 (不定期) 每月8 小時 (定期)
		Function room 活動室	NSAs 體育總會		31 hours 小時
Sports hall & function room 體育館及活動室		NGOs 非政府機構	16 hours 小時		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Football Club
契約承租人: 香港足球會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數 / 小時
IL 8846, No. 3 Sports Road, Happy Valley 跑馬地體育 路3號內地 段第8846號	2010	Main pitch 草地球場	NSAs 體育總會	League 聯賽	16.5 hours 小時
			Schools 學校	Tournament 比賽	40 hours 小時
			Other bodies 其他團體	Tournament/ Training 比賽/ 訓練	582 hours 小時
		Hockey pitch 曲棍球場	Schools 學校	Training 訓練	258 hours 小時
			NGOs 非政府機構	Recreation 康樂	115 hours 小時
			Other bodies 其他團體	Tournament/ Training/ Recreation 比賽/ 訓練/ 康樂	541.5 hours 小時
		Tennis court 網球場	NSAs 體育總會	Tournament 比賽	1041 hours 小時
			NGOs 非政府機構	Recreation 康樂	37 hours 小時
		Squash court 壁球場	Other bodies 其他團體	Tournament 比賽	2886 hours 小時
		Bowling alley 保齡球場	Other bodies 其他團體	Tournament/ Recreation 比賽/ 康樂	222 hours 小時
		Sports hall 體育館	NGOs 非政府機構	Training 訓練	74 hours 小時
			Other bodies 其他團體	Tournament 比賽	99 hours 小時
		Badminton court 羽毛球場	NGOs 非政府機構	Training 訓練	74 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Hong Kong Girl Guides Association

契約承租人: 香港女童軍總會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/ 小時
Lot 148 DD 250, Sai Kung 西貢丈量約份第250約地段 第148號	2010	Not applicable (the camp site is under suspension) 不適用(營舍已暫停使用)			
Lot 1707 DD 122, Yuen Long 元朗丈量約份第122約地段 第1707號	2010	Multi-purpose hall, activities room, BBQ area, basketball/ badminton court and dormitories 綜合活動禮堂, 活動室, 燒烤區, 籃球/羽毛球場 及營舍	Schools 學校	Recreation 康樂	11 hours 小時
			NGOs 非政府機構	Recreation 康樂	8 hours 小時
			Uniformed groups 制服團體	Recreation 康樂	11 hours 小時
			Other bodies 其他團體	Recreation 康樂	17 hours 小時
Lot 2544 DD 92, Hang Tau Road, Kwu Tung South, Sheung Shui 上水古洞南坑頭路丈量約份 第92約地段第2544號	2010	Hall and activity room 禮堂及活動室	Other bodies 其他團體	Training 訓練	35 hours 小時
IL 8894, Wong Nai Chung Gap Road 黃泥涌峽道內地段第8894號	2010	Dormitory 營舍	Other bodies 其他團體	Recreation 康樂	22 hours 小時
Kowloon Inland Lot No. 10734 at the junction of Gascoigne Road and Wylie Road 加士居道及衛理道交界九龍 內地段第10734號	2010	Lecture room 演講室	Other bodies 其他團體	Recreation 康樂	3 sessions per week 每星期三節

Remarks : Applications for the use of the camps and the facilities therein are open to the public.

註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Golf Club
契約承租人: 香港哥爾夫球會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
RBL 1117, Deep Water Bay 深水灣鄉郊建屋地段 第1117號	2010	9-hole golf course 九洞高爾夫 球場	NSAs 體育總會	Tournament 比賽	1 session 節
			Schools 學校	Tournament 比賽	1 session 節
			Other bodies 其他團體	Tournament/ Recreation 比賽/ 康樂	2 sessions 節
Lot 942 RP in DD 94, Sheung Shui 上水丈量約份第94約 地段第942號餘段		18-hole golf course 十八洞高爾 夫球場	NSAs 體育總會	Tournament/ Training 比賽/ 訓練	more than 5 sessions 多於5節 #
			Schools 學校	Tournament 比賽	2 sessions 節
			Other bodies 其他團體	Tournament/ Training/ Meeting 比賽/ 訓練/ 會議	17 sessions 節 ^

This figure does not include the hours used by outside bodies on a regular basis.

有關數字並不包括外界團體定期使用設施的時數。

^ In addition, the lessee made available golf facilities for the use of local village golfers/walkers (the number of which was over 27,000).

此外，契約承租人亦開放高爾夫球設施供當地居民使用(數目超過27,000)。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Gun Club
契約承租人: 香港槍會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
TWTL 399, Chuen Lung, Tsuen Wan 荃灣川龍荃 灣市地段第 399號	2010	Shooting ranges 射擊場	NSAs 體育總會	Tournament / Training 比賽/訓練	10 hours 小時
			Other bodies 其他團體	Training / Tournament 訓練/比賽	19.5 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Jockey Club
契約承租人: 香港賽馬會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
IL 8847, No. 1 Sports Road and Wong Nai Chung Road 體育路1號及黃 泥涌道內地段 第8847號	2010	HKJC has for years been opening both lots for public during horse race meetings and also Penfold Park at Shatin Town Lot No. 13 to the public for sports and recreational purpose. 香港賽馬會多年來一直於賽馬期間將兩幅地段及平日將位於沙田市地段第13號的彭福公園開放予公眾作體育及康樂活動之用。			
STTL 13, Sha Tin 沙田沙田市地 段第13號					

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Model Engineering Club Ltd.
契約承租人: 香港機械模型會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot no. 2416 DD118, Tai Tong, Yuen Long 元朗大棠丈量約份 第118約地段第2416 號	2010	Paved runway for fixed wing model aircraft and paved helipad for model helicopter 模型飛機跑道及模型 直升飛機停泊處	Other bodies 其他團體	Competition 比賽	18 hours 小時

Remarks: The facilities on the Lot are open to the public. An entrance fee per person per day is in the sum of \$200.

註: 地段設施開放予公眾。入場費為每人每日\$200。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Playground Association
契約承租人: 香港遊樂場協會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 667 DD 2, Mui Wo 梅窩丈量約 份第2約地 段第667號	2010	Basketball court, archery range, rope course and dormitory 籃球場、射箭場、 繩網及營舍	Not applicable. Applications for the use of the camp and the facilities therein are open to the public. 不適用。營舍及其設施均公開接受公眾申請使用。		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Hong Kong Red Cross
契約承租人: 香港紅十字會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 142 in DD 319, Shek Pik, Lantau Island 大嶼山石壁丈量約份第319約地段第142號	2010	Hall and basketball court 禮堂及籃球場	Schools/ Uniformed groups/ Other bodies 學校/ 制服團體/ 其他團體	Recreation/Meeting 康樂/會議	220 hours 小時

Remarks: Applications for the use of the camp and the facilities therein are open to the public.

註：營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Hong Kong Sea Cadet Corps

契約承租人: 香港海事訓練隊分區委員會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
NKIL 6001, Diamond Hill 鑽石山新九龍內地段第6001號	2010	Basketball court 籃球場	Government departments 政府部門	Training 訓練	100 hours 小時
		Classroom 課室	Government departments 政府部門	Training 訓練	100 hours 小時
Lot 611 DD 256, Sai Kung 西貢丈量約份第256約地段第611號	2010	Drill ground, campsite 操場, 營地	Government departments 政府部門	Training 訓練	726 hours 小時
			Schools 學校	Recreation 康樂	448 hours 小時
			NGOs 非政府機構	Recreation 康樂	68 hours 小時
			Uniformed groups 制服團體	Training 訓練	10 hours 小時
				Recreation 康樂	92 hours 小時
			Other bodies 其他團體	Training 訓練	20 hours 小時
Recreation 康樂	68 hours 小時				

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Hong Kong Softball Association

契約承租人: 香港壘球總會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11088, Tin Kwong Road 天光道九龍內地段第11088號	2010	Softball field 壘球場	Schools 學校	Training 訓練	14-26 hours per week 每星期14至26小時

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Hong Kong Young Women's Christian Association

契約承租人: 香港基督教女青年會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 727 DD 332, San Shek Wan, Lantau 大嶼山礮石灣丈量約份第332約地段第727號	2010	Basketball court, rock climbing wall, activity rooms and dormitory 籃球場、攀石牆、活動室及營舍	Not applicable.	Applications for the use of the camp and the facilities therein are open to the public. 不適用。營舍及其設施均公開接受公眾申請使用。	

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Hong Kong Youth Hostels Association

契約承租人: 香港青年旅舍協會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 188 DD 337, Lantau 大嶼山丈量約份第337約地段第188號	2010	Campsite 營地		By members only 只接受會員使用	
Lot 235 in DD Ngong Ping 昂平丈量約份地段第235號		Campsite 營地			
TPIL 133, Tai Mei Tuk 大尾督大埔市地段第133號		Function room 活動室			

Remarks: Annual membership fee for a full member is HK\$130.

註: 成年會籍每年會費為\$130元。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: India Club, Kowloon
契約承租人: 九龍印度會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11095, No. 24 Gascoigne Road 加士居道24號九龍 內地段第11095號	2010	Cricket training area 板球練習區	Other bodies 其他團體	Training 訓練	742 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Indian Recreation Club
契約承租人: 印度遊樂會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
IL 8900, No. 63 Caroline Hill Road, So Kon Po 掃桿埔加路連 山道63號內地 段第8900號	2010	Artificial turf pitch 人造草地球場	Others bodies 其他團體	Training 訓練	1143.5 hours 小時
		Tennis courts 網球場	NSAs 體育總會	Tournament 比賽	1152 hours 小時
			Others bodies 其他團體	Training 訓練	4546 hours 小時
		Lawn bowls green 草地滾球場	NSAs 體育總會	Tournament 比賽	1678 hours 小時
		Lawn grass area 草坪	Schools 學校	Sport 體育	19 hours 小時
			Other bodies 其他團體	Sport 體育	65 hours 小時
	2007-2009	Multiple facilities 多項設施	NSAs 體育總會	Tournament 比賽 / Meeting 會議	14 sessions 節
			Schools 學校	Sport 體育	11 sessions 節
			Other bodies 其他團體	Sport/ Recreation/ Religion 體育/ 康樂/ 宗教	18 sessions 節

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Jardine's Lookout Residents' Association
契約承租人: 香港渣甸山居民協會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
IL 8895, No. 2 Creasy Road, Jardine's Lookout 渣甸山祈禮士道2號 內地段第8895號	2010	Tennis court 網球場	* According to the Association, it allowed guests of members (who were mostly students) to use its 3 tennis courts for practice for a total of 909 hours during the year. 香港渣甸山居民協會表示，該會於2010年開放三個網球場予會員嘉賓(大部份為學生)作練習用，全年開放時間共909小時。		
	2008	Tennis court 網球場	NSAs 體育總會	Training 訓練	1 session 節

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Kowloon Cricket Club
契約承租人: 九龍木球會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11052, No. 10 Cox's Road 覺士道10號九龍內地段第11052號	2010	Aerobic Room 健康舞室	NSAs 體育總會	Meeting 會議	7 hours 小時
				Tournament and meeting 比賽及會議	167.5 hours 小時
		Main ground 板球場	Schools 學校	Sport 體育	100.5 hours 小時
				Training 訓練	81 hours 小時
		Lawn bowl green 草地滾球場	NSAs 體育總會	Tournament 比賽	2176.5 hours 小時
				Tournament 比賽	604 hours 小時
		Sports hall 室內運動場	NSAs 體育總會	Tournament/ Recreation 比賽/ 康樂	362 hours 小時
		Squash court 壁球室	Schools 學校	Recreation 康樂	11.25 hours 小時
				NSAs 體育總會	Tournament 比賽
		Swimming pool 游泳池	Schools 學校	Recreation/ Training 康樂/ 訓練	21 hours 小時
				NSAs 體育總會	Tournament 比賽
		Tennis court 網球場	NSAs 體育總會	Tournament 比賽	1706.25 hours 小時
		Golf simulator 高爾夫球模擬器	NSAs 體育總會	Tournament 比賽	132 hours 小時
	Function room 活動室	Schools 學校	Recreation 康樂	8 hours 小時	
			NSAs 體育總會	Meeting/ Recreation/ Training 會議/康樂/訓練	222 hours 小時
			Other bodies 其他團體	Tournament and meeting 比賽及會議	8 hours 小時
	2009	Aerobics room 健康舞室	NSAs 體育協會	Meeting 會議	7 hours 小時
				Other bodies 其他團體	Recreation 康樂
		Function room 活動室	Other bodies 其他團體	Recreation 康樂	14 hours 小時
		Main ground 板球場	Schools 學校	Sport 體育	37 hours 小時
Playroom corner 遊樂場		Other bodies 其他團體	Sport 體育	5 hours 小時	
Sports hall 室內運動場		Other bodies 其他團體	Recreation 康樂	25 hours 小時	
The Pavilion 展覽館		Other bodies 其他團體	Meeting 會議	4 hours 小時	

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Kowloon Bowling Green Club

契約承租人:九龍草地滾球會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11065, No. 123 Austin Road 柯士甸道123號九龍 內地段第11065號	2010	Lawn bowl green 草地滾球場	NSAs 體育總會	Tournament 比賽	685 hours 小時
			Schools 學校	Training 訓練	10 hours 小時
			Others bodies 其他團體	Tournament/ Training 比賽/ 訓練	110.5 hours 小時
		Function room 活動室	NSAs 體育總會	Sport 體育	132 hours 小時
			NGOs 非政府機會	Meeting 會議	3 hours 小時
	Others bodies 其他團體	Sport 體育	2.5 hours 小時		
2007- 2009	Lawn bowl green 草地滾球場	NSAs 體育總會	Tournament 比賽	44 sessions 節	

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Kowloon Tong Club

契約承租人:九龍塘會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
NKIL 5989, Waterloo Road, Kowloon Tong 九龍塘窩打老 道新九龍內地 段第5989號	2010	Tennis courts 網球場	NSAs 體育總會	Tournament 比賽	990 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Kowloon Tsai Home Owners Association
契約承租人: 九龍仔居民協會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
NKIL 5961, No. 10A Cambridge Road, Kowloon Tong 九龍塘劍橋道 10A新九龍內地 段第5961號	2010	Tennis court 網球場	NSAs 體育總會	Tournament 比賽	1032 hours 小時
			Other bodies 其他團體	Tournament 比賽	240 hours 小時
		Swimming pool 游泳池	Other bodies 其他團體	Training 訓練	5 hours 小時
		Function room 活動室	Other bodies 其他團體	Training 訓練	5 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Mongkok District Cultural, Recreational & Sports Association Limited
契約承租人: 旺角區文娛康樂體育會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11165, J/O Ivy Street & Beech Street 埃華街及樺樹 街交界處九龍 內地段第 11165號	2010	Multi-purpose activity room 綜合活動室	Other bodies 其他團體	Meeting 會議	48 hours 小時
		Dance room 舞蹈室	Other bodies 其他團體	Training 訓練	432 hours 小時
		Fitness room 健身室	Schools 學校	Training 訓練	240 hours 小時
		Function room 活動室	Other bodies 其他團體	Training/ Meeting 訓練/ 會議	488 hours 小時
	2008-2009	Squash room 壁球室	Other bodies 其他團體	Training 訓練	Facilities were opened on a regular basis during the year. 設施於有關年度定 期開放。
		Dance room 舞蹈室	Other bodies 其他團體		
		Function room 活動室	Other bodies 其他團體		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Municipal Services Staff Recreation Club Limited
契約承租人: 文康市政職員遊樂會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11097, No. 4 Wylie Path 衛理徑4號九龍內 地段第11097號	2010	Tennis court & table tennis court 網球場及乒乓球 球場	No record on requisition made by outside bodies 並無記錄外界團體使用設施的要求		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Outward Bound Trust of Hong Kong Limited
契約承租人: 香港外展信託基金會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 590 DD 256, Tai Mong Tsai 大網仔丈量約份第256約地段第590號	2010	Outward Bound Centre, Tai Mong Tsai 大網仔外展訓練中心	Schools and other bodies 學校及其他團體	Training 訓練	474480 hours 小時

Remarks : Applications for the use of the camp and the facilities therein are open to the public.
 註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Pakistan Association of Hong Kong Limited
契約承租人: 巴基斯坦協會香港有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11094, No. 150 Princess Margaret Road 公主道150號 九龍內地段第 11094號	2010	Cricket pitch 板球場	NSAs 體育總會	Training 訓練	16 hours 小時
			Schools 學校	Training 訓練	16 hours 小時
			Other bodies 其他團體	Training 訓練	262.5 hours 小時
		Squash court 壁球場	Other bodies 其他團體	Training 訓練	792 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Po Leung Kuk
契約承租人: 保良局

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 613 DD 257, Pak Tam Chung 北潭涌丈量約份第257約地段第613號	2010	Basketball court, soccer pitch, tennis court, golf driving cage, golf putting green, snooker room and swimming pool 籃球場、足球場、網球場、高爾夫球練習場、高爾夫球推桿果嶺、桌球室及游泳池	Different families, private groups, schools, NGOs, religious groups, government departments, corporations etc. (4516 groups) 家庭、私人團體、學校、非政府機構、宗教團體、政府部門及企業集團等 (4516團體)	Training / Recreation 訓練/ 康樂	108720 hours 小時
Lot 2411 DD 118 and Extension, Tai Tong 大塘丈量約份第118約地段第2411號及其增批部分	2010	Basketball court, five-a-side pitch, tennis court, golf driving cage, snooker room, challenge rope course and swimming pool 籃球場、小型足球場、網球場、高爾夫球練習場、桌球室、繩網陣及游泳池	Different families, private groups, schools, NGOs, religious groups, government departments, corporations etc. (3687 groups) 家庭、私人團體、學校、非政府機構、宗教團體、政府部門及企業集團等 (3687團體)	Training / Recreation 訓練/ 康樂	254400 hours 小時

Remarks : Applications for the use of the camps and the facilities therein are open to the public.

註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee 契約承租人: The Post Office and Cable & Wireless Recreation Club Limited

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
IL 8597 RP, No. 108 Caroline Hill Road, So Kon Po 掃桿埔加路連山道 108號內地段第8597 號餘段	2010	Soccer pitch 足球場	Other bodies 其他團體	Tournament 比賽 / Training 訓練	417 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Royal Hong Kong Yacht Club
契約承租人: 香港遊艇會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
ML 709, Kellett Island 奇力島海旁地段第709號	2010	Sailing and rowing facilities, squash court and swimming pool 航海及划艇設施、 壁球場及游泳池			
RBL 1181, Middle Island 熨波洲鄉郊建屋地段第 1181號		Sailing and rowing facilities 航海及划艇設施			
Lot 341 and Extension DD 212, Che Keng Tuk 峯徑篤丈量約份第212約地 段第341號及其增批部分		Sailing and rowing facilities航海及划艇設施			

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Scout Association of Hong Kong

契約承租人: 香港童軍總會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時 *
Lot 154 DD 195, Sha Tin 沙田丈量約份第195約地段第154號 (Please see remarks. 請參考註。)	2010	All camp's facilities (excluding Challenge Course) 所有營內設施 (野外顛峰設施除外)	NGOs非政府機構	Recreation / Training 康樂/訓練	336 hours 小時
			Schools 學校		28 hours 小時
			Uniformed groups 制服團體		112 hours 小時
			Other bodies 其他團體		469 hours 小時
		Challenge course 野外顛峰(歷奇廣場) (高結構項目繩網)	NGOs 非政府機構		136 hours 小時
			Schools 學校		16 hours 小時
			Uniformed groups 制服團體		56 hours 小時
			Other bodies 其他團體		168 hours 小時
Lot 131 in DD 60, Au Tau, Yuen Long 元朗凹頭丈量約份第60約地段第131號	2010	District headquarters function rooms 區務總部活動室	No requisition was made by outside bodies during the year 於有關年度並未接獲外界團體的使用申請		
NKIL 5956, Rutland Quadrant, Kowloon 九龍塘新九龍內地段第5956號	2010	Hall 禮堂	Uniformed groups 制服團體	Meeting 會議	11 hours 小時
			Other bodies 其他團體	Religion 宗教	17 hours 小時
IL 8961, Mansion Street, North Point 北角民新街內地段第8961號	2010	Main hall 主禮堂	No requisition was made by outside bodies during the year 於有關年度並未接獲外界團體的使用申請		
Lot 1131 DD 217, Pak Sha Wan 白沙灣丈量約份第217約地段第1131號 (Please see remarks. 請參考註。)	2010	Group dormitories, outdoor camping site, assembly hall, activity room and conference room 團體營舍、戶外露營 營地、禮堂、活動室 及會議室	NGOs 非政府機構	Recreation / Training 康樂/訓練	574 hours 小時
			Schools 學校		273 hours 小時
			NSAs 體育總會		84 hours 小時
			Uniformed groups 制服團體		56 hours 小時
			Other bodies 其他團體		1422 hours 小時
TPTL 190, Tung Tsz, Tai Po 大埔洞梓大埔市地段第190號 (Please see remarks. 請參考註。)	2010	Suite hostel, campsite, activity room, hall, lecture room and conference room 營舍、露營營地、活 動室、禮堂、演講室 及會議室	NGOs 非政府機構	Recreation / Training 康樂活動/ 訓練	1209.5 hours 小時
			Schools 學校		570.5 hours 小時
			Uniformed groups 制服團體		331 hours 小時
			Government departments 政府部門		13 hours 小時
			Other bodies 其他團體		1350.5 hours 小時

Remarks : Applications for the use of the camp and the facilities therein are open to the public.

註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Scout Association of Hong Kong and Hong Kong Girl Guides Association
契約承租人: 香港童軍總會及香港女童軍總會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KCTL 391, Wo Yip Hop Road, Kwai Chung 和宜合道葵涌市地段第391號	2010	Hall 禮堂	NGOs 非政府機構	Recreation 康樂	8 hours 小時
			Schools 學校	Recreation 康樂	3 hours 小時
			Other bodies 其他團體	Charity/ Training 慈善/訓練	12 hours 小時
STTL 272, Shui Chuen Au Street, Sha Tin 沙田水泉坳街沙田市地段第272號 (Please see remarks. 請參考註。)	2010	Camping site and hall 營地及禮堂	Uniformed groups 制服團體	Recreation 康樂	14 hours 小時
			Schools 學校		6.5 hours 小時
			Other bodies 其他團體		39 hours 小時

Remarks : Applications for the use of the camp and the facilities therein are open to the public.

註: 營舍及其設施均公開接受公眾申請使用。

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: South China Athletic Association

契約承租人: 南華體育會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
KIL 11071, No. 6 Wylie Path 衛理徑6號九龍內地 段第11071號	2010	Tennis courts 網球場	NSAs 體育總會	Training 訓練	24 hours 小時
			Other bodies 其他團體	Training/Charity 訓練/慈善	211 hours 小時
IL 8850, No. 88 Caroline Hill Road, So Kon Po 掃桿埔加路連山道 88號內地段第8850 號	2010	Fencing Hall 劍擊室	NSAs & other bodies 體育總會及其他團體	Training 訓練	559.5 hours 小時
		Bowling centre 保齡球中心	Other bodies 其他團體	Tournament 比賽	248 hours 小時
		Artificial turf 人造草場	Schools 學校	Training 訓練	15 hours 小時
			NSAs 體育總會	Training 訓練	32.5 hours 小時
			NGOs 非政府機構	Training 訓練	5 hours 小時
			Other bodies 其他團體	Training 訓練	16 hours 小時
		Badminton court (no a/c) 羽毛球場(無空調)	Schools 學校	Training 訓練	25 hours 小時
			Other bodies 其他團體	Tournament and others 比賽及其他	9 hours 小時
		Billiards section 桌球室	Schools 學校	Training 訓練	36 hours 小時
		Golf driving range 高爾夫球練習場	Other bodies 其他團體	Training 訓練	76.5 hours 小時
		Indoor shooting range 室內射擊場	NSAs 體育總會	Tournament 比賽	73 hours 小時
		Squash court 壁球場	NSAs 體育總會	Training 訓練	3 hours 小時
			Schools 學校	Training 訓練	5 hours 小時
		Swimming pool 游泳池	Schools 學校	Training 訓練	994.5 hours 小時
			NSAs 體育總會	Training 訓練	Please see remarks 請參考註
			NGOs 非政府機構	Training 訓練	28 hours 小時
		Table tennis room 乒乓球室	NSAs 體育總會	Training 訓練	64 hours 小時
			Other bodies 其他團體	Training and others 訓練及其他	30 hours 小時
		Diving pool 潛水池	Other bodies 其他團體	Training 訓練	2 hours 小時
		First aid room 急救室	NSAs 體育總會	Training 訓練	3 hours 小時
Health centre 健康中心	NSAs/Schools 體育總會/學校	Training 訓練	Please see remarks 請參考註		

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
	2009	Swimming pool 游泳池	NSAs/Schools/NGOs/ Other bodies 體育總會/學校/ 非政府機構/其他團體	Various 多項	Please see remarks 請參考註
		Indoor shooting range 室內射擊場	NSAs 體育總會	Various 多項	148 hours 小時
			Other bodies 其他團體		15.5 hours 小時
		Volleyball court 排球場	NSAs 體育總會		5 hours 小時
		Squash court 壁球場	Schools 學校		9 hours 小時
		Badminton courts 羽毛球場	Other bodies 其他團體		82 hours 小時
			Schools 學校		17 hours 小時
		Basketball court 籃球場	Schools 學校		4 hours 小時
		Billiards section 桌球室	Other bodies 其他團體		60 hours 小時
		Health Centre - Gym room 健康中心 - 健身室	NSAs 體育總會		Please see remarks 請參考註
		Bowling centre 保齡球中心	Other bodies 其他團體		Please see remarks 請參考註

Remarks: The lessee made available the facilities for the use of outside bodies on a regular basis during the year.

註: 契約承租人於年內定期開放設施予外界團體。

Summary of Lessee's Facilities Used by Outside Bodies

外界團體使用契約承租人設施概要

Lessee: Tai Po Sports Association Limited

契約承租人: 大埔體育會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
TPTL 6 and Extension, Area 4, Tai Po 大埔第4區大埔市地段第6號及其增批部分	2010	Badminton court/ Basketball court 羽毛球場/籃球場	Schools 學校	Sport 體育	80-100 hours per month 每月80-100小時
		Squash court 壁球室	Uniformed groups 制服團體	Sport 體育	4 - 6 hours per month 每月4至6小時
			Other bodies 其他團體	Sport 體育	12 hours 小時
		Gym 健身中心	Other bodies 其他團體	Sport 體育	16-24 hours per month 每月16至24小時
		Dance room 舞蹈室	Other bodies 其他團體	Sport 體育	4 hours 小時
		Conference room 會議室	Other bodies 其他團體	Meeting 會議	3 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Tung Wah Group of Hospital
契約承租人: 東華三院

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 2321 DD 96, Ma Tso Lung 馬草壟丈量約份第96約地段第2321號	2010	Shooting range 射擊場	NGOs 非政府機構	Recreation 康樂	832 hours 小時
			Uniformed groups 制服團體	Recreation 康樂	24 hours 小時
		Outdoor camp site 露營營地	NGOs 非政府機構	Recreation 康樂	832 hours 小時
			Uniformed groups 制服團體	Recreation 康樂	24 hours 小時
		Football field 足球場	NGOs 非政府機構	Sport 體育	832 hours 小時
		BBQ yard 燒烤場	NGOs 非政府機構	Recreation 康樂	832 hours 小時
			Uniformed groups 制服團體	Recreation 康樂	24 hours 小時

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Victoria Recreation Club
契約承租人: 域多利遊樂會

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
Lot 316 DD 252, Sai Kung 西貢丈量約份第252約地段第316號	2010	Water sports facilities 水上活動設施	No record on requisition made by outside bodies 並無記錄外界團體使用設施的要求		

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Yau Yat Chuen Garden City Club Limited
契約承租人: 又一村花園俱樂部有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
NKIL 6042, 7 Cassia Road, Yau Yat Chuen 又一村高槐路7 號新九龍內地段 第6042號	2010	Tennis courts 網球場	NSAs 體育總會	Tournament 比賽	108 hours 小時
		Function rooms 活動室	Schools 學校	Recreation 康樂	7 hours 小時
	2006- 2008	Function room/Swimming pool 活動室/游泳池	Schools 學校	Recreation 康樂	72 sessions 節

Summary of Lessee's Facilities Used by Outside Bodies
外界團體使用契約承租人設施概要

Lessee: Yuen Long District Sports Association Limited
契約承租人: 元朗區體育會有限公司

Lot no. 地段	Year 年份	Facilities used 使用設施	Type of outside bodies 外界團體類別	Nature of use 使用性質	No. of sessions / hours 節數/小時
YLTL 520, Yuen Long 元朗元朗市地段 第520號 (前稱元朗元朗市 地段第160號)	2010	Fitness centre 健身中心	NGOs 非政府機構	Recreation 康樂	107 hours 小時
			Other bodies 其他團體	Training 訓練	89 hours 小時
		Dance room 舞蹈室	Other bodies 其他團體	Meeting 會議	6 hours 小時
			Other bodies 其他團體	Recreation 康樂	33 hours 小時

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Financial Services and the Treasury to Mr Paul CHAN's supplementary question to Question 3

As at the end of March 2011, under the cash-based accounts⁽¹⁾, there are a total of 13 funds set up by the Government for specific purposes which are still in operation. For these funds which were created as commitments under the Government's cash-based accounts, some of the information requested (such as the amount of donations from various sectors at the time of establishment, audited net assets, and the total amount of audited revenue in each financial year (broken down by government funding account and non-government funding account)) are not applicable. We have made corresponding adjustments in preparing the supplementary information. Based on the contributions from Policy Bureaux, information on the date, purpose and amount of commitments at the time of establishment, commitment balances, and the number and amount of subsequent increases in commitments, and so on, of the 13 funds are tabulated in Annexes 1 to 5 for Members' reference.

(1) The Government's cash-based accounts cover the Government's General Revenue Account and the funds established under section 29 of the Public Finance Ordinance (Cap. 2 of the Laws of Hong Kong) (that is, Capital Works Reserve Fund, Capital Investment Fund, Civil Service Pension Reserve Fund, Disaster Relief Fund, Innovation and Technology Fund, Land Fund, Loan Fund, Lotteries Fund and Bond Fund).

WRITTEN ANSWER — *Continued*

Annex 1

Civil Service Bureau

Funds under the Accounts of the Government

<i>Name of Fund</i>		<i>Year of Establishment</i>	<i>Purpose</i>	<i>Approved Commitment at Establishment (\$M)</i>	<i>Approved Commitment as at 31.3.2011 (\$M)</i>	<i>Balance as at 31.3.2011 (\$M)</i>
1	Pensioners' Welfare Fund ⁽¹⁾	1991	The provision under Pensioners' Welfare Fund is for the payment of one-off grants for reimbursement of funeral or medical expenses to pensioners and dependants in financial hardship.	Not applicable	Not applicable	Not applicable

Note:

- (1) This fund is funded under recurrent subhead, approved commitment is not applicable.

Funds under the Accounts of the Government — Expenditure from 1997-1998 to 2010-2011

<i>Name of Fund</i>	<i>2010-2011 (\$M)</i>	<i>2009-2010 (\$M)</i>	<i>2008-2009 (\$M)</i>	<i>2007-2008 (\$M)</i>	<i>2006-2007 (\$M)</i>	<i>2005-2006 (\$M)</i>	<i>2004-2005 (\$M)</i>	<i>2003-2004 (\$M)</i>	<i>2002-2003 (\$M)</i>	<i>2001-2002 (\$M)</i>	<i>2000-2001 (\$M)</i>	<i>1999-2000 (\$M)</i>	<i>1998-1999 (\$M)</i>	<i>1997-1998 (\$M)</i>
1 Pensioners' Welfare Fund														
Annual provision	1.030	0.910	0.910	0.910	0.910	0.910	0.910	0.910	0.910	0.640	0.790	0.781	0.937	0.788
Total expenditure	1.026	0.908	0.910	0.910	0.905	0.860	0.909	0.797	0.839	0.639	0.611	0.639	0.476	0.761

Pensioners' Welfare Fund

- (b) This fund is funded under recurrent subhead, approved commitment is not applicable.

WRITTEN ANSWER — *Continued*

During the period from 2006-2007 to 2010-2011, the Fund approved 806 applications for reimbursement of funeral or medical expenses to pensioners and dependants in financial hardship, involving a total of \$4.659 million.

- (c) We have conducted regular reviews of the assessment methodology for the Pensioners' Welfare Fund with a view to further enhancing the efficiency in processing the related applications.

Annex 2

Food and Health Bureau

Funds under the Accounts of the Government

<i>Name of Fund</i>	<i>Year of Establishment</i>	<i>Purpose</i>	<i>Approved Commitment at Establishment (\$M)</i>	<i>Approved Commitment as at 31.3.2011 (\$M)</i>	<i>Balance as at 31.3.2011 (\$M)</i>
1 Fisheries Development Loan Fund	1960	To provide loans for fishermen to switch to sustainable fisheries or related operations, and for mariculturists and pond fish farmers to develop sustainable aquaculture business so as to conserve fishery resources.	2.000	290.000	38.699
2 Health and Medical Research Fund	2011	To build research capacity and to encourage, facilitate and support health and medical research to inform health policies, improve population health, strengthen the health system, enhance healthcare practices, advance standard and quality of care, and promote clinical excellence, through generation and application of evidence-based scientific knowledge derived from local research in health and medicine.	1,415.000	Not applicable [^]	Not applicable [^]

Note:

- [^] The Finance Committee of the Legislative Council approved on 9 December 2011 the creation of a new commitment for the setting up of a Health and Medical Research Fund by consolidating the commitment items "Health and Health Services Research Fund" and "Funding Research on Control of Infectious Diseases".

WRITTEN ANSWER — Continued**Funds under the Accounts of the Government — Expenditure from 1997-1998 to 2010-2011**

<i>Name of Fund</i>	2010- 2011	2009- 2010	2008- 2009	2007- 2008	2006- 2007	2005- 2006	2004- 2005	2003- 2004	2002- 2003	2001- 2002	2000- 2001	1999- 2000	1998- 1999	1997- 1998
	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
1 Fisheries Development Loan Fund														
Approved commitment at establishment														
Increase in commitment	0.000	0.000	0.000	0.000	190.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	93.000
Total expenditure	-	-	5.000	-	0.330	-	3.980	6.445	26.045	24.786	14.424	13.510	17.900	6.000
2 Health and Medical Research Fund [#]														
Approved commitment at establishment														
Increase in commitment														
Total expenditure														

Note:

Not applicable, this new commitment item was approved by the Finance Committee on 9 December 2011.

Fisheries Development Loan Fund

- (b) Since the setting up of this Fund, the Government has increased its commitment four times to a total commitment of \$290 million to meet the loan demand of fishermen. The Fund provides loans for capture fishermen to switch to or develop sustainable fisheries and for fish farmers to develop sustainable aquaculture business so as to conserve local fisheries resources.

During the period from 2006-2007 to 2010-2011, the Fund approved two projects, involving \$5.33 million. No projects were approved in 2010-2011.

- (c) We will review from time to time the effectiveness of the Fund taking into account the loan demand of the fishery community and advice of Fisheries Development Loan Fund Advisory Committee.

WRITTEN ANSWER — *Continued*

Health and Medical Research Fund

- (b) The creation of a new non-recurrent commitment of \$1,415 million for the setting up of the new Health and Medical Research Fund was approved by the Finance Committee of the Legislative Council on 9 December 2011. No research funding has been granted so far. In accordance with the usual annual schedule for application of research grants, we expect that grants for new projects will be made starting from Q2 2012.
- (c) The Fund aims to provide funding for health and medical research conducted by local researchers in institutions with relevant research capabilities in Hong Kong. To ensure that the fund can effectively meet its stated objectives, research grants are subject to a stringent assessment and audit process. All proposals for research funding will be subject to a stringent two-tier peer review assessment process: first by a Referee Panel comprising external referees chosen for their expertise in specific research areas; second by the Grant Review Board comprising a multidisciplinary panel of local experts with technical skills and experience in a wide spectrum of health sciences; together they assess among other things the scientific merits of the research projects, applicability to local context, research ethics and "value for money" of the projects. The Grant Review Board will make funding recommendation to the Research Council chaired by the Secretary for Food and Health and comprises prominent members of the healthcare system and academic institutions. There is no set timetable or target for disbursement of the Fund, and annual funding amount grants will depend largely on the quality of research proposals and development of local research capacity.

All successful applicants and administering institutions will be required to keep an audit trail of budget spent and submit periodic progress reports as well as a final report on their projects. The final report will also be subject to the stringent two-tier peer review process. The impact of the research funding will be evaluated after completion of the study using a

WRITTEN ANSWER — *Continued*

standardized evaluation questionnaire that describes the research outcomes and outputs in terms of knowledge generation, capacity building, engagement with peers and the public and benefits derived. Research reports of successfully completed projects will be disseminated via website and publication in the *Hong Kong Medical Journal*. The Research Fund Secretariat will organize regular grant skills training workshops to facilitate potential applicant's preparation of applying for research funds, and also organizes research symposia to recognize outstanding studies that have set a benchmark for good research and assisted the formulation of health policies, and to provide a platform for sharing by international and local researchers.

Annex 3

Commerce and Economic Development Bureau

Funds under the Accounts of the Government

<i>Name of Fund</i>		<i>Year of Establishment</i>	<i>Purpose</i>	<i>Approved Commitment at Establishment (\$M)</i>	<i>Approved Commitment as at 31.3.2011 (\$M)</i>	<i>Balance as at 31.3.2011 (\$M)</i>
1a	SME Export Marketing Fund (EMF)	2001	To provide financial assistance to SMEs for expanding businesses through participating in export promotion activities.	300.000	2,750.000*	495.389 [#]
1b	SME Development Fund (SDF)	2001	To support non-profit-distributing organizations in carrying out projects to enhance the competitiveness of SMEs in general or in specific sectors.	200.000		
1c	SME Training Fund (STF)	2001	To provide financial assistance to SMEs for sending their employers or employees to training which is relevant to their businesses.	400.000		

WRITTEN ANSWER — Continued

<i>Name of Fund</i>		<i>Year of Establishment</i>	<i>Purpose</i>	<i>Approved Commitment at Establishment (\$M)</i>	<i>Approved Commitment as at 31.3.2011 (\$M)</i>	<i>Balance as at 31.3.2011 (\$M)</i>
2	Film Guarantee Fund	2003	(a) to assist local film production companies to obtain loans from local participating lending institutions for film production; and (b) to help create an environment conducive to the development of the film financing infrastructure in Hong Kong.	50.000	30.000	28.991
3	Film Development Fund	2005	(a) to part-finance small-to-medium budget film productions; (b) to promote Hong Kong films in the Mainland and overseas; (c) to nurture talents in film production and distribution; and (d) to enhance the interest of the local audience in appreciation of Hong Kong films.	20.000	320.000	181.530
4	Mega Events Fund	2009	To assist local non-profit-making organizations to host major arts, cultural and sports events in Hong Kong over the following three years.	100.000	100.000	77.112

Notes:

* With effect from June 2003, the commitment of the above three SME funding schemes was merged to a single item with a total capital commitment of \$900 million. The STF ceased to receive new applications in July 2005. Since then, the Government has increased the total commitment several times to uphold the Administration's commitment to provide continued support to SMEs through operation of the remaining two funds.

The figure includes the balance of the EMF and the SDF.

WRITTEN ANSWER — Continued

Funds under the Accounts of the Government — Expenditure from 1997-1998 to 2010-2011

Name of Fund	2010-2011	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006	2004-2005	2003-2004	2002-2003	2001-2002	2000-2001	1999-2000	1998-1999	1997-1998
	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
1 SME Export Marketing and Development Funds														
Approved commitment at establishment*	-	-	-	-	-	-	-	-	-	900.000				
Increase in commitment	-	1,000.000	-	350.000	-	500.000	-	-	-	-				
Total expenditure#	345.552	421.246	256.926	149.647	191.452	279.207	294.596	242.320	72.132	1.533				
2 Film Guarantee Fund														
Approved commitment at establishment	-	-	-	-	-	-	-	50.000						
Increase in commitment	-	-	-	-	-	-20.000	-	-						
Total expenditure	-	-	1.124	-	-	-	-	-						
3 Film Development Fund														
Approved commitment at establishment	-	-	-	-	-	20.000								
Increase in commitment	-	-	-	300.000	-	-								
Total expenditure	33.096	48.068	31.412	13.113	8.145	4.636								
4 Mega Events Fund														
Approved commitment at establishment	-	100.000												
Increase in commitment	-	-												
Total expenditure	15.988	6.900												

Notes:

* Includes approved commitment for the STF. (The Fund ceased to receive new applications from 1 July 2005.)

Includes expenditure for the STF up to 2008-2009.

SME Export Marketing and Development Funds

- (b) Since the setting up of the Funds till end of March 2011, the Government has increased the total commitment three times increasing the total commitment to \$2.75 billion to demonstrate the Administration's commitment to provide continued support to SMEs through operation of the two funds.

WRITTEN ANSWER — *Continued*

During the period from 2006-2007 to 2010-2011, the SME Export Marketing Fund approved 87 761 applications, involving \$1,223.28 million and benefiting more than 31 000 SMEs.

During the period from 2006-2007 to 2010-2011, the SME Development Fund approved 76 projects, involving \$78.55 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Implementation and Support Programme in Enhancing Food Safety through Ozone Sanitization and Deodorization Technology for HK food SMEs and Catering Industry
2	East China's second-tier cities domestic sales support program for SMEs
3	So-Biz Project — enhancing competitive advantage through "Shop Freely; Serve Friendly"
4	Knowledge Sharing of Logistics Best Practices to General SMEs in Hong Kong (Part II)
5	Enhancing SME retailers' development and competitiveness in Hong Kong (Part II)
6	Development of an ecodesign tool box and the conformity assessment methodologies
7	Enhance local SMEs' product value via the establishment of a Plastic Materials Resources Centre (PMRC)
8	Establish a strategic road map for future development of local solid state lighting industry through a study of worldwide lighting development trend in LED and an in-depth study of local lighting industry capability and gap
9	Promote the development of biotechnology industry in Hong Kong
10	Development of the Intellectual Capital Statement (ICS) Guideline

- (c) Since the establishment of the Funds, the number of applications have reflected the fact that the schemes are well received by SMEs. We will regularly review the operation and effectiveness of the Funds.

Film Guarantee Fund

- (b) Since the setting up of this Fund, the Government has reduced the total commitment once in 2005 from \$50 million to \$30 million so as to transfer \$20 million to revive the Film Development Fund.

WRITTEN ANSWER — *Continued*

During the period from 2006-2007 to 2010-2011, the Fund approved two projects, involving a total loan guarantee of \$3.25 million. (No project was approved in 2010-2011.)

<i>Name of Projects Approved</i>	
1	Film project "The Lady Iron Chef"
2	File project "Wonder Woman"

- (c) In view of the low utilization of the Film Guarantee Fund (FGF) in recent years, a review on the role and effectiveness of the FGF Scheme in supporting film productions was conducted in September 2010, which was completed in early 2011. To collect views from the stakeholders, a survey questionnaire was issued to 72 companies and organizations including past and prospective applicants, participating lending institutes and film-related associations. Based on the views collected, it was revealed that the loan facility provided by FGF still serves useful purpose in supporting the film productions and that the present mode of operation of the FGF should be maintained.

Film Development Fund

- (b) Since the setting up of this Fund, the Government has increased the total commitment once in 2007 from \$20 million to \$320 million for expanding its scope to partly finance small-to-medium budget film productions.

During the period from 2006-2007 to 2010-2011, the Fund approved 86 projects, involving \$158.35 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Film Professionals Training Programme 2010
2	The 5th Asian Film Awards
3	The 30th Hong Kong Film Awards Presentation Ceremony
4	Film project "Lola-mania"
5	The 9th Hong Kong — Asia Film Financing Forum
6	Film project "Give Me Five"

WRITTEN ANSWER — *Continued*

<i>Name of Projects Approved</i>	
7	Film project "The Killer Who Never Kills"
8	Film project 《現實童話》 (English title not available)
9	Film project "Beach Spike"
10	Entertainment Expo Hong Kong 2011

- (c) The Government reviewed the operation and usefulness of the Film Production Financing Scheme under the Film Development Fund (the Scheme) in 2009, and implemented the enhancement measures in 2010 to make the Scheme more suited to the needs of the film industry. The enhancement measures include raising the upper limit of the Government Finance and improvement in the eligibility criteria. The enhancement measures are welcome by the industry, and there has been a significant increase in the number of applications since the implementation of these measures.

Mega Events Fund

- (b) There is no change in approved commitment since the setting up of this Fund.

During the period from 2009-2010 to 2010-2011, the Fund approved 13 projects, involving \$45 million (excluded two approved events which subsequently withdrew their applications). Projects approved in 2010-2011 are listed as follows:

<i>Name of Projects Approved</i>	
1	Hong Kong Dragon Boat Carnival 2010
2	Hong Kong Tennis Classic 2011 "World Team Challenge"
3	Dragon and Lion Dance Extravaganza 2011
4	Hong Kong Well-wishing Festival
5	Hong Kong Dragon Boat Carnival 2011
6	Hong Kong International Jazz Festival 2011
7	UBS Hong Kong Open Championship 2011

- (c) We are currently reviewing the operation of the Fund, and will consider its way forward beyond 2011-2012.

WRITTEN ANSWER — *Continued*

Annex 4

Labour and Welfare Bureau

Funds under the Accounts of the Government

<i>Name of Fund</i>	<i>Year of Establishment</i>	<i>Purpose</i>	<i>Approved Commitment at Establishment (\$M)</i>	<i>Approved Commitment as at 31.3.2011 (\$M)</i>	<i>Balance as at 31.3.2011 (\$M)</i>
1 Community Investment and Inclusion Fund	2002	The Fund aims to implement diversified social capital development projects in the community, promote reciprocity between the public and different sectors, and build together a cross-sectoral collaborative platform and mutual help network. It also seeks to build social capital — to garner mutual trust, social networks, spirit of co-operation and social cohesion, and enhance mutual support among individuals, families and organizations so that our community can grow from strength to strength.	300*	300	167.202
2 Continuing Education Fund	2002	To encourage our workforce to pursue continuing education so as to better equip themselves in an increasingly globalized and knowledge-based economy.	5,000	6,200	3,197.55
3 Partnership Fund for the Disadvantaged	2005	The Fund aims to promote tripartite partnership among the welfare sector, the business community and the Government to help the disadvantaged.	200	400	303.363
4 Child Development Fund	2008	The Fund seeks to support the longer-term development of children from a disadvantaged background and encourage them to plan for the future and cultivate positive attitudes, with a view to reducing inter-generational poverty.	300	300	276.245

Note:

* Of the \$300 million, the first \$200 million is funded under the Lotteries Fund, while the remaining \$100 million is funded under the General Revenue Account.

WRITTEN ANSWER — Continued

Funds under the Accounts of the Government — Expenditure from 1997-1998 to 2010-2011

Name of Fund	2010-2011 (\$M)	2009-2010 (\$M)	2008-2009 (\$M)	2007-2008 (\$M)	2006-2007 (\$M)	2005-2006 (\$M)	2004-2005 (\$M)	2003-2004 (\$M)	2002-2003 (\$M)	2001-2002 (\$M)	2000-2001 (\$M)	1999-2000 (\$M)	1998-1999 (\$M)	1997-1998 (\$M)
1 Community Investment and Inclusion Fund														
Approved commitment at establishment										300				
Increase in commitment	-	-	-	-	-	-	-	-	-					
Total expenditure	31.378	19.324	18.852	19.580	17.407	15.446	8.392	2.419	-					
2 Continuing Education Fund														
Approved commitment at establishment	-	-	-	-	-	-	-	-	5,000					
Increase in commitment	-	1,200	-	-	-	-	-	-	-					
Total expenditure	334.461	365.279	405.407	490.090	517.029	457.625	289.687	126.890	15.982					
3 Partnership Fund for the Disadvantaged														
Approved commitment at establishment							200							
Increase in commitment	200	-	-	-	-	-	-							
Total expenditure	32.659	25.710	17.563	11.115	5.522	3.879	0.189							
4 Child Development Fund														
Approved commitment at establishment			300											
Increase in commitment	-	-	-											
Total expenditure	15.066	7.082	1.607											

Community Investment and Inclusion Fund

(b) There is no change in approved commitment since the setting up of this Fund. During the period from 2006-2007 to 2010-2011, the Fund approved 129 projects, involving \$153.50 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

WRITTEN ANSWER — *Continued*

<i>Name of Projects Approved</i>		
	<i>Name of Projects</i>	<i>Name of Grantees</i>
1	SMARTCare Movement — Building Social Capital for Supporting Carers of Chronic Patients	The Hong Kong Society for Rehabilitation
2	Family Networks at Community	Baptist Oi Kwan Social Service
3	Weaving Network of Love	Hong Kong Christian Service
4	TM Family Buddy	Salvation Army
5	Teens' Companions	TWGHs Jockey Club Tin Shui Wai Integrated Service Centre
6	Home Sweet Home	South Kwai Chung Service Centre
7	Happy Home Healthy Life	Kwai Tsing Safe Community and Healthy City Association
8	Power Up Families — A Multiethnic Social Capital Project Transforming Families, Neighbourhood & Community	Hong Kong Sheng Kung Hui Lady MacLehose Centre
9	"Rainbow Life" Community Care Action	Yang Memorial Methodist Social Service
10	"Love your Neighbour and Community": Career Companion Project	Hong Kong Sheng Kung Hui Lady MacLehose Centre

- (c) We have regularly reviewed the effectiveness of the Fund. The first evaluation study for the Community Investment and Inclusion Fund (CIIF) was conducted between 2004 and 2006. The study confirmed the effectiveness of CIIF in fostering mutual support in the neighbourhood, cross-sectoral collaboration, as well as community participation. In view of the wealth of experience gathered from an increasing number of funded projects, we have further commissioned consultants to conduct a second evaluation study for CIIF. The study commenced in October 2010 and will be completed by early 2012. In mid-2011, the consultants submitted to the Labour and Welfare Bureau an interim report, the initial findings of which indicate that CIIF has achieved positive outcome in the promotion of social capital development.

WRITTEN ANSWER — *Continued*

Continuing Education Fund

- (b) Since the setting up of the Continuing Education Fund (CEF), the Government has increased the total commitment once. The total commitment was increased to \$6,200 million in 2009 to continue the operation of the Fund for an extended period of time.

The Fund is only used for providing subsidies direct to adults with aspirations to pursue continuing education and training. During the period from 2006-2007 to 2010-2011, the Fund has disbursed \$2,112 million to qualified applicants. In 2010-2011, the amount of subsidies distributed was \$334 million.

- (c) The Administration reviews the CEF from time to time by collecting the views from stakeholders on the effectiveness, scope and operation of the Fund and puts forth improvement measures as appropriate. The last review was conducted in 2009.

Partnership Fund for the Disadvantaged

- (b) Since the setting up of this Fund in 2005, the Government has increased the total commitment once in 2010-2011, thus bringing the total commitment from \$200 million to \$400 million, to encourage further cross-sector collaboration to help the disadvantaged.

During the period from 2006-2007 to 2010-2011, the Fund approved 399 projects, involving \$171.04 million. The 10 projects approved in 2010-2011 with the highest amount are listed as follows:

<i>Name of Projects Approved</i>	
1	Sustainable Speech Therapy Service and Parent Support Program for Special Needs Children from Low Income Families
2	Joyful Homes • Grateful Families
3	Leading to Independence and Vocational Enhancement (LIVE) Project
4	Stay Connected — Services for Prisoners and their Families
5	"U-Turn" for a Stable Home — Holistic Children's Care and Family Support Service for Deprived Families

WRITTEN ANSWER — *Continued*

<i>Name of Projects Approved</i>	
6	"Touching Children's Hearts" — Support Project for Children and Parents
7	HSBC Caring Net for the Community
8	Citi Success Fund (College and Career) 2011
9	Octopus Kids' Nurturing Programme 2010-2012
10	I.T. Care & Learning Society

- (c) We have reviewed the effectiveness of the Fund.

In 2006, the Social Welfare Department commissioned The Hong Kong Polytechnic University to conduct "An Evaluative Study of the Partnership Fund for the Disadvantaged in Promoting and Sustaining Partnerships between NGOs and Business Corporations" with the objectives to review and analyse the partnerships of the Partnership Fund for the Disadvantaged (PFD) projects, and make recommendations on the methods of sustaining such partnerships. Completed in mid-2008, the Study found that over 90% of NGOs, business partners and service users were satisfied with the gains from the partnership projects.

In September 2010, The Hong Kong Polytechnic University was commissioned to conduct "An Evaluative Study of the Partnership Fund for the Disadvantaged for the Social Welfare Department" on the overall effectiveness of the PFD and to recommend the future directions of the Fund. The findings and recommendations of the study will be announced upon completion of the study in due course.

Child Development Fund

- (b) There is no change in approved commitment since the setting up of this Fund. The Child Development Fund (CDF) allocates funds to non-governmental organizations for rolling out the CDF projects throughout the territories by batches, each lasts for three years. Up to end March 2011, we have rolled out two batches of 22 CDF projects, involving \$44.27 million.

WRITTEN ANSWER — *Continued*

- (c) The Administration has commissioned The Hong Kong Polytechnic University to conduct a 3½-year longitudinal study to evaluate the first batch pioneer projects and make recommendations to the Government on how to further develop CDF. The study is ongoing and is expected to be completed by mid-2012.

Annex 5

Environment Bureau

Funds under the Accounts of the Government

	<i>Name of Fund</i>	<i>Year of Establishment</i>	<i>Purpose</i>	<i>Approved Commitment at Establishment (\$M)</i>	<i>Approved Commitment as at 31.3.2011 (\$M)</i>	<i>Balance as at 31.3.2011 (\$M)</i>
1	Sustainable Development Fund	2003	To provide a source of financial support for initiatives that will help develop a strong public awareness of the concept of sustainable development and encourage sustainable practices in Hong Kong	100.000	100.000	61.782
2	Pilot Green Transport Fund	2011	To encourage the transport sector to test out innovative green and low-carbon transport technology	300.000	300.000	300.000

Funds under the Accounts of the Government — Expenditure from 1997-1998 to 2010-2011

<i>Name of Fund</i>	<i>2010-2011 (\$M)</i>	<i>2009-2010 (\$M)</i>	<i>2008-2009 (\$M)</i>	<i>2007-2008 (\$M)</i>	<i>2006-2007 (\$M)</i>	<i>2005-2006 (\$M)</i>	<i>2004-2005 (\$M)</i>	<i>2003-2004 (\$M)</i>	<i>2002-2003 (\$M)</i>	<i>2001-2002 (\$M)</i>	<i>2000-2001 (\$M)</i>	<i>1999-2000 (\$M)</i>	<i>1998-1999 (\$M)</i>	<i>1997-1998 (\$M)</i>
1 Sustainable Development Fund														
Approved commitment at establishment								100.000						
Increase in commitment	0	0	0	0	0	0	0							
Total expenditure	5.496	8.037	7.395	3.289	2.793	3.321	7.888							

WRITTEN ANSWER — *Continued*

<i>Name of Fund</i>	2010- 2011 (\$M)	2009- 2010 (\$M)	2008- 2009 (\$M)	2007- 2008 (\$M)	2006- 2007 (\$M)	2005- 2006 (\$M)	2004- 2005 (\$M)	2003- 2004 (\$M)	2002- 2003 (\$M)	2001- 2002 (\$M)	2000- 2001 (\$M)	1999- 2000 (\$M)	1998- 1999 (\$M)	1997- 1998 (\$M)
2 Pilot Green Transport Fund														
Approved commitment at establishment	300.000													
Increase in commitment	0.000													
Total expenditure	0.000													

Sustainable Development Fund

- (b) There is no change in approved commitment since the setting up of this Fund.

During the period from 2006-2007 to 2010-2011, the Fund approved 28 projects, involving \$24.28 million. Projects approved in 2010-2011 are listed as follows:

<i>Name of Projects Approved</i>	
1	Sustainable Development of Heritage and Cultural Project at Old District of Yau Ma Tei
2	CSR Guide for SMEs in Hong Kong
3	Guide to "Better Corporate Social Responsibility" for Apparel Industry — SME Version
4	Customised Sustainability Framework to Assist SMEs to Achieve Sustainability
5	Low Carbon Manufacturing Programme Workshops: Sustaining Your Business in a Carbon-constrained Economy

- (c) The effectiveness and operation of the SDF has been under timely review to ensure its objectives could be achieved.

Pilot Green Transport Fund

- (b) There is no change in approved commitment since the setting up of this Fund.

The Fund was only launched in March 2011. No project was approved in 2010-2011.

- (c) We will regularly review the effectiveness of the Fund.