

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 15 December 2011

The Council continued to meet at Nine 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

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.

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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.

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

THE HONOURABLE CHAN KIN-POR, J.P.

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 PAUL TSE WAI-CHUN, J.P.

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

MEMBERS ABSENT:

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

DR THE HONOURABLE MARGARET NG

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE LAU WONG-FAT, G.B.M., 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 FREDERICK FUNG KIN-KEE, S.B.S., J.P.

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

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

THE HONOURABLE CHAN HAK-KAN

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

DR THE HONOURABLE LEUNG KA-LAU

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

DR THE HONOURABLE PAN PEY-CHYOU

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

PUBLIC OFFICERS ATTENDING:

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

CLERK IN ATTENDANCE:

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Good morning. Council will now resume and continue with the debate on the motion "Capitalizing on the opportunity presented by the building of a cruise terminal to develop Kowloon East into a business and tourism district".

MEMBERS' MOTIONS

CAPITALIZING ON THE OPPORTUNITY PRESENTED BY THE BUILDING OF A CRUISE TERMINAL TO DEVELOP KOWLOON EAST INTO A BUSINESS AND TOURISM DISTRICT

Continuation of debate on motion which was moved on 14 December 2011

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

MS MIRIAM LAU (in Cantonese): President, the airport has been relocated from Kai Tak to Chek Lap Kok for 12 years and the development plan for the 320 hectares of land at Kai Tak after being left idle under the sun for many years has finally been implemented step by step. Apart from the development of a cruise terminal, the Government has also drawn up the development plan of Kowloon East in this year's Policy Address. Kowloon East will be repositioned and developed into a diversified business district. While the community has pinned high hopes on the plan, the Liberal Party is also glad to see its fruition.

Upon the commissioning of the Kai Tak Cruise Terminal two years later, Kai Tak will be transformed into the gateway to Hong Kong from sea while Kowloon East, as the first district for cruise passengers to set foot ashore, will see much room for development in its tourism potential.

In fact, cruise tourism has become a new trend in world travel. By taking advantage of the commissioning of the Kai Tak Cruise Terminal, coupled with the strong support of the Central Government, Hong Kong's cruise tourism should enjoy great development potential. However, in face of competition from other cities in the region, Hong Kong should also make sound preparations, or else the Kai Tak Cruise Terminal, regardless of how magnificent it may be, will not help improve our competitiveness if there is a lack of appropriate complementary

facilities. Moreover, given that the economic benefits of developing a cruise terminal alone are limited, Kowloon East should be developed into a tourism district as a complementary initiative.

Although there are many scenic spots such as Wong Tai Sin Temple and Chi Lin Nunnery in Kowloon East, and new attractions such as a waterfront promenade will be added under the development plan, there is a problem for the Administration to consider. How will the authorities, by capitalizing on the development of Kowloon East, integrate these various attractions and design a convenient and comfortable tourism route in Kowloon East for tourists so that they will not get an impression of visiting a construction site? A preferable policy by the Administration is awaited.

There are also many historic heritage and buildings worthy of conservation in Kowloon East, of which the Lung Tsun Stone Bridge excavated during the works at Kai Tak has been appraised as a monument of significant importance, not to mention the Sung Wong Toi Park and Kowloon Walled City Park nearby, as well as the former residence of Bruce LEE farther away. Therefore, the Liberal Party considers that it is necessary for the Government to conduct planning carefully with a view to designing a conservation and tourism route for local residents and visitors to revisit many of the historical features preserved.

President, Kowloon East itself is not a tourism district apart from the fact that there was an airport before. Complementary facilities in the district are also very backward. Taking hotels as an example, there are only two hotels in Kowloon East. Even though a hotel will be built near the cruise terminal, it is doubtful whether demand can be met. Therefore, the Government should formulate measures in response to the restructuring of the old industrial areas nearby with a view to providing maximum convenience to facilitate the transformation of vacant industrial buildings into hotels.

Meanwhile, the Liberal Party is very much concerned about the transport facilities in the district failing to cope with the new development of Kowloon East because the trunk roads of Kowloon East and Kowloon Central, such as Prince Edward Road and Kwun Tong Road have reached their capacity, resulting in serious traffic jams. As traffic congestion has become the norm during peak hours every day, a few minutes' journey by car will be much prolonged due to the

problem. It will be disastrous if a small traffic accident should happen. The energizing of Kai Tak will lead to a deterioration of local traffic congestion.

Unfortunately, some major transport facilities in the area have lagged behind the development of Kowloon East. Owing to delay, the opening of the Shatin to Central Link in 2018 or 2020 as scheduled is doubtful. It is also uncertain when the Central Kowloon Route project will commence. Therefore, we opine that the relevant projects should be launched as early as possible so as to improve the traffic conditions in Kowloon East and prevent exacerbating the traffic congestion in Kowloon East due to the development of Kai Tak.

President, the Liberal Party has all along supported the development of transport infrastructure. As for the monorail system, the Liberal Party will in principle support any transport facility which will bring convenience to the public. Particularly for environmentally-friendly transport facilities such as the monorail system, we should throw full weight behind it. However, I hope the Government will consider two points. First, on the monorail system, according to the many studies conducted by us in the past, it is found that the monorail system may generate a lot of noises. Will the same problem emerge in the new facilities?

Secondly, the erection of a monorail system in Kowloon East is in fact very problematic, especially in respect of its alignment. The Liberal Party has reservations about its alignment because the proposed alignment will pass through a transportation link connecting the end of the cruise terminal and Kwun Tong. Given that the headroom of this transportation link is only 21 m, it is not high enough to allow passage of taller vessels, especially local crane barges with a height of 40 m to 50 m, to seek shelter in the Kwun Tong Typhoon Shelter.

As Members may recall, a barge was blown by strong winds to Heng Fa Chuen on Island East during a typhoon in September. It had almost slammed into an apartment block, creating a breathtaking scene. If a transportation link of such a small headroom is built there, it will really hinder vessels from entering the Kwun Tong Typhoon Shelter. Although the Kwun Tong Public Cargo Working Area has been closed, there are still a large number of barges operating in the waters off Yau Tong and Kowloon East. If vessels cannot enter the Kwun Tong Typhoon Shelter, no other location in Kowloon East can offer typhoon

shelter to them. When there is a typhoon, hazardous incidents will happen at any time. In fact, typhoon shelters are the essential facilities to protect the life and property of the marine operations industry. I really hope that the Government will not build a transportation link for the monorail system there at the expense of the function of Kwun Tong Typhoon Shelter as a typhoon shelter for the industry.

The Liberal Party considers that when determining the alignment of the monorail (*The buzzer sounded*) a balance must be struck in respect of the needs of various sectors. Thank you, President.

MS STARRY LEE (in Cantonese): President, just as the Secretary said in her opening remarks last night, the plan of Energizing Kowloon East is a long-awaited project. Regarding this project, I actually expressed my preliminary views in my speech on the Motion of Thanks on the Policy Address. To put it simply, I hoped that the plan of Energizing Kowloon East, which currently covers the former Kai Tak Airport area, Kowloon Bay and Kwun Tong, could be slightly expanded to include Kowloon City and To Kwa Wan. There are mainly four reasons and I would like to briefly explain my proposal concerning the slight expansion of the coverage of the plan.

First, historical factors. As the objective of Energizing Kowloon East is mainly to develop the former Kai Tak Airport, people will inevitably think of Kowloon City District when they think of the former Kai Tak Airport because they would certainly take the route passing through Kowloon City District when they headed for the former airport to take a flight in the past. As Mr Paul TSE also mentioned, restaurants in Kowloon City rose to fame also because of the former Kai Tak Airport. The development of Kowloon City District could not be separated from the former Kai Tak Airport as height restriction on buildings in the district was also imposed because of the Kai Tak Airport in its vicinity. Therefore, history has integrated Kowloon City with the former Kai Tak Airport.

Secondly, geographical factors, in addition to historical considerations. The site at which the former Kai Tak Airport is now located still falls within Kowloon City District, no matter from the geographical perspective or according to administrative boundaries. According to the diagrams provided by the Government, Kowloon Bay and Kwun Tong lie to the North of the former Kai Tak Airport, whereas Kowloon City District, which is in its vicinity, is also

located at its rim. Therefore, from the perspective of geographical factors, the neighbouring areas will benefit if Kowloon City and To Kwa Wan can be integrated as a whole in the development of the former Kai Tak Airport by the Government.

Certainly, the third reason is public expectations. Thanks to Mr CHAN Kam-lam for his invitation to the forum at the Kowloon Bay International Trade and Exhibition Centre so that I could express my views on Energizing Kowloon East. In fact, we shared our views on the main points of this year's Policy Address with the participants on that day. I recall that most of the participants are in fact not living in Kowloon City, but Kowloon East. Nevertheless, quite a number of Kowloon City residents were greatly excited after hearing my views. They sincerely hope that the Secretary and the Government can slightly expand the scope of the plan to include Kowloon City District.

I remember that some residents of Kowloon City District — Mr Paul TSE was also there — originally did not intend to speak. But after listening to my speech, they also heartily shared their views with us, saying that they were a bit disappointed on hearing the plan because residents of Kowloon City had also been waiting for the takeoff of Kai Tak Airport for a long time. Finally, the opportunity has come. But to their disappointment, Kowloon City is not included. While participants of the forum expressed a lot of views on this, some residents I met during my visits to the local communities have also asked me why the monorail would not extend to cover To Kwa Wan, and why Kowloon City was not included in the plan of Energizing Kowloon East. They told me to express their views strongly on the scope of this plan in the Legislative Council and hoped that the Government would accept their advice readily by slightly expanding its scope.

Fourthly, from the perspective of blending the old with the new, the plan of Energizing Kowloon East should include Kowloon City District. I will not repeat this point as I discussed it already last time. Given that there are really a lot of old buildings in Kowloon City, it will be the most appropriate approach to give impetus to the old area through the development of a new district.

I recall that the Secretary, in response to my speech on the Policy Address last time, said that Kowloon City District was not included mainly because the new development area would become another Central District. In other words,

commercial infrastructure will be dominant. According to the Secretary, as Kowloon City is a residential area, which is now under urban renewal, the authorities should concentrate their efforts on redevelopment before considering whether the district should be included in the plan. However, the Secretary also mentioned in her speech last night that districts covered by Energizing Kowloon East would not only develop into a business or tourism district, but also a comprehensive development area. If this is the case, I strongly opine that Kowloon City should not be excluded from the scope of development.

A comprehensive development area means that it will not only be a business or tourism district, as many Honourable colleagues also agreed to my views indirectly in their speeches previously. As Mr Paul TSE has mentioned, impetus should be given to restaurants in Kowloon City under the plan of Energizing Kowloon East. Mr Fred LI has also mentioned the development of a heritage trail, which is in fact a proposal repeatedly discussed by the Democratic Alliance for the Betterment and Progress of Hong Kong and the Kowloon City District Council. Ms Miriam LAU has also mentioned other factors of consideration including the elements of tourism such as the Kowloon Walled City Park and the former residence of Bruce LEE, which are in fact all located in Kowloon City District. Hence, Members of different political parties and groupings all hope that the Government will slightly blur or expand the scope of the plan when the development of a comprehensive development area is under consideration.

If the Secretary does not agree to changing the plan of Energizing Kowloon East to Energizing Kowloon Central, I would understand that. Nevertheless, which districts should be regarded as falling within Kowloon East? I hope the coverage suggested by the Secretary will not be too rigid. In fact, the definition of the precincts of Kowloon East should be an administrative decision as well as a decision on concept. If the boundary is slightly blurred when necessary or during the discussion on developing tourism resources in particular, many Honourable colleagues will also agree that if the existing tourism resources of Kowloon City can combine with that of Wong Tai Sin or Kwun Tong, it will bring synergy to the development of these districts. So, I hope the Secretary, in her reply later on, will accede that the boundary of the development area will not be too rigid and absolutely agree that Kowloon City should be included if necessary.

PROF PATRICK LAU (in Cantonese): President, I declare that I have been appointed by the Government as a non-scoring independent consultant, having participated in the tender evaluation of the Kai Tak Cruise Terminal. Of course, that particular tender fell through. The fact that the Cruise Terminal will be constructed by the Government alone has affirmed the importance of the district.

In this year's Policy Address, the Chief Executive has highlighted the plan of Energizing Kowloon East, with the objective of developing Kowloon East, which includes the Kai Tak Development Area, Kwun Tong and Kowloon Bay, into a new business and tourism district. Let me emphasize one point. It will become a tourism district. So, do not worry, Mr Paul TSE. There will definitely be important developments in tourism in the district.

Apart from building the Cruise Terminal, the Administration has also planned to relocate government offices to Kai Tak and release sites of government facilities for commercial development. We heard yesterday that government offices would be relocated there, apart from formulating the urban design concepts, promoting greening and the development of a waterfront promenade.

As Chairman of the Subcommittee on Harbourfront Planning (the Subcommittee), I will certainly support this series of improvement measures. However, President, I would like to point out that on discussing this motion in the Chamber today President, if this Chamber is surrounded by transparent glass panels, you will have the whole view of the Victoria Harbour. By taking a few steps forwards to the view corridor or the President's office, we will see the harbourfront of Kai Tak at Kowloon East, the greenbelt of the Central-Wan Chai Bypass under construction — these are the prime locations of Hong Kong — in addition to the sight of West Kowloon, which will be developed into the West Kowloon Cultural District.

So, in my opinion, there will be some problem if Kowloon East is defined as CBD2. In fact, the district may be CBD3 because, as we all see it, the most important buildings in Hong Kong the first one is certainly the International Finance Centre in Central. In West Kowloon, we will see the towering International Commerce Centre (ICC), while in Kai Tak, we will see a building of a similar "height" being placed horizontally on the ground as the length of the Cruise Terminal will almost be half of that of the former runway of the Kai Tak Airport. It will be an eye-catcher in future.

These three landmarks will be the icons of our city. Hence, there will be three CBDs in Hong Kong and a myriad of commercial, tourism and residential developments in the West Kowloon Cultural District and the ICC. In my opinion, this triangle-like development project is of the utmost importance. So I think the authorities should perfect the waterfront development so that the three districts can connect with each other to become a new so that cramped office facilities in Central and other areas can be relocated to the three districts for further development.

Members of the Subcommittee and nine Legislative Council Members have paid a duty visit to coastal cities with an environment similar to Hong Kong such as Boston, New York and Vancouver in the hope that we could draw from their experience in waterfront planning and management. We found that the three cities share one common point. In these three cities, disused facilities such as wharves and warehouses have been regenerated or old industrial estates have been transformed into residential buildings, hotels, stadiums or water sports centres to attract visitors. These facilities have turned into favourable dining places as well as popular tourist attractions. This is very important.

Therefore, I fully support the Government's efforts in revitalizing wharves of low utilization. The plan of Energizing Kowloon East should be able to beautify the harbourfronts, promote the tourism industry and implement the regeneration strategies for old urban areas.

Besides, the relevant duty visit has also reinforced our views on community involvement, to which importance has been attached. Apart from building a planning exhibition hall expeditiously so that the public can better understand the urban planning more easily, the Government should also formulate a master blueprint, indicating how Kowloon East will add impetus to the development of other districts.

In addition, the Government should take into account that the building of a simple waterfront promenade in Kowloon East cannot highlight the unique features of the district. Hence, it is necessary to build a waterfront promenade full of distinctive characteristics. In this regard, I very much hope that resources for the District Councils can be enhanced and their community planning functions can be expanded so that more architecture competitions can be organized with a

view to providing people well-versed in the environment of the district with more opportunities to express their views on the waterfront design or redevelopment.

Just now Ms Miriam LAU pointed out the problem of an elevated monorail system. By drawing reference from London's Canary Warf and the Seattle experience, we will know that an elevated railway may not necessarily be the best choice. Perhaps the authorities may give consideration to pedestrian facilities.

During the duty visit, we were able to see the waterfronts of these coastal cities being connected by a set of floating pontoons. This is the most significant experience we have gained. At present, reclamation is hardly a feasible option under the Protection of the Harbour Ordinance. Mr Winston CHU, an expert on the Protection of the Harbour Ordinance, once told me that floating pontoon is worth consideration as a means to connect the harbourfronts (*The buzzer sounded*) to connect the three districts.

Thank you, President.

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

MR RONNY TONG (in Cantonese): President, just by some simple reckoning, the SAR airport has moved away from Kai Tak for 14 years. The small artificial peninsula which has been deserted for more than 10 years will finally get the opportunity to see a bright future. However, the so-called plan of Energizing Kowloon East seems to be lacking a proper vision and overall planning.

President, why am I saying this? Firstly, through the concerted efforts of various sectors, the Government has finally agreed that the site will be used for the construction of a new cruise terminal. However, looking back at our discussions on the cruise terminal for more than a decade, quite a number of other sites have been recommended for the Government's consideration. After such a long delay, the cruise business of our neighbouring regions has surpassed Hong Kong. Hong Kong's only selling point or its comparative advantage over other cruise business centres (that is, cruise business centres in Southeast Asia) will probably be its global reputation as a renowned shopping paradise or gourmet paradise. However, the so-called shopping or dining centres are in fact not located in Kowloon East. In other words, once the cruise terminal commences

operation or the operator starts to provide berthing service for cruises even though the terminal itself has not yet commenced operation, there must be a smooth and direct transport network which is attractive to tourists in order to bring consumers of high spending power to Hong Kong. President, this is the first problem.

Speaking of Bangkok or Moscow, I believe many people will have a strong feeling of dislike as the local traffic congestion is so serious that tourists have been driven away. Travellers will be stuck in traffic jams for about two hours for no reason. I remember that in my recent visit to Moscow, we got caught in a traffic jam on a rainy day for one hour and 10 minutes on our way to a restaurant just two blocks away. It was just two blocks away and it would take 10 to 15 minutes on foot at the most. But by car, we had been stuck in the traffic jam for one hour and 10 minutes. From this we can see that such a situation will drive tourists away, especially up-market consumers because they have high expectations. They will grumble immediately if they have to waste much time waiting. However, the biggest problem is that a tourist centre has been set up in Hong Kong. Meanwhile, the Government, being concerned about the best utilization of land, said that a business centre would be built. In order to maximize the effectiveness of land use, we need to have an alternative or a business centre which is distant from Central.

President, as the saying goes, you cannot have your cake and eat it. If you relocate a large number of office staff to Kowloon East, which is a man-made peninsula, this will defeat the original purpose of developing Kowloon East into a tourist centre or a cruise terminal. How will the authorities solve the traffic problem if a large number of people get to work at Kowloon East? In fact, the transport facilities of Kai Tak, which is surrounded by many old buildings and industrial areas, are not convenient. If an increasing number of commercial buildings will be erected by the Government, how can the needs of those up-market consumers who want to go shopping conveniently be met, while the commuting demands of office workers can also be taken care of, in addition to looking after the transport needs of local residents and their tolerance of traffic jams?

President, in my opinion, this is a very tall challenge. I hope the Government will figure out the traffic network before putting the plan into practice. As we all know, if the artificial peninsula of Kowloon East is turned into a business centre and when those up-market consumers have disembarked,

they absolutely do not want to stay there because no cruise passenger likes visiting a business district. To them, the main reason for getting away from the business districts of their own countries is that they want to get enjoyment from sightseeing, viewing scenery, shopping or eating. They definitely will not stay in Kowloon East. So, this is a major problem in my opinion. In fact, we also hope that the Administration can elaborate how traffic problems can be solved rather than dwelling on how many buildings will be built.

In her speech, the Secretary mentioned the so-called monorail. At first, it sounded appealing when she talked in a manner giving us an impression that there was loud thunder but little rain. In her speech yesterday, however, she seemed to be saying that the system might not be built. Frankly speaking, President, the appeal of a monorail to tourists may be short-lived. As I explained just now, it is very difficult to make them stay at this artificial peninsula. So, what is the function of this so-called monorail? On the contrary, transport facilities which are more convenient and provide direct access to shopping areas and dining areas are more worthy of our consideration. These transport facilities may be a link connecting with the MTR, a highway, or other means of transport which, in my opinion, will be more practical than the so-called monorail circling around on the artificial peninsula. This will also tie in with our target of developing the Kai Tak Peninsula in Kowloon East into a cruise hub.

Furthermore, I would like to point out that it is doubtful whether this project can be accomplished ultimately. To my understanding, it will take almost 10 years before the first cruise can make use of this facility. How will this site be dealt with in these 10 years? It is a question without an answer. I hope that the Secretary, in her reply, can explain what will happen in the next 10 years.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Paul TSE, you may now speak on the four amendments. The speaking time limit is five minutes.

MR PAUL TSE (in Cantonese): President, I am very grateful to the four Honourable colleagues for their amendments to my motion. I am also grateful to three other colleagues for their speeches.

President, the Secretary has commented that my motion is straightforward. In fact, this is precisely the reason and the thrust of moving this motion, that is, to throw a sprat to catch a herring, in the hope that valuable suggestions will be elicited. It is also like drawing the trunk of a tree so that Members can hang Christmas decorations to it in whatever way they like so as to express their ideas. As I said earlier, some Members from Kowloon East may have better understanding of the district than I do. In this respect, I am very grateful to them for their valuable opinions on different topics. Indeed, when we are writing an essay or drawing a picture, it is better to leave some blank space, or else further elaboration will be impeded and leeway will be undermined. I also remember what you said before, President. You once mentioned in this Council that a motion with the fewest wordings is a motion which should be our pride even though it is expressed in just a few words. Now, a motion is often regarded as a provision in law, which will be subject to revision word by word. This has completely ignored the fact that the original intention of debating a Member's motion in the Legislative Council does not focus on the meaning of individual terminology at all. In this regard, I think this is like giving up the whole forest for the sake of one tree.

President, I would like to talk about colleagues' amendments. Regarding Mr CHAN Kam-lam's amendment, I very much agree to most of his views, particularly on the expansion of a linkage system to To Kwa Wan. Just now Ms Starry LEE also mentioned Kowloon City and To Kwa Wan. Given that Hong Kong is a very small place, the whole territory can be turned into a Central Business District. So, speaking of Kowloon East, should Kowloon East be regarded as an administrative district or a constituency that we are familiar with? This is very arbitrary, an individual issue without any particular significance. Instead, the overall development direction of Kowloon East that we are now talking about can definitely include the development of its surrounding areas, such as Kowloon City and To Kwa Wan. I totally agree to this.

I very much agree to Mr Alan LEONG's proposal of holding discussion with the public. However, looking back at the experience of the West Kowloon Cultural District, sometimes there seems to be a situation where "a maidservant has dominated her mistress". Consultation is conducted simply for the sake of doing it, thereby wasting a lot of administrative resources and efforts. As a result, it has been reduced to some sort of window-dressing rather than soliciting public opinions. In this regard, we have to draw a lesson from past experience. As to the proposal of completing the construction of the Metro Park on a priority basis and expediting the relocation of government office buildings in Wan Chai to the district, I also very much agree to it. However, the only point I wish to raise relates to Mr Ronny TONG's view. Will the concept of relocation of offices run counter to the concept of developing a tourism district? This is contradictory to item (e) of Mr Alan LEONG's amendment. We do not mean to relocate offices to other district. Rather, we wish to stimulate the development of Kowloon East so as to create more employment opportunities in the district as far as possible and stimulate economic activities in the district. These are precisely the goals we wish to achieve. We do not mean to divide Hong Kong into many different parts so that Central is an international financial and administrative district, while Kowloon East is merely a district for citizens and residential areas without any other economic activities. This will defeat many of our intentions, that is, to promote employment opportunities and stimulate economic activities in the district. In this regard, Mr Ronny TONG should discuss with Mr Alan LEONG to decide who will speak on behalf of the Civic Party's position.

As for the proposal of Mr WONG Kwok-kin on the expansion of the United Christian Hospital which has been criticized by the Secretary, it is understandable. It is because if the Government wants a comprehensive development initiative rather than a purely commercial or tourism project under the plan of Energizing Kowloon East, it certainly has to take care of this aspect. However, I also agree that this issue should be dealt with in a focused manner under the restriction of limited resources and limited data. Regarding the transformation of Tai Hom Village into a film museum, I also strongly support it. In fact, as we are now looking for a site to build a Bruce Lee Museum, if no suitable site can be identified, Tai Hom Village may merit consideration.

On Mr Fred LI's concern about water quality, I also very much agree to it. I am particularly concerned about the problem of Lei Yue Mun as a famous and important tourist attraction with a large number of food premises. There is

indeed an arbitrary line for Lei Yue Mun residents to draw seawater. The fact that seawater drawn beyond this line is safe for use and seawater drawn inside this line is not has caused lots of administrative inconvenience and costs. This problem deserves our attention. If the quality of water in the Hong Kong harbour as a whole is up to a certain standard, the difficulty can be solved. I also hope that while implementing the plan of Energizing Kowloon East, the authorities will also pay attention to environmental issues, which are always our duty.

All in all, I support all the amendments. Thank you, President.

SECRETARY FOR DEVELOPMENT (in Cantonese): Good morning, President, Honourable Members. Today several other Members have expressed views on the plan of Energizing Kowloon East. I would also like to respond to them *seriatim*.

First of all, I must point out that in launching the plan of Energizing Kowloon East, it does not mean all our attention, efforts and resources will be injected into Kowloon East at the expense of the regional development of other districts in Hong Kong. Even if I do some reckoning with my fingers, the number of regional developments spearheaded or participated by the Development Bureau concurrently is not few. They include new development areas in Northeast New Territories and Northwest New Territories to cope with our future population and housing needs; the "Conserving Central" initiative unveiled in 2009 to inject cultural and heritage conservation elements into our most important core business district; the development of the West Kowloon Cultural District (WKCD) spearheaded by the WKCD Authority; and the Hong Kong Island East development scheduled to be completed by the end of this year. All these developments involve a substantial amount of planning and construction work. I can assure Members here that such work will continue to be taken forward while Energizing Kowloon East is underway. After all, if the opportunity presented by Kai Tak is regarded as an impetus and injected into the old industrial zones in Kwun Tong and Kowloon Bay, I think that it is suitable to select an integrated and far-sighted approach and stance.

While supporting the development of the concept of Energizing Kowloon East, Mr Albert CHAN also queried whether the views were put forward by the

executive without planning. He has also spent some time recapitulating the Metroplan taken forward in Hong Kong over the past decade. Please allow me to give a more detailed response.

In the Stage II Study on Review of Metroplan announced by the SAR Government in 2003, a proposal was put forward to, as mentioned by Mr CHAN yesterday, promote business and office development in traditional industrial areas including Lai Chi Kok, San Po Kong, Kwun Tong, Quarry Bay, Chai Wan, and so on, period. That was unlike the current plan of Energizing Kowloon East, which is about the taking-off of the entire region. In the future, this policy will also be adopted as a statutory planning procedure whereby the Town Planning Board (TPB) will revise the Outline Zoning Plans of the areas mentioned above, so as to convert the use of land in traditional industrial zones in San Po Kong, Kwun Tong, Quarry Bay and Chai Wan from the original industrial use to commercial or commercial/business use. Under the land use planning for commercial or commercial/business land, developers may make all sorts of improvements through our incentives during the redevelopment of industrial buildings. Through a section 16 planning application to the TPB, we may also allow other non-industrial developments to take up land designated for industrial buildings. Of course, the latest initiative is, in addition to planning arrangements, to provide another opportunity through land use arrangements for revitalization of industrial buildings following the introduction of measures to revitalize such buildings in April 2010. In 2007, the Hong Kong 2030: Planning Vision and Strategy Study was completed. Paragraph 11.4.4 of the Study reads, "we will reserve land for the possible development, in the longer term, of a new office node at the former Kai Tak Airport site this new office node may address the needs of some of the conventional CBD occupiers and could produce synergy with the neighbouring Kowloon Bay and Kwun Tong business districts currently undergoing transformation from their industrial origins." A report completed by the Planning Department (PlanD) in 2010 on the future office demands and land supply in Hong Kong has also shown that office demands are strong, and the supply is concentrated in Kowloon East in recent years. In a study conducted by the PlanD in the same year, it is revealed that according to the intention indicated by commercial organizations in choosing business locations and buildings, Kowloon East is one of their favourites. In the Budget unveiled in February 2011, the Financial Secretary also proposed developing office nodes in districts outside conventional hubs and business districts, including Kai Tak, Kowloon Bay, Kwun Tong, and so on.

Later on, in a major Seminar on Office Development in Hong Kong was hosted by the Development Bureau in March, stakeholders agreed that vigorous efforts should be made in providing office land in Hong Kong to cope with the strong demands. They also shared the hope that the Government should not rely entirely on the market-led approach. Instead, planning should be made from a far-sighted perspective to complement these strategies of developing Hong Kong's core business districts. Eventually, in October 2011, these efforts became the development direction for the plan of Energizing Kowloon East proposed by the Chief Executive in the Policy Address. Hence, all in all, the development proposal of Energizing Kowloon East is completely in line with the Government's past planning procedures and intention and consistent with the Metroplan and the proposals outlined in Hong Kong 2030.

As I envisaged, Ms Starry LEE repeated her earlier request for the Government not to act as if Energizing Kowloon East was carved in stone. Instead, Kowloon City and other old districts can be included in the plan. As I pointed out earlier, we will not neglect the urban renewal work required to be undertaken in old districts while developing the business development districts for Energizing Kowloon East. Hence, Kowloon City has become one of the most important districts in our urban renewal work, and a platform for this purpose has also been set up. I believe the urban renewal work in Kowloon City can be carried out concurrently with the Kai Tak development. In the days to come, these two districts will be able to achieve synergy or, to a certain extent, collaboration.

The concept put forward by Prof Patrick LAU precisely coincides with a view espoused in a newspaper editorial yesterday, that we have not only Kowloon East, but also the WKCD and the conventional Central core district and the new waterfront in the district. These three places are described by the editorial as the "three powerful pivots". In fact, they are going to be the most important developments in Hong Kong. The three districts will also benefit from the continuous waterfront. Over the past couple of years, Prof Patrick LAU has also given us a lot of valuable advice in the Subcommittee on Harbourfront Planning and put forward proposals on how the beautification work for the waterfront can be carried out more properly. A series of initiatives are also being undertaken by the Harbourfront Commission as per the earlier reports submitted to the Panel on Economic Development of the Legislative Council and the Subcommittee on Harbourfront Planning. These initiatives also complement some of the motions passed in the debates conducted in the Legislative Council in July this year.

They include, among others, proceeding to study the establishment of a waterfront authority to undertake future planning and management. Among these initiatives, we attach great importance to community participation.

The tourism potential of Kowloon East mentioned by Ms Miriam LAU is already reflected strongly in Mr Paul TSE's original motion and speech. In respect of hotel developments as support facilities, I would like to reiterate here that the development of hotels will actually benefit most from the revitalization of industrial buildings, as many applications for revitalization of industrial buildings and all those being processed by the TPB seek to revitalize industrial buildings for hotel purpose. Since premiums are waived for the revitalization of an entire industrial building, there is indeed a business opportunity for hotels. This is precisely why several enhancement initiatives will be introduced next year upon the completion of our interim review. These initiatives will better facilitate hotel conversion, that is, conversion of industrial buildings into hotels. For instance, we will allow alteration of the structures of industrial buildings for conversion into bigger hotel lobbies and even something else.

The heritage potential of Kowloon East is even greater. In addition to the Longjin Bridge mentioned by Honourable Members, which is of great archaeological value, several buildings and structures in the Kai Tak Development Area and its vicinity, including a fire station B and an associated pier, a wind pole in the middle of the runway, Kowloon Rock, the airport pier, the old runway, Fishtail Rock and Sung Wong Toi Inscription Rock, are also of historical value. Certain connecting links will be identified in the pedestrian link network connecting these places for development and improvement into a Kai Tak heritage trail for the public as well as tourists. This trail will extend to the neighbouring districts to link up with existing relics, including the Cattle Depot Artist Village in Ma Tau Wai, Kowloon Walled City Park and Nga Tsin Wai village in Wong Tai Sin, and stretch to the Park and shopping streets, so that visitors can enjoy different things when visiting this district.

Ms Miriam LAU has also reminded us of the paramount importance of our transport infrastructure, though she has several concerns about the environmentally-friendly connecting system under public consultation, including noise, alignment, the Kai Tak waterway, and the possible impact on the Kwun Tong typhoon shelter, including the financial concern mentioned by me yesterday. I would like to point out here in particular that we might not be able

to reach a 100% consensus whenever such infrastructure projects are undertaken. To some extent, there will inevitably be a trade-off. Ms LAU pointed out that the Kai Tak waterway, that is the bridge connecting downtown Kwun Tong and the end of the Kai Tak runway, has a clearance of only some 21 m and so, fishing vessels with tall masts might not be able to enter the typhoon shelter to take refuge. This is the fact. Nevertheless, if the typhoon shelter is to be retained in such a way that it can function exactly as it does today, then we might not be able to build this runway, the bridge connecting the runway and Kwun Tong, and even the entire environmentally-friendly connecting system. We will give Honourable Members a detailed introduction when public consultation is carried out early next year. Here I must first point out that there must be a trade-off by then. Mr Ronny TONG said that I seemed to have backtracked — I was previously very eager to construct the monorail system, but now I say that the system might not be built. Mr TONG, it is actually not up to me to decide whether or not the system should be built. At the end of the day, I believe the public at large and the Legislative Council will make a decision having regard to the views expressed by the public. The key work spearheaded by the Government is to provide comprehensive data to assist the public in making an informed decision.

Lastly, I might not see eye to eye with Mr TONG over the several points made by him. He seemed to suggest that, although we had spent a lot of energy in planning the Kai Tak Development Area, or the Kai Tak Tourism Node, it is just a place where tourists will pass through rather than stay. This is not what we have originally planned. The Kai Tak Tourism Node is not a transit point for tourists. It should have conditions to become a core tourist hub. Hence, in the plan of Energizing Kowloon East, we have absolutely not compromised the potential of the Kai Tak Tourism Node for the sake of developing a core business district. In the Kai Tak Development Area, in addition to such multi-purpose facilities as residential buildings, hospitals and games halls, a non-office commercial plot measuring nearly 1 million sq m, including a 5.9 hectare "tourism node" behind the cruise terminal, has been earmarked to provide a floor area of 229 000 sq m for hotels and catering and shopping purposes. The office area in the core business district in the plan of Energizing Kowloon East should mostly be derived from the transformation of Kwun Tong and Kowloon Bay. In addition to the existing 1.4 million sq m floor area in these two districts, an additional 2.9 million sq m floor area should be provided. This, coupled with the 1.06 million sq m floor area in the commercial zone in Kai Tak itself, is the

size of Energizing Kowloon East. With a floor area of up to 5.4 million sq m, it can be twice as large as Central. I hope that tourists coming to the Kai Tak Development Area through the cruise terminal in the future will not only find it a very attractive shopping hub but also a culinary destination as well as an enchanting place full of heritage value.

In a nutshell, President, I am very grateful to Mr Paul TSE and the four Members who proposed the amendments to enable us to conduct an extremely valuable and constructive discussion on the vision of the SAR Government for Energizing Kowloon East at such an early stage. I earnestly hope to explore with Honourable Members how this plan can be taken forward at different stages in the days to come. Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr CHAN Kam-lam to move his amendment to the motion.

MR CHAN KAM-LAM (in Cantonese): President, I move that Mr Paul TSE's motion be amended.

Mr CHAN Kam-lam moved the following amendment: (Translation)

"To add "the plan of Energizing Kowloon East announced by the Chief Executive in the Policy Address this year will inject fresh economic impetus and create employment opportunities for the entire Kowloon; in this connection," after "That"; to delete "by consolidating" after "a cruise terminal" and substitute with "and the development of Kai Tak new area, expeditiously finalize an environmentally friendly linkage system and its extension to To Kwa Wan, enhance the designs of the Metro Park and the Longjin Bridge conservation zone, construct a new Kowloon harbourfront promenade stretching from Lei Yue Mun to Sham Shui Po, enhance the uses of typhoon shelters, introduce leisure water sports facilities, and improve the transport network of Kowloon; and, to consolidate"; to delete "building" after "and facilities and" and substitute with "build"; and to add "core" after "an important"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Kam-lam to Mr Paul TSE's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Alan LEONG, as Mr CHAN Kam-lam's amendment has been passed, you may now move your revised amendment.

MR ALAN LEONG (in Cantonese): President, I move that Mr Paul TSE's motion be amended sorry

PRESIDENT (in Cantonese): We have come to page 45 of the Script.

MR ALAN LEONG (in Cantonese): President, I move that Mr Paul TSE's motion as amended by Mr CHAN Kam-lam be further amended by my revised amendment.

Mr Alan LEONG moved the following further amendment to the motion as amended by Mr CHAN Kam-lam: (Translation)

"To add "; this Council also urges the Government to: (a) when establishing a Kowloon East Development Office responsible for steering and monitoring this strategic development project, follow the same approach of holding discussions with the public adopted in the planning for the Kai Tak Development Area, so as to enable people, especially those from Kowloon East, to fully participate in the discussions and put forward views on the alignment, station locations and fares of an environmentally friendly elevated monorail system, as well as the layout of public open spaces, the construction of footbridges, and the designs of waterfront promenades, etc.; (b) expeditiously complete and announce the financial report and feasibility study on the monorail system, and study the sustainable development of monorail operation; (c) improve the linkage of the existing transport network of Kowloon East with those of the various districts in Hong Kong, and ensure that the new developments will not cause any traffic congestion and obstruct local district residents commuting to and from work and travelling to and from the district; and (d) expedite the relocation of government office buildings in Wan Chai to the district, so as to stimulate economic activities in the district and create employment opportunities" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Alan LEONG's amendment to Mr Paul TSE's motion as amended by Mr CHAN Kam-lam be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr WONG Kwok-kin, as the amendments by Mr CHAN Kam-lam and Mr Alan LEONG have been passed, you may now move your revised amendment.

MR WONG KWOK-KIN (in Cantonese): President, I move that Mr Paul TSE's motion as amended by Mr CHAN Kam-lam and Mr Alan LEONG be further amended by my revised amendment.

Mr WONG Kwok-kin moved the following further amendment to the motion as amended by Mr CHAN Kam-lam and Mr Alan LEONG: (Translation)

"To add "; (e) review the road transport network of the various areas of Kowloon East, project whether the traffic loads of the existing road networks in the various communities are adequate for dovetailing with the future development of the district, and expeditiously implement improvement works in accordance with the review outcomes and development needs; (f) study the linkage of the new and old areas in Kowloon East by an environmentally friendly mass transit system, and improve the public transport supporting facilities connecting Kowloon East to other districts, so as to cope with the needs of tourists and businesses in the future; (g) 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 new and old development areas smoothly and without obstruction; (h) expeditiously finalize the construction of a general hospital in Kai Tak and expedite the expansion of the United Christian Hospital, so as to meet the medical needs arising from the population growth and development of Kowloon East in the future; (i) study the construction of cycle tracks along the harbourfront of Kowloon East and various other districts for linkage with the cycle track to be constructed in the Kai Tak New Development Area, so as to develop a network of urban cycle tracks; (j) make use of the advantages of

Kowloon East, such as cultural monuments and existing waterways, etc., for developing a special heritage trail blending environmentalism, historical monuments, local culture and tourism, so as to add special features to the district; (k) increase the space for greening and public art in Kowloon East, and introduce bazaars with local characteristics, such as temple fairs, so as to attract tourists and create employment opportunities; and (l) use the site of the former Tai Hom Village and San Po Kong Industrial Area, etc., for developing cultural and creative industries, so as to build the district into a tourism spot related to the Hong Kong film industry" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr WONG kwok-kin's amendment to Mr Paul TSE's motion as amended by Mr CHAN Kam-lam and Mr Alan LEONG be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Fred LI, as the amendments by Mr CHAN Kam-lam, Mr Alan LEONG and Mr WONG Kwok-kin have been passed, you may now move your revised amendment.

MR FRED LI (in Cantonese): President, I move that Mr Paul TSE's motion as amended by Mr CHAN Kam-lam, Mr Alan LEONG and Mr WONG Kwok-kin be further amended by my revised amendment.

Mr Fred LI moved the following further amendment to the motion as amended by Mr CHAN Kam-lam, Mr Alan LEONG and Mr WONG Kwok-kin: (Translation)

"To add "; and (m) construct a network of designated cycle tracks in Kowloon East for internal and external connection, strengthen green transport as a feature of the district and upgrade bay water quality standards for enjoyment by the public and tourists, promote diversified local development and provide Hong Kong people with an appropriate urban residential area" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Fred LI's amendment to Mr Paul TSE's motion as amended by Mr CHAN Kam-lam, Mr Alan LEONG and Mr WONG Kwok-kin be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Paul TSE, you may now speak in reply. But you have only five seconds.

MR PAUL TSE (in Cantonese): President, I am grateful to Honourable colleagues who have proposed amendments, supported the motion and taken part in the discussion. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Paul TSE, as amended by Mr CHAN Kam-lam, Mr Alan LEONG, Mr WONG Kwok-kin and Mr Fred LI, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Alleviating the difficulties of small and medium enterprises in taking out insurance.

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

I now call upon Mr Tommy CHEUNG to speak and move the motion.

ALLEVIATING THE DIFFICULTIES OF SMALL AND MEDIUM ENTERPRISES IN TAKING OUT INSURANCE

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

President, as early as the time when the September 11 attacks broke out in the United States and when SARS hit Hong Kong, I had urged the authorities on various occasions to pay attention to the problem of excessive premiums payable by the small and medium enterprises (SMEs) when they wanted to take out employees' compensation insurance. Then in May 2007 the Government launched the Employees' Compensation Insurance Residual Scheme (ECIRS) which operates in the form of co-insurance. But the aim of this ECIRS is mainly to serve as a last resort for 19 high risk occupations, especially the construction industry. The difficulties experienced by SMEs in taking out insurance have not been eased.

This situation has worsened in recent years. There are grievances aired by people from many retail consumption and business services industries such as the catering, transportation, cleaning, recycling and logistics industries. These people pointed out that insurance companies have raised premiums drastically under all sorts of excuses and their meagre earnings are seriously undermined. There is a prevailing trend in the insurance market to refuse the underwriting of employees' compensation insurance policies. As a result, many SMEs find themselves unable to operate in compliance with the law.

Members can read from the newspapers cases of the premiums payable by some SMEs having rocketed several times or dozens of times. A badly hit sector is the transport industry. I will leave this to my party colleague, Ms Miriam LAU, who will give a detailed account of the situation later on. Another badly hit area is the recycling sector. I believe Mr WONG Kwok-hing will focus on that when he speaks on his amendment later. So I will talk about the situation in the catering industry now.

Honestly, compared to other sectors, the situation in the catering industry is not as bad. But there are signs that it is deteriorating, and there are more and more cases of people seeking assistance. Many people would say that as a result of a work injury case or two, the insurance company will raise the premiums by

incredible proportions. In one case, the company concerned used to have a fine record, but because of two claims made last year with a total amount of some \$20,000, the insurance company refuses to underwrite insurance policies for that company this year. When the boss tries to take out insurance with another insurance company, the premium payable increases by 10 times to some \$100,000. This amount is half of the profits he can expect to make in one year. And as a result, he is getting a pay even less than the minimum wage.

In an attempt to gauge the situation in the catering industry, my office conducted a questionnaire survey in November. Findings show that of the 500 eating establishments interviewed with some 26 000 workers in total, 93% said that their premiums paid over the past three years had increased. Close to 90% said that the total increases over the past three years were more than 25% and more than 10% said that the rate of increase was more than 100%.

It should be noted that the findings of that survey showed that nearly 30% of the eating establishments had been refused when they wanted to take out insurance policies. People from the sector say that those insurance companies which used to target clients from the SMEs have now put up an excuse that the catering industry is a high-risk trade and they refuse to underwrite insurance policies for them. It is precisely because many insurance companies refuse to underwrite for the catering industry that competition in the insurance market has declined and those insurance companies that remain there just raise the premiums and the catering industry is left with very little bargaining power.

We can note from figures released by the Labour Department that over the past 10 years, the incidence of injuries at work in the catering industry has dropped from some 12 600 cases in 2001 to some 7 500 cases in 2010. The drop is more than 40%. In addition, it should be noted that such injuries and accidents at work would rarely lead to fatalities. Most of the injuries sustained are minor and 80% are caused by workers moving heavy articles, injured by certain tools they use, or as they get burned or slip on the floor. Why then should the catering industry be classified as a high-risk trade?

Actually, we have been told by the insurance sector that the so-called label of high-risk occupations is subject to free interpretations by the insurance companies on the basis of the data they have and the standards they hold. In

other words, these insurance companies are both the referee and players in a game.

It must be admitted that in the past year, the minimum wage and inflation factor did push premiums up considerably. But people who are familiar with the insurance sector will know that another major cause for such drastic increases is illegal acts such as champerty and conspiracy to make fraudulent insurance claims. Such acts are very common these days. There are unscrupulous people who exploit the shortcomings of the SMEs in having very little resources and support in law and so they would lure the claimants into committing such illegal acts under the pretext of no fees will be charged if the case is not successful. So in this way they would co-operate with the claimants, use false or fraudulent sick leave certificates or medical reports of injuries sustained and exaggerate the degree of incapacity caused by the injury. Or they may exploit the loopholes in law and even adopt a one-stop approach which includes providing the claimants with the agents, medical personnel and lawyers, then making an inflated claim to the employers of these SMEs and the insurance companies.

Despite the fact that the Government is beginning to pay attention to this state of affairs and that the police have set up a committee to follow up such cases, the effect of that is very limited. In the past two years, cases of fraudulent insurance claims as recorded by the police only number 50 and there are only 35 cases as at this September. I am sure that the number of cases in which prosecution has been initiated only represents the tip of the iceberg.

In the survey conducted by my office, there is a case where the employer concerned had actually taken photos of the employee who had lodged a compensation claim on account of partial incapacity working for another company and he had also obtained papers signed by the employer of that company testifying that the claimant was working for him during his sick leave from work injury. But when such proof was adduced in the Court, the Judge concerned said that all investigation work should be done by the police and so it could not be admitted as evidence. But the Judge made the claimant swear an oath to the effect that he did not go to work during the period of his work injury. Although the Judge gave an advice to the employer in my sector that he should report to the police and say that the claimant had committed perjury, after the

case was reported to the police, the police only gave a reply in writing that no charge would be pressed, without offering any explanation.

Moreover, when this employer from my sector asked the insurance company for help, to his great surprise the insurance company replied that its role was passive and it would only pay out the compensation according to Labour Department guidelines. This case shows that people in my sector cannot get the help they want and no appropriate protection is given to them in the judicial system, by the police and also the insurance companies.

There are countless other examples of a similar nature. The fact that there are a growing number of such fraudulence cases is because of the following reasons. First, doctors are sloppy and lenient in examining the injuries and so people who intend to cheat can easily obtain medical certificates. Second, the police and the judicial sector are not proactive enough in handling these cases and so the employers are unable to get the right kind of assistance. Third, the insurance companies are often tolerant of these suspected cases and they would rather transfer the risks and costs to the employers later or even terminate the service they give to the SMEs because it is not profitable enough to them. The result is a lack of competition in the market and the balance is also upset.

President, with respect to other problems faced by my sector and the other sectors, all along I have been inclined to adopt the approach of leaving the market alone to solve its problems. But things are different in this case because the laws in Hong Kong require employers to take out employees' compensation insurance for work injury. Failing to do so would land the employers in a maximum penalty of a fine of \$100,000 and imprisonment for two years. So even if the pricing is not reasonable, employers are forced to take out such policies. If this situation goes on, those companies which will suffer most are those SMEs operating on a family basis and with just a few employees, making a small amount of profits. These SMEs will be forced to do something unlawful, or they will have to close down.

So both the Liberal Party and I think that it is essential that this motion be moved to urge the authorities to deal with the problem seriously. They should

do something concrete for the SMEs in distress. We would suggest that improvements can be made along the following three lines.

First, as it is not the intention of the Liberal Party that insurance companies should do business at a loss, we hope that the authorities can undertake a fresh review of their resources and manpower and make adjustments and deployments as necessary. Efforts should be made to combat such illegal acts as champerty and conspiracy to make fraudulent insurance claims. Since it is said that the police should bear the responsibility of detecting crimes reported, the police should be instructed to make more efforts to combat such illegal acts. The police must spare no efforts in cracking down on champerty and cases of non-organized attempts to make fraudulent insurance claims for alleged work injury. These will hopefully deter those swindlers from doing anything illegal. The medical profession can also be urged to heighten their alertness, such that doctors will not make any rash diagnoses for these swindlers to take advantage. At the same time, the Department of Justice should initiate criminal prosecution proceedings in substantiated cases of false, exaggerated or fraudulent claims. To achieve the desired deterrent effect, it must not refrain from taking legal action to pursue these claimants only because the amount of compensation involved may be small or the nature of the crime is minor.

Second, the authorities should address the problem from the perspective of increasing market transparency and undertake reviews and improvements to ensure that insurance companies can enhance the transparency of matters such as pricing, operation, risk assessment and complaint handling. In addition, the monitoring functions of the existing Office of the Commissioner of Insurance must be strengthened so that it can meet the needs in fulfilling its duties, especially those relating to handling suspected fraudulent insurance claims.

In the opinion of the Liberal Party, the authorities may as well draw reference from the practices adopted in the States of Texas and California in the United States. The insurance department there is a regulatory body for the industry which encompasses functions in matters related to fees disclosure, complaint handling and reporting suspected frauds.

In addition, the Office of the Commissioner of Insurance should enhance its functions in data collection. Although the Office does compile statistics, the

data obtained are too brief. Its database should be expanded to include pricing information related to insurance companies, and there should be information on pricing, risk assessment standards and number of complaints with breakdown by various trades and industries. These data should be uploaded onto the website of the Office for browsing by the public and the companies. This can enhance the monitoring of insurance companies by the media, the insurance sector and the academic circle. The data concerned can also be used to set up a website for the calculation of premiums. The clients need only key in the information required, such as the number of employees in the company concerned and their salaries, for a rough idea of the premiums payable. Such practices are very common in places like the United States and Taiwan.

Third, the Liberal Party hopes that the ECIRS can be improved as soon as possible and in addition to the existing list of 19 high risk occupations, other occupations such as retail consumption and business services should also be included. It is because these occupations are of lower risk but they have practical difficulties in taking out employees' compensation insurance. And relevant premium benchmark rates should also be set.

In fact, the existing ECIRS accepts applications for taking out insurance policies from companies in my sector which have been rejected by three insurance companies. An assessment is made on the basis of the claims made during the past five or six years. However, companies which have had the experience of making such applications have complained to me that under the ECIRS, premiums will be set by certain insurance companies based on the papers of former insurers and even company balance sheets. As a general rule, the premiums charged are higher than before. There is still no transparency in pricing, and the only difference is that they will certainly be insured.

The Liberal Party therefore thinks that instead of the parties harbouring mutual distrust and suspicion, it would be much better if the database proposal can be accepted. The relevant data can be used as standards for assessment of premiums. And the authorities can make reference of practices found in neighbouring countries or regions. Co-operation can be fostered with the local universities, trade associations in the insurance sector and actuarial organizations to enable the authorities to come up with ways to improve the ECIRS or enhance the conception and operation mode of some other schemes to help disclose the

premium rates. This may include a quantification of data on factors affecting the premium rates such as those on claims made, accident rates, fraudulence rates or profit-loss values, and so on. Or some weighted numeral values or indexes can be compiled. All these can provide some annualized vertical and horizontal parameters on pricing for the purpose of making comparisons and the SMEs can then take out employees' compensation insurance at more reasonable prices.

President, the Liberal Party hopes that with the improvement measures mentioned, competition and balance in the employees' compensation insurance market can be restored so that companies in the relevant sectors which want to take out this kind of insurance can be suitably covered. I hope Members can lend their support to my motion. I so submit.

Mr Tommy CHEUNG moved the following motion: (Translation)

"That, given that in recent years, many retail consumption and business services industries in Hong Kong, when taking out employees' compensation insurance and motor vehicle third party risk insurance as required by the law, often encountered significant premium increases or even refusal of underwriting insurance policy by insurance companies on various pretexts, causing the employers of many small and medium enterprises great anxiety and significant increases in costs, this Council urges the Government to proactively discuss with the insurance sector to make efforts to reduce the costs and difficulties of various industries in taking out the relevant insurance, so as to avoid affecting their business operation and effective protection for employees; the relevant measures should include:

- (a) to enhance the Employees' Compensation Insurance Residual Scheme by, in addition to the existing list of 19 high-risk occupations, including those occupations such as retail consumption and business services, which are of lower-risk but have practical difficulties in taking out employees' compensation insurance, and to set relevant premium benchmark rates to serve as market reference indicators, so as to provide support as the last resort to enterprises in need of insurance coverage;

- (b) to require the police to rigorously combat illegal acts such as champerty and conspiracy to make fraudulent insurance claims, etc.; and
- (c) to increase the transparency of matters such as pricing, operation, risk assessment and complaint handling, etc. of the insurer sector, and strengthen the efforts of the Government, various industries, the media and the public in monitoring insurance companies, so as to prevent law-abiding employers from bearing unnecessary burden."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Tommy CHEUNG be passed.

PRESIDENT (in Cantonese): Three Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the three amendments.

I will first call upon Mr CHAN Kin-por to speak, to be followed by Mr WONG Kwok-hing and Mr LEE Cheuk-yan respectively; but they may not move the amendments at this stage.

MR CHAN KIN-POR (in Cantonese): President, recently, some industries have encountered difficulties when taking out employees' compensation insurance and motor vehicle third party risk insurance. In fact, this is not only distressing to the relevant industries, but has also caused great anxiety to the insurance industry which is also made a victim. As insurance operators have persistently incurred losses in underwriting these insurance businesses, they often have to rely on other types of insurance business to subsidize the losses, and this has put them under great pressure in operation.

Employees' compensation insurance, which is commonly referred to as labour insurance, and motor vehicle third party risk insurance, which is commonly referred to as motor third party insurance are, by nature, meant to provide compensation for cases of accidents involving casualties, and both types

of insurance have faced persistent underwriting losses. Take labour insurance as an example. There are 50-odd licensed insurance companies providing labour insurance coverage but insurance companies have been extremely cautious in underwriting labour insurance. Why? Because insurance companies have recorded an accumulated loss of about \$8 billion over the past two decades. They have already come to a state where there is just no way to subsidize the losses anymore.

A major reason causing insurance companies to suffer persistent losses in underwriting labour insurance is that many employers have understated the number of employees and their wages when taking out insurance, in a bid to reduce the premium payable by them. Insurance companies have found many such cases. In one of the cases, the employer stated that the company had only nine employees when taking out insurance but it was subsequently found that the company had as many as 60 employees. In another case, the company substantially understated the staff wages, and the actual cost of wages was found to be a dozen times of the declared amount.

In taking out labour insurance, employers are required to only state the total amount of wages without having to provide the names of employees. As a result, even though the number of employees is understated by the employer, the insurance company still bears the risk of insuring all employees against accidents. Frankly speaking, these cases are very common and have become an open secret known to all.

Similarly, motor third party insurance for the transport sector has also caused anxiety to the insurance industry over the years. In recent years, there are insurance companies withdrawing from the motor third party insurance market and there are even companies driven into insolvency as a result of incurring losses. This has further revealed the problem of the transport sector encountering difficulties in taking out insurance.

According to the relevant information, the motor third party insurance business in respect of taxis, public light buses and goods vehicles has recorded underwriting losses for years on a row. For instance, a total loss exceeding \$111 million was incurred in underwriting insurance for taxis between 2006 and 2009. While motor third party insurance for taxis recorded a profit of some \$17 million on the surface last year, if we also factor into calculation the

\$1 billion bad debt of the insolvent Anglo Starlite Insurance Company Limited which used to take up a 50% share of the motor third party insurance market, insurance companies have actually made no profit at all in underwriting motor third party insurance for taxis and public light buses over the past decade or so.

The insurance industry is only forced to increase the insurance premium for the transport sector. According to last year's statistics, the accident rate of private cars showed that 15.5 private cars per 1 000 vehicles had an accident. For taxis, it was 223.6 per 1 000 vehicles (14 times the number of private cars), whereas for public light buses, it was 263.7 per 1 000 vehicles (16 times of the number of private cars). While we basically should not compare the accident rates of different types of vehicles directly, these figures have in one way or another reflected the difficulties in underwriting motor third party insurance for the transport sector.

Moreover, many Members may not know that the amount of claims per accident has continued to increase in recent years. If serious injuries are involved in the accident, the claims can be as high as tens of million dollars per case. For example, a few years ago a famous doctor had an accident in Happy Valley and the case was finally settled out of court, but tens of million dollars were paid as compensation. The difficulties in underwriting motor third party insurance are thus imaginable.

However, the further worsening of the problem is mainly attributed to the emergence of recovery agents and champerty. Recovery agents often "teach" the clients to exaggerate or make false representation of their injuries in accidents, with the intent of making fraudulent claims for insurance compensation. This has caused the insurance industry to suffer heavy losses in making compensation whether in respect of labour insurance or motor third party insurance. In view of this, the insurance industry has endeavoured to combat these illegal activities in recent years, hoping to cut the losses effectively and mitigate the problem of the relevant industries encountering difficulties in taking out insurance.

Yet, recovery agents can successfully obtain huge amounts of compensation because there are indeed some objective problems in society which have opened an opportunity for them to exploit. First, in order to make fraudulent claims for compensation, the clients will often exaggerate or make false representation of their injuries, in order to cheat the doctor into issuing

prolonged sick leave certificates to them. Doctors of the Hospital Authority (HA) or in private practice may, for various reasons, easily issue sick leave certificates covering a period of over six months.

According to the statistics of the insurance industry, in 2006, there were as many as 1 400 cases in which a claim for compensation for injuries at work was submitted based on a sick leave certificate for six months or more. The number of these cases has been increasing year on year, to 2 200 last year, thus reflecting that the situation is deteriorating continuously.

This is why I have proposed in my amendment that the HA be requested to "combat attempts to make fraudulent insurance claims through obtaining prolonged sick leave certificates by exaggerating clinical conditions and degrees of injuries". For the purpose of enforcement, the authorities can consider requiring the consent of an additional doctor or review by a doctor of a higher rank for issuing a sick leave certificate for six months or more.

The insurance industry has repeatedly put forward this proposal, and I myself also made this proposal at a meeting of the Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector (Joint Subcommittee) established by this Council some time ago.

Second, the loopholes of the legal aid system have indirectly encouraged champertous activities. Under the existing system, an applicant for legal aid may choose a lawyer to represent him. Therefore, the lawless elements engaging in champerty can talk the victims who have sustained injuries at work or in an accident into applying for legal aid and then choosing their lawyers to represent them, so that they can carry out champertous activities with the huge resources obtained from legal aid.

This situation is known to all in the relevant industries. But as the personal right of legal aid applicants is involved, any amendment may arouse strong reaction and so, the loopholes cannot be plugged easily. I hope that the relevant parties can put forward a solution that can balance the interests of all sides.

Third, given the complexity of insurance fraud cases, when insurance companies report these fraud cases to the police, front-line police officers often

do not know how to deal with such cases and cannot take actions to promptly combat these activities. In this connection, I have made another proposal in my amendment to request the police to "establish a reporting channel for the public and insurance companies to report cases of suspected fraudulent insurance claims". Again, I have put forward this proposal at a meeting of the Joint Committee and the police has undertaken that the Commercial Crime Bureau would co-ordinate and follow up these reports.

The last proposal in my amendment is to "request the Department of Justice to initiate prosecution against civil contempt of court, so as to deter misstatement with the intent of making fraudulent insurance claims". At present, a client who wishes to claim compensation from an insurance company can initiate civil proceedings in accordance with the legal procedures, and in filing a writ in court, the client is required to sign a "Statement of truth". A person who makes false representation of any information commits the offence of civil contempt of court, and as a person who commits civil contempt of court is liable to imprisonment, the insurance industry believes that if the Department of Justice will initiate prosecution against these attempts, misstatement will be deterred and fraudulent insurance claims will be curbed effectively.

As these problems cannot be resolved instantly, the Hong Kong Federation of Insurers has launched the Employees' Compensation Insurance Residual Scheme (ECIRS) and enhanced the hotline service to provide assistance to employers who encounter difficulties in taking out insurance. The market of last resort originally provided to only 19 high-risk occupations has been opened up recently. Any employer who cannot take out labour insurance can seek assistance from the ECIRS.

Having said that, Members must understand that given the high risk exposure of the ECIRS in providing insurance coverage, risk management measures must certainly be implemented and employers are also required to provide detailed and true information.

In the long term, it is necessary for employers, the insurance industry and the Government to work hand in hand to combat the illegal activities mentioned just now, in order to address the problems. This Council has also set up the Joint Committee, and all sectors are making an effort to discuss ways to tackle the

problems at root. I hope that the HA, the police and the Department of Justice can be actively involved in making concerted efforts to identify solutions.

As regards Mr LEE Cheuk-yan's amendment which proposes to set up a central employees' compensation fund, I think that before the various problems just mentioned are tackled at root, it is impossible for the insurance industry to reverse their fate of persistently suffering underwriting losses even with the setting up of this fund. Worse still, the losses will even continue to increase as the Government compares most unfavourably with the private sector in terms of efficiency and risk management. Fraudulent claims will hence increase continuously to the extent that the public will eventually turn out to be "paying" these criminals engaging in insurance frauds. For this reason, I cannot support this amendment.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, the Hong Kong Recycle Materials and Re-production Business General Association that represents 400-plus recycling companies and 10 000-plus workers, and the Federation of Environmental and Hygienic Services that represents 40-plus companies and 100 000-plus cleaning workers staged a petition yesterday outside the Legislative Council. They had a letter. I will pass it to Secretary Prof K C CHAN later. Now, I would like to reflect for them the actual difficulties faced by the recycling industry (including the cleaning industry) in taking out labour insurance.

Services such as beauty, cleaning, recycling, and so on are absolutely indispensable to this city called Hong Kong. However, at present, it is exactly those industries and workers providing these basic services that are ceasing to operate because of difficulties in taking out labour insurance, causing workers to lose their jobs. Therefore, I have proposed in the amendment that immediate government intervention is needed to show concern for the situation of the recycling and cleaning industries.

President, there are five features in this industry, first, low profits; second, low returns; third, low wages for workers; fourth, low risk; and fifth, low rate of claims. When Mr CHAN Kin-por spoke on his amendment earlier, he mentioned the various reforms needed by the insurance sector and the combat of

misstatement and frauds, to which I agree. However, the insurance sector absolutely cannot adopt this one-size-fits-all theory, sacrificing these regular, proper and law-abiding industries in such a way that they are rendered unable to take out labour insurance and hence the burial articles of some other people.

President, this industry is made up largely of SMEs and family-run businesses. The situation they are now facing is that since May this year, their insurance policies are "cut" one after another, that is, they cannot have insurance policies renewed upon expiry. What can they do? I hope the Secretary will tell us later on what they can do. I believe those people watching the television and listening to the radio now are waiting for the Government's reply. They told me that they had all along been law-abiding. Some of them have been in the industry for over 10 years; some over 20 years; and some even over 30 years. Over the past 10 years, the premium they paid has been increased year on year. The rate of increase varied among several percentage points each year. However, they would rather clench their teeth and continue to pay than subjecting their staff to no coverage as a result of their failure to take out insurance.

However, it is a great pity that the premium has increased more than tenfold upon the expiry of the policy this year. May I ask what kind of business can earn a profit more than tenfold? I hope the Government will tell me. I also hope that the insurance sector will tell them whether it can earn a profit more than tenfold. Surprisingly, the labour insurance premium they have to pay has increased over tenfold. Some have increased from \$10,000-plus to \$100,000-plus, while some have risen from \$80,000-plus to \$1 million-plus a year. It is \$1 million, that is, tagging two more zeroes at the end. Is it not ridiculous?

Under these circumstances, what can they do if they cannot take out labour insurance? Some insurance companies advise them not to declare so many posts, meaning declaring fewer posts, and some others advise them not to declare posts that require greater strenuous efforts. Insurance companies, conversely, advise them how to "play tricks". Of course, they are unwilling to do so.

President, they are facing many difficulties but I will only cite two examples now. In this first example, the premium paid by a small company with a staff of eight was \$80,000-plus a year before. Now, upon the renewal of the policy, the premium has been increased to \$1 million-plus. President, may I ask

what sort of business can make such a huge profit? Furthermore, this premium of \$1 million-plus is expected to be paid in a lump sum. According to the employer concerned, he cannot afford it even if he sells the whole shop. This is one of the examples.

In another example, a couple run a business by themselves and employ several employees. In the past, the premium was increased year on year. It was increased to \$10,000-plus last year. However, the premium jumped to \$180,000 upon renewal this year and it had to be paid in a lump sum. They said that they could not afford it. Even though they approached some agents, no one was willing to underwrite the insurance policy for them. In the end, they said, "We have to be a good boss. We will approach the Prosecutions Division of the Labour Department and tell them that we cannot afford to take out insurance now but we want to abide by the law. Will you advise us what we can do?" The Prosecutions Division of the Labour Department (LD) told them to approach the Employees' Compensation Insurance Residual Scheme Bureau Limited (ECIRS), which in turn told them to seek quotations from three insurance companies. After it was done, they gave the three quotations to the ECIRS. Subsequently, since they could not take out insurance, the ECIRS sought a quotation from an insurance company for them, and the premium amounted to \$180,000-plus. As they were referred by the Prosecutions Division of the LD, the premium was lowered by \$20,000, that is, \$160,000-plus. They asked me: Should they continue to run the business? How can they continue to do so? This is the story.

President, in the event that they cannot take out labour insurance, what situation do they have to face? They either close their business causing job losses, or they ask all workers to feign to be self-employed, to falsely claim themselves as directors or sub-contractors. Does our Government, our society want to force all our workers in the environmental and cleaning industries to become bosses and directors? I really must ask this question.

If this industry is very high-risk and there are often many cases of work injury claim which even involve "deaths and collapse of buildings", the premium, of course, should be raised. However, as I said earlier, this industry is low-risk and the claim rate of the industry is low too. Take the ECIRS as an example. Nineteen high-risk industries on the list have been assessed. One of the highest risk industries that attracts relatively low premium is neon light installation

workers. The premium for this industry is only 3.8% of the wages. In the case where the wage is \$100, the premium is \$3.8. However, the premium for workers doing recycling jobs, picking cardboards, wrapping cardboards and doing cleaning jobs amounts to over 10 percentage points of their wages. Is this right, may I ask? I hope the insurance sector of the whole territory will give this some thought. Does it want to push people to death? How high is the risk involved in their jobs that requires them to take out labour insurance amounting to over 10 percentage points? This is practically impossible. Even the business itself cannot earn this much. This is the hard fact.

President, the present situation is that there is no market for those who want to take out insurance. "Big market, small government" is something always carried by the Government on its lips. Now, there is "no market", which is, in a sense, monopoly. I wish to ask the Government: What can they do? Therefore, I think the Government absolutely cannot look on with folded arms. Instead, it should intervene immediately because the industry is unable to take out insurance now. President, I hope the Government will intervene immediately because time is running out. However, how should it intervene? If it is impossible for the Government to monitor insurance companies, I hope it will act as "a banker" itself by underwriting insurance policies for the industry. The industry has no other alternatives but to take out insurance with the Government. It is because they have to abide by the law stipulated by the Government and they do not want to break the law.

They have now been forced into a corner: They wanted to arrange for a meeting with Secretary for Labour and Welfare Matthew CHEUNG, but he refused; they wanted to arrange for a meeting with the Environment Bureau, it refused on the grounds that this was none of its business and said it was a matter to do with Secretary Prof K C CHAN. The industry cannot take out insurance and this may result in its breaking the law. Therefore, if the Government does not provide a solution to this matter, I will soon take the case to the Commissioner for Labour together with them.

MR LEE CHEUK-YAN (in Cantonese): President, when Members spoke earlier, some mentioned the difficulties faced by employers; some mentioned the

difficulties faced by insurance companies; and some mentioned the difficulties faced by workers. So, the conclusion is that I hope Members will support my amendment later, so that all the problems mentioned earlier will be solved. The reason is that the problems mentioned earlier all involve the arrangements of the entire employee insurance system. The Association for the Rights of Industrial Accident Victims and the Confederation of Trade Unions, organizations which I represent, propose the setting up of a "central employees' compensation fund". The proposal of setting up a "central employees' compensation fund" is actually not something raised today. A "central employees' compensation fund" was first proposed by LAU Chin-shek in 1993 in the then Legislative Council. It was passed without any objection at the time. The proposal was again raised in 1997, and again in 2003. I remember that after I had raised the proposal in 2003, the then Secretary for Economic Development and Labour Stephen IP said that studies would be conducted. However, we have seen nothing done so far, and no improvement so far.

We have all heard Members mention earlier the plight of employers. On the other hand, insurance companies say that employers will not be unable to take out insurance. Insurance companies say that as the Employees' Compensation Insurance Residual Scheme (ECIRS) is in place, how will employers not be able to take out insurance? Yes, employers certainly will not be unable to take out insurance. However, they have to use up all their money, despite any worry about the closing down of their business by then. At present, it is not a matter of being unable to take out insurance, but a matter of unreasonable premiums rising at a soaring rate. Employers certainly can take out insurance. But, as mentioned earlier, the premium for the environmental industry has jumped to \$1 million-plus. If employers can afford \$1 million-plus, they certainly can take out insurance. It is impossible for them not being able to take out insurance. However, it is not a matter of being able to take out insurance or not, but a matter of premiums soaring to a crazy extent. Therefore, being able to take out insurance is no use at all because no capital will be left for the business operation afterwards. This is the biggest problem. Of course, the insurance sector will say that the presence of the ECIRS will address some of the difficulties in taking out insurance. However, how is it done? First of all, tenders are invited and quotations from three companies are sought. Then one company is chosen. Finally, the employer has to approach the ECIRS authorities. Insurance coverage is provided by a service provider appointed by the authorities in accordance with the quoted premium of that company. Yes, insurance can be

taken out in the end. But the problem of premiums soaring to an unreasonable extent remains unsolved. Employers undoubtedly can take out insurance. But, with such a high premium, can they keep their business running? This is their problem then.

Therefore, employers have stated very clearly that they are now facing great difficulties. And, insurance has lost its meaning when risk sharing can no longer be realized. What has it turned into now? Once individual employers post a record of industrial injuries, the premium will be increased immediately. However, what exactly is the entire concept of insurance? It is risk sharing. Risk is shared among different trades and industries. Of course, I do not object to the bearing of higher premiums by high-risk industries. However, if the entire concept is risk sharing, individual employers should not be penalized by a higher premium due to a worsened accident record. It is because if this is the case, we might as well do away with insurance, and replace it with an individual accountability scheme. Insurance aims at risk sharing. But this is not the case anymore. Once an industry or an employer records industrial injuries in a certain year, the insurance premium will soar subsequently. This is not risk sharing at all. Employers have explained this very clearly. However, insurance companies argue that their business will post losses if they do not do so. In my view, if it is so difficult to operate the business, it might as well cease operating it. The setting up of a "central employees' compensation fund" precisely aims to do away with insurance companies, and replace them with the Government.

The problem of insurance remaining unsolved has also subjected workers to four difficulties. First, workers become self-employed all of a sudden because their bosses do not want to take out insurance. As a result, the transport and construction industries are flooded with bogus self-employed persons. Second, many cases of industrial injuries are not reported. Bosses put pressure on workers and force them not to report, saying that once it is reported, insurance premiums will see a sharp rise. So, they ask workers not to report cases of industrial injuries. Many workers are forced to bear the injustice and not to report their cases because they are afraid of losing their jobs. Workers, again, are the biggest victims. Third, at present, many workers cannot get the full compensation of four fifths of their wages. Why can they not get the full compensation of four fifths of their wages? Theoretically speaking, employers

have the responsibility to pay workers first. However, on the pretext of slow capital turnover, they ask workers to wait for the payment of insurance companies. However, insurance companies only pay workers one year after the industrial injury incident. Of course, workers can report to the Labour Department (LD). However, should a "central employees' compensation fund" be in place, workers can actually get compensation immediately. Fourth, I wish to particularly talk about issues concerning domestic helpers. What is the situation of domestic helpers? They have numerous employers. What advice does the LD give them? According to the LD, if domestic helpers' sustain hand injuries we all know that how hard domestic helpers work how should they report injuries and make claims? The LD advises that domestic helpers should sue the last employer. The last employer may hire their services for just a couple of days, but he/she has to bear the responsibility of paying compensation for industrial injuries. The last employer will then sue the ninth employer, and then the eighth employer, and then the seventh employer this goes on and on. However, this is totally impossible. Therefore, in the end, no one will report cases of industrial injuries. This is again a problem that can be solved by the setting up of a "central employees' compensation fund". I will elaborate later on how to address the problems concerning domestic helpers and occupational diseases. Therefore, workers are, again, victimized.

Well, employers, employees and insurance companies are all pouring out grievances, claiming themselves victims. Then, we might as well introduce a "central employees' compensation fund" as proposed now. The introduction of a "central employees' compensation fund" will have the following advantages: First, the present mistake of completely segregating labour insurance with the industrial safety system can be rectified. At present, insurance companies only consider the industrial injury record of a company seeking insurance coverage, regardless of the company's attitude towards occupational safety. Insurance companies do not visit construction sites to inspect whether sufficient safety facilities and safety training are provided. Instead, they only consider the industrial injury record. If industrial injuries frequently happen in a company seeking insurance coverage, the premium will rise sharply. This is really unhealthy. Under the concept of a "central employees' compensation fund", insurance premiums are determined by the extent of the provision of safety measures, instead of the industrial accident record of a company seeking insurance coverage. Of course, industrial accident records may serve as

reference. But the most important point is that whether the company seeking insurance coverage has done a good job in the provision of safety measures.

Second, a central insurance fund can effectively monitor whether employers have taken out insurance, and ensure that incidents of refusal of underwriting insurance policies by insurance companies will not occur. Of course, it depends on the premium too. As I said earlier, there are always companies that are willing to underwrite insurance policies. The question is to what unreasonable level the premium will soar. If it is a central fund, the industries can take part in the discussion and determine together a more reasonable premium, so as to maintain the premium at a reasonable level. Through this mechanism, the concept of risk sharing will be better manifested. This will substantially reduce the chances of employers not being able to take out insurance. It is also hoped that the burden of premiums on employers will be lessened.

Third, a "central employees' compensation fund" can substantially reduce the commission and administrative costs of insurance companies. Come to think about this. Why are premiums so expensive now? We can say that it is due to the large amount of compensations. However, actually, some of the premiums are used for commission and administrative costs. If it is a central fund, that is, if it is managed by the Government, these costs will actually be reduced, which will benefit both employers and employees. At present, the amount of premiums is much greater than that of compensation. Then, where does the difference go? It goes to the commission and administrative costs. If employees' compensation is taken care of by a central fund, commission and administrative costs will be reduced, and insurance premiums will then be genuinely used for compensating employees or helping reduce premiums payable by employers.

Fourth, a central compensation system can improve the existing procedures for handling compensation. As I said earlier, at present, bosses have to pay four fifths of the wages first and get a reimbursement later. However, if a central compensation fund system is introduced, the fund will make payment immediately. Employers do not need to do so anymore because the fund will make payment immediately. This is better for employers. It benefits employees too because instances of employers refusing to pay four fifths of the wages can be avoided.

The fifth advantage is that a rehabilitation system will run parallel to a "central employees' compensation fund". A satisfactory rehabilitation system will reduce employees' claim for sick leave as a result of injuries at work.

Finally, a "central employees' compensation fund" is also vital to the compensation for occupational diseases. I asked earlier: Who will take out insurance for domestic helpers? Should the last employer be responsible for full compensation when domestic helpers sustain industrial injuries? Actually, the amount of compensation should be shared out. If a "central employees' compensation fund" is in place, a domestic helper, after working for five or 10 years and getting proof of occupational diseases, can claim compensation. It is hoped that Members will support our proposal of a "central employees' compensation fund". In this way, all the problems mentioned by Members earlier can be solved.

Lastly, I wish to talk about Mr CHAN Kin-por's proposal, which suggests that a medical certificate of an additional doctor is needed for an employee's application for sick leave of over six months. I find it most unfair to employees because they have to go to one more doctor for it. Moreover, to doctors, this seems to be a token of mistrust. I object to this proposal. Thank you, President.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first of all, I would like to thank Mr Tommy CHEUNG for proposing this motion debate on "Alleviating the Difficulties of Small and Medium Enterprises in Taking out Insurance", and the three Members for proposing amendments. We are equally concerned about the business environment of the small and medium enterprises (SMEs) in view of signs of an economic slowdown worldwide.

I would like to give a brief response first to issues such as rising insurance premiums, the number of insurance companies and the monitoring of insurance companies. Different from other trades and industries in the sales of goods, prices in the insurance business are determined by risk assessment. Insurance companies determine premium rates on the basis of the risk of underwriting the policy, which is mainly the rate of accident, the amount of claim, and so on. Section 26(3A) of the Insurance Companies Ordinance stipulates that the Office of the Commissioner of Insurance (OCI) cannot intervene in the premium rates of

insurance companies. The premium level of insurance companies is determined by adjustments in the free market. In fact, as a prudent overseer of the insurance market of Hong Kong, the OCI's major regulatory objective is to ensure the financial stability of the insurance market. Insurance companies should operate in a prudent manner to discharge their responsibilities. They should also maintain financial stability to protect the interests of policy holders and potential policy holders.

We have a very open insurance market in Hong Kong. Any insurance companies that can comply with the prudent regulatory requirements stipulated in the Insurance Companies Ordinance can enter our insurance market, including employees' compensation insurance and motor insurance, in accordance with the regulations and procedures provided in the Ordinance. At present, there are around 50 insurance companies carrying on the business of employees' compensation insurance and motor insurance in Hong Kong. Each insurance company will, taking account of market conditions and the company's guiding policies, decide to underwrite employees' compensation insurance for different industries or motor insurance.

Statistics of the OCI have shown underwriting losses, ranging from over tens of millions of dollars to several hundreds of millions of dollars in the business of employees' compensation insurance and commercial vehicle insurance in the past years. The recent premium rises in employees' compensation insurance and commercial vehicle insurance are mainly due to the abovementioned underwriting losses which drive the insurance sector to adjust premiums to a more reasonable and sustainable level.

We fully understand the impact of premium rises in employees' compensation insurance and commercial vehicle insurance on SME employers. As far as we understand, the Hong Kong Federation of Insurers (HKFI) that represents insurance companies has all long maintained close contact with representatives or trade associations of different trades and industries to listen to their views. Moreover, the HKFI has striven to enhance their services for the insured, which include the Employees' Compensation Insurance Residual Scheme (ECIRS) established in 2007. The ECIRS offers assistance to employers who encounter difficulties in taking out employees' compensation insurance in providing them with necessary insurance coverage. The OCI is also willing to assist in arranging meetings of the HKFI with SME employers and various

transport sectors and representatives, so as to strengthen communication among various parties and listen to the aspirations of different sectors.

President, my colleagues and I will listen carefully to Members' speeches on the original motion and the various amendments, regarding them as reference for enhancing the operation of the insurance industry and the regulatory system. I will give a detailed response to the original motion and Members' speeches later.

President, I so submit.

MR WONG TING-KWONG (in Cantonese): President, although we often heard in the past that some industries had found it difficult to take out labour insurance, they all involved higher-risk jobs, such as workers engaged in blasting, diving and gondola activities. However, a similar situation has spread to ordinary industries in recent years, including the transport industry and even the recycling industry. Some people say that it is difficult for them to find insurance companies that are willing to underwrite vehicle third party insurance and labour insurance. Even if there are such companies, premiums are increased at a multiple rate. Exactly what is the problem? The authorities have explained that it is due to the high rate of accident in individual industries, and the continuous losses registered by the relevant lines of business of the insurance industry.

In recent years, the number of accidents involving taxis and minibuses has stood at a high level. Last year, the number of accidents involving taxis was over 4 000, and that involving minibuses was over 1 000. The amount claimed in some cases with deaths and serious injuries often reached \$1 million, causing huge losses to the insurance industry. The sudden closure of the Anglo Starlite Insurance Company in 2009 due to failure to repay debts has exposed the harsh business environment of the insurance industry. According to the industries, the frequent upward adjustments of premiums by insurance companies, and even their refusal of underwriting insurance policies for taxis and minibuses in recent years have been a result of the exorbitant amount of compensation. At the same time, a few black sheep in the industries have claimed compensation by misstatement of injuries and even conspired to fraud. Even though some of the cases have been investigated and proved to be fraudulent claims in the end, it has cost insurance companies huge manpower and material resources. Insurance

companies have even set up their own investigation divisions to protect themselves by taking the initiative to investigate suspected cases of fraudulent claims, as well as outsourcing most of the cases to professionals for follow-up.

Subsequent to the liquidation of the Anglo Starlite Insurance Company, insurance premiums for taxis and minibuses have risen sharply by 50% to over 100%, causing a substantial increase in the operation costs of the industries. It has been reported that among the four companies underwriting taxi insurance, three of them have imposed this month a surcharge of over \$4,000 on liquefied petroleum gas taxis on road in 2000, in a way leading to a 25% increase in premiums. Together with an excess of over \$10,000, the insurance expenses alone of each taxi amount to \$40,000 a year. Under these circumstances, the taxi and minibus industries have all at once passed on these insurance costs to passengers. At present, over 50% of the minibus scheduled service routes are applying for a fare increase.

Apart from the transport industry, the recycling industry is also a "disastrous zone". Insurance companies have tightened up underwriting labour insurance for the recycling industry since last year. At the same time, the recycling industry has also been rejected by some banks. Such circumstances have virtually forced the recycling industry into a corner. They have got no alternative but to operate despite the risk, that is, to continue to operate without insurance coverage, or to force their staff to become self-employed.

In face of this situation, trades and industries can apply to the ECIRS, but premiums remain at a very high level, giving them no relief on premium expenses. Due to the persistent lack of transparency in the determination of premiums by insurance companies, the industries have queried the collusive price hike among insurance companies, and the very harsh terms and conditions in policies. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is of the view that the authorities should discuss with the insurance and relevant industries to actively seek proper ways to enhance market transparency.

On the other hand, I have to talk about issues such as champerty and demand for higher claims. From October 2009 to September this year, a total of seven cases were handled by the authorities, but prosecution was successful only in one case so far. Therefore, the DAB holds that the police, the Transport

Department and the Hospital Authority should step up their gate-keeping role jointly against fraudulent insurance claims. For instance, medical inspection of the injured should be carried out by an independent third party, and the police should strengthen its checks to see if the person involved continues to work during the period he declares industrial injuries.

President, the Policyholders' Protection Fund established by the Government in future will not cover vehicle third party insurance and employees' compensation insurance. Therefore, although the present hike of premiums for these two types of insurance in the market is a business decision, the rate of increase is so drastic that the room of survival for individual industries is seriously suppressed. If the Government completely believes in adjustments of the free market, it will run counter to its policies of encouraging environmental recycling initiatives and maintaining a good business environment. Therefore, the authorities should take the initiative to find ways to assist various industries in taking out labour insurance, and step up the monitoring of insurance companies through the future Insurance Authority to avoid indiscriminate charging of premiums. Moreover, the DAB urges the Administration to strive to prevent the recurrence of the Anglo Starlite Insurance Company incident in the future, that is, to prevent the ongoing operation of an insurance company that registers technical losses, and misstatement of the amount of compensation claimed.

President, the DAB supports the original motion. At the same time, we also suggest that the Government should actively study the feasibility of a "central employees' compensation scheme" to help improve the existing employees' compensation insurance system. Therefore, the DAB agrees to the amendment proposed by Mr LEE Cheuk-yan. I so submit.

MS MIRIAM LAU (in Cantonese): President, the transport industry, including taxis, minibuses and public buses, has been troubled for quite some time by the conduct of insurance companies such as the crazy increase in premiums, the refusal of insurance coverage and the refusal of compensation. Although numerous meetings have been held with the Office of the Commissioner of Insurance (OCI), the Transport Department and the Federation of Insurers over the past few years, the Commissioner of Insurance has often told us that the OCI cannot do anything about it because they do not monitor the business of insurance

companies. The Transport Department has also told us that not taking out insurance is none of its business. And the Federation of Insurers has also told us that it has done its best. This issue has spanned several terms of Legislative Council Members. Despite the involvement of Mr Bernard CHAN of the previous term and Mr CHAN Kin-por of this term in the negotiations, the problem has remained unsolved.

In the last six months, the insurance issue has spread to the logistics and freight industry. Without any reason, insurance companies have identified the logistics industry as a high-risk industry and refused to give it insurance coverage. Even when they are willing to do so, premiums have been raised substantially. This is the situation concerning labour insurance. Some members of the industry have also complained that the premium used to cost \$20,000 only, but it has jumped to \$80,000 in one go. It is practically impossible for them to afford such an exorbitant premium. I have also received cases from the cleaning industry asking for help in recent days. According to them, insurance companies have refused them insurance coverage on grounds of increased amounts of claims. As a result, many companies cannot take out insurance anymore and have to cease operation. Even if members of the industry are willing to renew the insurance policy, it is pointed out in some reports that the premium has seen a sharp 20-fold rise. Yesterday, some members of the recycling industry raised the same problem outside the Legislative Council. Mr WONG Kwok-hing has supplied us with details earlier.

President, under the law, employers must take out labour insurance for their employees, and vehicle owners must take out third party insurance for their vehicles. Otherwise, a company cannot "open its door for business", and, the transport industry cannot do business if their vehicles are grounded. At present, a number of industries have encountered difficulties in taking out labour insurance and vehicle third party insurance. In fact, the Government cannot look on with folded arms. Instead, it must think of ways to deal with it and actively solve the problems faced by the industries.

President, I wish to talk about issues concerning the transport industry. In recent years, the premium for every type of insurance has been increased. From 2008 to 2011, the annual premium (including third party insurance and comprehensive insurance) for taxis, red minibuses and green minibuses has risen by 85%, 72% and 106% respectively. The operation costs of vehicle owners

have been substantially increased and many of such costs cannot be passed on to passengers. Insurance companies have cited losses registered in relevant lines of business due to increased claims and high compensation handed down by the Court as the reasons for the increase in premiums. Let us take a look at their business in taxis and public minibuses. In 2008, losses of \$50 million and \$12 million were registered respectively. However, in 2010, the relevant lines of business actually turned from losses to profits. However, the premium has stood at a high level, seeing no drop but continuous rises. Insurance companies increase premiums in times of losses, but refuse to lower premiums in times of profits and continue to increase them instead. May I ask if it is fair to the insured?

Apparently, at present, insurance companies subdivide different types of insurance into different industries or occupations. When profits are registered, those occupations and industries concerned will continue to be offered insurance coverage. Otherwise, insurance coverage will not be offered. Even if insurance coverage is offered, it will be in a most reluctant manner and exorbitant premiums will be charged. Is this the right way of doing things? Should it be allowed by the Government? The Secretary said just now that there are over 50 companies underwriting labour insurance and third party insurance. However, does the Government know that despite this number of companies, actually, there are only two to three companies that underwrite insurance for taxis and minibuses? Among the three companies, if one refuses to offer insurance coverage, the other two will "hoard" for higher premiums. The industries will then have to beg for insurance coverage. Under these circumstances, can the Government look on with folded arms?

I also wish to talk about another issue. In order to lower the costs of premiums, the industries will pursue No Claim Bonus (NCB) with insurance companies. However, in recent years, insurance companies, by concocting all sorts of excuses, have either reduced NCB or abolish NCB completely. Without any NCB, the excess has increased to \$20,000 or \$30,000. As a result, vehicle owners dare not make any claims even when they are involved in accidents. In case of an accident, an agreement will be signed to absolve both parties of all responsibility. However, the current trend is that after the signing of such an agreement, suddenly someone will bring the case to the Court on grounds of injuries. Under these circumstances, insurance companies will say that since both parties have signed such an agreement to absolve mutual responsibility,

insurance companies will not offer them insurance coverage. Is it fair? Regarding all of these problems, the Government must examine if it can continue to look on with folded arms.

Insurance companies claim that the hike of premiums is due to frauds, as well as exaggerated and false claims. Such cases do exist in reality. Some injured workers, after getting the doctor's certificate and leaving the hospital, are back to normal — they would put on the cervical collar when they go to the hospital but they can do without it once out of the hospital. I have also heard that some people, during the period of a claim, that is, the period in which they claim for compensation, actually run in the marathon. They are obviously healthier than we are. Under these circumstances, can the Government also look on with folded arms?

It takes the co-operation of different government departments to curb these acts. A direct reporting mechanism for insurance frauds should be established among the Hospital Authority, the Department of Justice, the police and the OCI to detect fraudulent cases by all means and sue those who are involved, in order to combat these illegal acts. I believe the Government must work closely with the industries in this regard to minimize these acts. However, in any case, regarding the conduct of insurance companies in handling their business, can the Government totally look on with folded arms? My answer is no. I hope the Government will pluck up the courage as quickly as possible to tackle the relevant problems.

Thank you, President.

MR JEFFREY LAM (in Cantonese): President, it can be said that the small and medium enterprises (SMEs) in Hong Kong are facing various challenges. Not only do they have to combat the impact of rising costs in the business environment brought about by the minimum wage, but they also have to cope with the worsening inflation and the escalating wages, rents, costs and insurance premiums. Many enterprises are operating with great difficulties. I can tell Members that their suffering is indeed beyond our understanding.

At present, a few dozen enterprises even face the risk of involuntary closure for failure to renew their labour insurance or motor vehicle third party

risk insurance, and over 17 000 employees are at risk of being rendered unemployed or forced to become self-employed. Their situation is appalling indeed. These companies cover a wide range of industries, including the waste recycling, cleaning, construction and transport industries. Under the relevant legislation, any employer who fails to acquire employees' compensation insurance coverage for his employees commits an offence and is liable to a maximum fine of HK\$100,000 and imprisonment of two years. Besides, the transport industry, such as public light bus and taxi operators, are also required under the law to acquire motor vehicle third party risk insurance coverage for their vehicles. At present, however, not many insurance companies in Hong Kong underwrite employees' compensation insurance or insurance for the transport industry. This has enabled insurance companies to impose significant premium increases on these enterprises at will or even refuse to insure them again, thus leaving these enterprises in dire straits. Among the relevant industries, the waste recycling and cleaning industries are the hardest hit. According to press reports, quite a number of recyclers and cleaning companies have met refusal of underwriting employees' compensation insurance policies or significant premium increases by insurance companies since May this year.

President, there are currently about 400 waste recyclers in Hong Kong, most of them being SMEs with the total number of employees amounting to 10 000. However, many insurance companies refused to renew their insurance policies due to the low profit margin for underwriting employees' compensation insurance coverage for the recycling industry, and some insurance companies even greedily asked for a more than ten-fold premium increase. One of the recyclers with only eight employees was asked to pay an annual premium of \$100,000. At present, there is only one insurance company specializing in employees' compensation insurance for the recycling industry left in the market, but the premiums it charges keep increasing year on year. Now, it even wields its axe at over 10 small-scale recyclers by refusing to renew insurance coverage for them.

The situation of the cleaning industry is even worse. According to the estimates of the industry alliance, the employees' compensation insurance policies of 20 to 30 cleaning companies will expire by the end of this month, yet no renewal has been offered by the insurance companies so far. If this problem cannot be solved in the end, these cleaning companies will face the risk of closure. Besides, the rate of premium increase for this industry ranges from a few folds to over 10 folds, which is appalling indeed. For one of the cleaning companies, the premium even increased from \$40,000 to \$650,000.

President, refusal of underwriting insurance policies for these companies or imposing significant premium increases on them is tantamount to sounding the death knell for them. Unable to pay the premium, some employers may choose to take their chances by making their employees change to self-employed persons status or promoting them to the director level. When these employees are injured at work, they will not be able to receive their legitimate employee protection. An organization estimates that over 17 000 employees in these two industries may be at risk of unemployment or being forced to change to self-employed persons status as a result of this, and a few dozen companies may even face the risk of closure. The construction and transport industries are also facing the problem of refusal of underwriting insurance policies and exorbitant premiums as a result of the large number of substantial compensation claims, fraud and champerty cases in the past.

With the implementation of the minimum wage, these enterprises already face the problem of costs increase. Now, the significant increase in the cost of insurance renewal will undoubtedly exert additional pressure on these SMEs which make a humble profit of only a few percentage points each year. I hope they will not be forced out of business as a result of failure to acquire employees' compensation insurance coverage, thereby causing a great impact on the business environment and economic development of Hong Kong.

We think the Government should lend these industries a helping hand by assisting the relevant enterprises in negotiating with the insurance industry. For example, the Government may propose that the industry enhances the Employees' Compensation Insurance Residual Scheme by excluding the recycling and cleaning industries from the high-risk groups and setting the relevant premium benchmark rates. Besides, for companies with low claim records, the Government should encourage insurance companies to provide them with no claim discounts or even greater discounts at policy renewal and reduce the discount rates according to the past claim records of the insured, thereby balancing the interests of the insurance industry.

President, as there are from time to time cases of conspiracy to make fraudulent insurance claims, champerty, material misrepresentation, such as injury caused deliberately by third party, and exaggeration of injury, the police

should also rigorously combat these illegal acts to restore the industry's confidence in underwriting insurance coverage for these industries.

President, I so submit.

MR ANDREW LEUNG (in Cantonese): President, employees' compensation insurance and motor vehicle insurance are requirements under the law. Actually, I think the Government — and I stress, the Government as a whole — must ensure that there is healthy competition in the market.

Today, only the Secretary for Financial Services and the Treasury is attending this meeting, and the Secretary has just left the Chamber. Actually, this issue concerns not only the Financial Services and the Treasury Bureau but also the Government as a whole. The Government must ensure that employers may make their own choices of insurance companies to acquire insurance coverage because an imbalance should not be allowed in the market. If small and medium enterprises (SMEs) are unable to secure insurance coverage, employees will not be able to work. This year, some large-scale insurance companies engaging in employees' compensation insurance business have left the market, while other insurance companies have imposed premium increases one after another, resulting in market imbalance.

I received a phone call last month from an outsourced cleaning service contractor, saying that their employees' compensation insurance policy was about to expire, but the insurance company which had been working with them in the past either ceased to underwrite insurance for them, failed to provide them with a quotation so far or quoted astronomical prices. The industry is indeed unable to afford these prices. A cleaning company said that the latest quotation it had received even stood at an astronomical level amounting to 9% of its total labour costs. Wage increases arising from the minimum wage, together with premium increases of over 10 folds or even a few dozen folds compared with that last year, are actually unaffordable to the cleaning industry, whose profit margin has all along been on the low side.

After gaining a preliminary understanding of the industry's situation, I approached the Office of the Commissioner of Insurance (OCI) and Mr CHAN Kin-por of the insurance sector, hoping that he would organize a discussion

among contractors, insurance companies and the OCI at an early date so as to come up with a better, fairer and more transparent mechanism to enable contractors to identify insurance companies which are willing to underwrite insurance coverage for them on the one hand, and enable insurance companies to offer premiums which are affordable and fair to contractors on the other. At the same time, I also hope Mr CHAN Kin-por and "big wigs" in the industry would ask insurance companies to extend their insurance policies for one to two months to give the industry some time to discuss their policy renewal. However, all these requests were turned down.

At present, SMEs resist the Employees' Compensation Insurance Residual Scheme (ECIRS) because, with the equally astronomical quoted prices under this Scheme, they think the ECIRS is unable to offer them any help. One should note that the original intention of establishing the ECIRS is to enable employers, especially those engaged in industries in the high-risk groups, who are unable to acquire employees' compensation insurance coverage in the market to secure insurance coverage. To help SMEs, we have to ensure that the premiums set under the ECIRS are reasonable. As there are already OCI officers in the Hong Kong Federation of Insurers (HKFI) to monitor its operation, the OCI has to ensure that premiums under the ECIRS are set under a fair and transparent mechanism.

I am also an employer, and I know it is a practice of insurance companies to request employers to provide the latest information on their business operation expenditures when their insurance policies are about to expire each year to work out the employees' compensation insurance premiums for the coming year. However, with the implementation of the minimum wage, the employees' compensation insurance premium burden of all employers in Hong Kong has increased, and the most affected industries are naturally those which are most affected by the minimum wage, including the cleaning, security, catering and retail industries. Just the labour cost increase arising from the minimum wage alone has already caused an over 10% increase in premiums.

Going through the employees' compensation insurance statistics from the OCI, I found that the contract value in 2010 was some \$12.69 billion, representing an increase of HK\$5.3 billion compared with 2006. Dividing the gross insurance premiums by the annual wages, the overall gross premium rates for different trades and industries have all along been maintained at about 6.4%. However, looking more closely at the figures for 2010 and the first three quarters of this year, one will find that insurance companies were actually unable to make

any profit from the items underwritten. They made a loss of over \$150 million last year and a loss of over \$130 million was recorded on the accounts for the first nine months this year.

Insurance companies will not operate a losing business, and it is just natural for them to increase the premiums for industries with higher accident figures. According to figures for 2010 and 2009, broken down by industries, industries with a greater rate of increase in the number of accidents include the transport, storage, postal and courier service industries. Actually, we also hope that the authorities will look into the causes of accidents and then designate a team to take follow-up actions to reduce the number of accidents in collaboration with the industries. Besides, as some Members said earlier, there are actually insurance claimants who would exaggerate the degree of injuries sustained so as to obtain longer sick leave and claim a higher amount of compensation. I think the authorities, in particular, the Hospital Authority, should follow up cases of prolonged and serious injuries and diseases to ensure that the doctors involved have given serious consideration in issuing sick leave certificates. Other enforcement departments should also enhance their enforcement efforts to prevent any willful defrauders from intentionally exploiting this loophole in law or even the loophole created by the lax enforcement approach adopted by the authorities and engage in champerty in making compensation claims to insurance companies.

President, to address the problem of exorbitant premiums, I think the best way is for enterprises to reduce the number of accidents in their companies because, as we all know, past claim records are definitely a factor in the determination premium. I am aware that the Labour Department has all along been taking targeted enforcement actions in different industries, particularly some high-risk ones, such as the construction and catering industries, and conducting publicity activities on occupational safety.

Finally, I wish to point out that many enterprises are SMEs, which are generally less capable of handling occupational safety matters. I hope the authorities will help SMEs by, among other things, further increasing the amount of financial support for them to purchase proper safety equipment, thereby gradually changing the work practices and attitudes of members of the industries.

President, I so submit.

MR RONNY TONG (in Cantonese): President, to protect employees in case of accidents in the workplace, the law requires that employers take out insurance for their employees so that they will have peace of mind at work. However, this is also one of the operational costs for employers of small and medium enterprises (SMEs). In recent years, SMEs have experienced increased pressure in operation, and various increases, ranging from rises in material costs, prices of new stocks, factory rentals to rises in employees' wage rates, have resulted in rising operational costs. The motion proposed by Mr Tommy CHEUNG today highlighted another problem, and that is, the problem of insurance costs.

Insurance companies make up all kinds of excuses to impose significant premium increases and even refuse to provide coverage. It is indeed a very serious problem. Through this debate today, I wish to request the Government to face squarely two issues: first, to give consideration to expanding the Employees' Compensation Insurance Residual Scheme (ECIRS), and to review whether it is necessary to change the objectives and details of the ECIRS in the light of prevailing circumstances to benefit more SMEs which are unable to secure insurance coverage in the private market; second, to examine the idea of introducing risk-sharing schemes for individual industries, that is, schemes in which individual industries provide self-insurance within the industries in the form of co-operative societies or insurance committees.

Regarding the ECIRS, basically, it is designed for employers engaged in industries in the high-risk groups. If an employer's application for employees' compensation insurance cover has been declined by at least three employees' compensation insurers; or if the premium rates quoted by such insurers in providing cover are 30% or more over the relevant premium benchmark rates, the employer may receive assistance from the fund under the ECIRS. However, information shows that for the current 19 high-risk groups, including blasting, demolition work, diving, earth removal, excavation, filling, reclamation, gondola worker and window cleaner, the premium benchmark rates range from 3.64% to 82.42%. This arrangement cannot give people peace of mind.

My greater concern is that more and more industries will be declined insurance coverage by insurance companies, and the latest example is the recycling industry. According to press reports, an owner of a recycling

company who paid a premium of some \$80,000 last year has to pay a premium of over \$800,000 this year, which is an increase by 10 folds compared with the premium last year. In the face of the astronomical premiums quoted by insurance companies, the recycling industry cannot but make a move to save themselves, and the most typical move is to ask employees to change to self-employment status. Actually, it is only an option in the absence of alternatives, but it does not help in protecting employees at all. I hope the Secretary will give a response to this later to give an account on whether the authorities understand the current situation in which employers of enterprises are unable to secure employees' compensation insurance coverage. The authorities should also examine whether the ECIRS requires a comprehensive review and reform, such as whether it should take up a mediating role by negotiating with insurance agencies on behalf of employers on insurance procurement matters.

As for the proposal of increasing the number of occupations in the list as suggested by Mr Tommy CHEUNG in his original motion, I personally think that it is only a stopgap measure which cannot solve the problem at root because it will *de facto* encourage the private sector to refuse underwriting insurance coverage for SMEs. Apart from the problem that more and more enterprises are unable to secure insurance coverage, the premium benchmark rates under the existing ECIRS are too high, and there are too many conditions attached. For example, employers have to provide on a daily basis the name list of employees, their wages and place of work. This has greatly increased employers' administrative burden, which has in turn greatly increased their basic operational costs. I hope the Government will conduct a comprehensive review of this and give an account on it later.

President, I think a major solution is probably to carefully examine the idea of establishing a risk-sharing scheme or even implementing such a scheme by way of legislation. Employees' compensation insurance or vehicle insurance is basically statutory insurance. However, they are very often regarded by insurance companies as "chicken ribs" with a pathetically slim profit margin. Sometimes, insurance companies only engage in employees' compensation insurance business as affiliated business in order to get high-amount businesses from clients and do not consider the safety records of the companies insured. Therefore, there is often no relationship between premium levels and occupational safety. It is very difficult for small companies to find insurance companies which are willing to offer insurance coverage for them. Individual trades, such as taxi and public light bus operators, are even totally unable to find

agencies in the market which are willing to offer insurance coverage for them due to the nature of their trades. The Legislative Council has recently formed a joint subcommittee to discuss and review this issue.

In this connection, I propose that the authorities introduce risk-sharing schemes for individual industries. In other words, employers of individual industries have to establish co-operative societies or insurance committees to insure against each others' losses within their respective industries. When an accident happens or when the need for compensation arises, the relevant insurance committee will handle the case on its own. This is no new practice at all, and there are similar arrangements in many parts of the world. The most obvious case in point is shipping lines, and public transport operators in many big cities also operate self-insurance this way. To my knowledge, bus companies in Hong Kong also arrange for self-insurance in a similar way.

Apart from addressing the unique occupation-related problems in individual industries, this practice can also reduce the number of illegal acts of champerty or conspiracy to make fraudulent insurance claims because "the fleece comes off the sheep's back". After the insured have received compensation, they have to share the high risk of underwriting for themselves. Therefore, I think this proposal is definitely worthy of thorough consideration by the authorities. In the recent joint meeting organized by this Council to discuss this matter, representatives from both the taxi and public light bus trades indicated that they were willing to give consideration to establishing this kind of scheme and they had the ability to do so. I believe this may be the best way for us to address this problem. Thank you, President.

MR JAMES TO (in Cantonese): President, the issue of insurance discussed today may actually be dealt with in a more scientific way. In particular, with his deep knowledge of economic affairs, the Secretary may map out the relationship among different aspects and analyse the logic involved.

First of all, insurance can be divided into two categories, namely compulsory and non-compulsory insurance. Let me talk about compulsory insurance first. If a government or the law of a certain society mandates that certain people acquire insurance coverage, it is after all a matter of risk sharing. In that case, by finding out whether the number of insured will enable economies

of scale, the number and level of accumulated claims and the numbers of substantiated and false insurance claims, one will probably be able to work out a relatively scientific level after a period of time and gain an understanding of the affordability of the relevant parties.

That being the case, when a loud alarm has now sounded, for example, when a large number of operators in the recycling or cleaning industries have recently failed to secure coverage from insurance companies at the same time, or when the premiums charged of them are regarded even by the laymen, who have limited understanding of these industries, as having reached an astronomical level, what role should the Government play?

President, in the case of combating fraudulent insurance claims, for example, it is certainly something that the Government can do. Therefore, about four years ago, as far as I can remember, when the *Sing Tao Daily* published a full-page article to disclose the relevant investigation report two days in a row, I began to follow up the issue. To fulfill all righteousness, I even proposed to other Members a few months ago that a subcommittee should be established to follow up these relatively detailed inquiries and investigations. Although I can point out the details that require attention, I think they may not be the crux of the matter after all.

As for combating fraudulent acts, it is of particular concern to the Panel on Security. Take general motor vehicle insurance or traffic accident claims as an example, ordinary traffic police officers or patrol officers are on the front line and the first ones to arrive on the scene. However, if someone intends to defraud, different officers from different uniformed forces may often be unable to get the whole picture of individual cases because different police districts, teams, units or officers from different shifts are involved in handling the relevant cases. To effectively curb frauds, therefore, departments in different police districts have to gather all the data obtained and conduct detailed analyses on the various patterns of traffic accidents, be they vehicle collisions, accidents involving pedestrians hit by oncoming vehicles due to negligence on the pedestrians' part or vehicles hitting pedestrians. Besides, the Government may also have a lot of information on non-fault-based accident claim funds or even certain accessible data. Just by comparing information and data from various sources, it will actually be able to pick up certain traces on whether there is any doubts or reasonable doubts for

frauds, and then refer the cases to elite, professional forces for detailed investigation

Insurance companies in general are rather willing to provide information as it will help in their publicity, and they are keen to request the Government to attach great importance to such problems. Generally speaking, insurance companies have better resources to conduct certain surveillance for the sake of protecting their interests. Certainly, if the amount or number of claims involved is small, it is relatively not worthwhile to pay such surveillance costs. However, take the situation in recent years as an example, I believe many insurance companies have already made a lot of investigations of their own accord and paid a considerable amount of surveillance costs to engage private investigation services to detect certain fraud patterns, obtain some basic information and conduct analyses, and then provided them to the Government for follow-up actions. Two years ago, it seemed that the Government did not attach much importance to it, probably because of certain constraints, for example, the Hospital Authority has to face squarely the problem of privacy of personal data. However, if it is found that criminality is involved and reasonable doubts are present, it seems to be right to compare various information to detect the illegal acts and the pattern.

After giving an account of these details, I must point out that I do not think frauds are the major reason for the significant premium increases in recent years. What exactly is the reason for them? It is a very complicated issue, and I have not come up with a very precise conclusion yet. However, I believe it is related to the significant increase in the amount of compensation for accident claims ordered by the Court in some cases in recent years. Certainly, the relevant amounts were worked out in accordance with statutory compensation levels and requirements under common law. However, if these amounts reach an astonishing level, and as far as the free and paid services under our overall healthcare system are concerned, questions will certainly arise as to which levels of claim and compensation are appropriate. President, I am aware that there are a number of representatives from labour organizations in this Council, but I have to point out that we really have to exercise great caution in handling this issue because if we allow individual cases with extremely high level of compensation payouts to become precedents, thereby making it necessary for insurance companies to take into account the risks and costs involved, such risks and costs will become part of the unaffordable deductibles for claims or insurance costs for

many industries. We need a comprehensive adjustment of the system as a whole, rather than following the original practice and working out the premiums as usual and then allowing insurance companies to stay constantly on the cycle of imposing premium increases for the coming year, because this simply does not work.

President, if this situation develops to a certain point which makes us feel that there is no way to stop the insured from making compensation claims and insurance companies are not unreasonable in asking for high premiums, then what should be done? We think the Government may have to conduct a comprehensive review of compulsory insurance, otherwise we have to examine whether the Government needs to regard it as an infrastructure for insurance risk-sharing and take up part of the responsibility.

MR IP WAI-MING (in Cantonese): President, the motion proposed by Mr Tommy CHEUNG today pointed out the difficulties of small and medium enterprises (SMEs) in taking out insurance. As a representative of the labour sector, I wish to call on employers not to stop acquiring employees' compensation insurance coverage for their employees because of exorbitant premiums as it will not only affect the safety protection of workers but it also breaches the law.

President, the issue of exorbitant premiums and difficulties in taking out insurance is a hackneyed topic well worn with age. It not only gives employers a headache but also affects employees. It has also given rise to the problem of the so-called bogus self-employment mentioned by many Members just now. I do not wish to elaborate on this any further. However, I think the emergence of bogus self-employment is an all-lose situation for employees, employers and the insurance sector because employees will be unable to receive any protection, employers will be regarded as unscrupulous and the insurance sector will lose business.

Why does the insurance sector have to keep imposing premium increases? Because they think employees' compensation insurance business is not commercially viable, a losing business. According to the statistics of the Office of the Commissioner of Insurance (OCI), the gross premiums of employees' compensation insurance amounted to over \$4 billion in 2009, and the number of in-force policies was over 360 000. However, the underwriting result of

employees' compensation insurance business recorded a loss of \$125 million, and underwriting losses were recorded in the past five years. It shows that the insurance sector imposes significant premium increases or even refuses to offer insurance coverage probably because it thinks that this business is not commercially viable or may even incur losses.

President, while employers complain about this situation, the insurance sector does not want to run a losing business, and the wage earners need occupational safety protection. We think the best solution is for the Government to take action to thaw the ice by addressing the problems in the existing system. This brings us to the so-called central compensation fund we have been supporting all along. Regarding this issue, I will come back to it in a moment. However, we think the first thing the Government should do is to review the existing legislation, particularly the Employees' Compensation Ordinance (ECO). Although the ECO is reviewed once every two years, the review only looks at the levels of compensation. Actually, the ECO as a whole, which was a product of 1953, has been in operation for over half a century. We think the ECO is unable to meet the needs of the overall economic and labour situations and the work environment of Hong Kong. Therefore, we propose that the first thing the Government should do is to conduct a comprehensive review of the ECO to establish a system which is in line with the prevailing economic conditions, the situation of employees' compensation claims and the rehabilitation policy for work injuries in Hong Kong.

The second issue concerns compensation claims. As disputes over work injury compensation are currently resolved by way of litigation, the Labour Department has all along been claiming that it plays an assisting role only. Actually, many wage earners do not want to resort to legal actions in pursuing the responsibilities and claiming compensation because on the one hand it is time and money consuming and on the other many workers lack the knowledge required. Those who know the ropes may approach trade unions for help, yet many of them will seek assistance from claims intermediaries in pursuing their cases, thus giving rise to the problem of champerty. Actually, these intermediaries seek to reap profits, and their targets for profiteering are insurance companies and workers who make compensation claims. A worker who receives \$100 in compensation may have to pay the intermediary \$30 to \$40.

President, as there are drawbacks in pursuing such cases by way of legal proceedings, will the authorities review whether there are other ways of dealing with employees' compensation, such as providing mitigation services to reduce the inconvenience and costs incurred in judicial proceedings? Besides, why do the relevant workers have to use the services of intermediaries? Because they are not eligible for legal aid and their financial resources have exceeded the eligibility limit for legal aid. Therefore, we think the Government should conduct a review of matters concerning employees' applications for legal aid to enable them to receive the necessary legal aid.

President, another issue is the problem of exaggerating the degrees of injuries. At present, actually, once an industrial accident happens, the injured will be taken to a hospital under the Hospital Authority. After discussing with many doctors and occupational rehabilitation personnel, we found that the so-called "golden half year" after a work injury, that is, whether the injured worker is able to receive appropriate treatment in the first six months after sustaining the injury, is of prime importance. However, as we all know, the Hospital Authority is now experiencing resource problems. Recently, an injured worker who requested to undergo a Magnetic Resonance Imaging (MRI) scan has to wait until 2019. Just come to think about it. Why would workers want to delay their treatment? They also wish to recover and get back to work as soon as possible to earn their usual wages. Therefore, we think it is unfair to shift the responsibility of exaggerating the degrees of injuries to the workers. Quite the contrary, we think the Government should allocate its resources properly.

President, a central employees' compensation fund is mentioned in the amendment. It is a desirable solution to the problem of difficulties faced by various trades and industries in taking out employees' compensation insurance, and we from the labour sector, including the Hong Kong Federation of Trade Unions (FTU), have all along been recommending this solution to the Government. In proposing the motion of "Reviewing occupational safety and health and employees' compensation system" in this Council in May last year, I also put forward this proposal. It precisely seeks to centralize the management of employees' compensation insurance and work injuries, which is currently undertaken in a fragmented manner, to resolve the problem of difficulties faced by some trades in taking out insurance, while at the same time providing employees with a comprehensive compensation system. Under a central mechanism, self-employed persons may also be included in the scope of

protection under the legislation, and insurance matters will be managed by a non-profit-making central employees' compensation board. I recall that Mr CHAN Kin-por, in delivering his speech that day, commented highly of the prevailing low employees' compensation insurance premiums and said that they could hardly increase in the presence of competition in the market. In less than one year, however, Mr Tommy CHEUNG representing employers strongly asserted that insurance companies have increased their premiums beyond reasonable limits and refused to offer insurance coverage. Therefore, as things have come to such a pass, I think the insurance sector, the Government and the employers and employees should stop insisting on their views and explore together whether and how it is possible to set up a central employees' compensation mechanism.

Thank you, President.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, it is certainly a very important issue because over 3 million workers in Hong Kong are affected by the employees' compensation policy.

First of all, how did insurance come into being? It started when people pooled some money together to enable those who are susceptible to accidents to receive protection. At present, the first and foremost problem of the insurance industry is excessive expansion, and the insurance industry has actually become part of the financial industry. When we go to the bank or some other places, someone will many people tried to talk me into taking out insurance, and they said it would be to my benefit, and so on, and so forth. The expansion of the insurance industry is definitely related to speculative activities in the financial market because the insurance industry is able to amass a huge amount of cash, and then it will definitely seek to make the greatest possible profit with the cash. As for the labour sector, employees will supposedly receive compensation once they suffer injuries or when some statutory conditions are satisfied. Actually, most of them have to go through court proceedings.

The insurance industry is monitored by the Office of the Commissioner of Insurance (OCI), yet the OCI operates in a black box. I do not know how much Members know about the OCI. What we are discussing today is when an

employee sustains an injury, he will have to seek help from some intermediaries in making compensation claims because he does not know how to do so or does not have the necessary manpower and financial resources to do so. Besides, these intermediaries aim at making profits, and they will also try to maximize their profits. As they will share the compensation payouts with the injured workers, sometimes they will make loans to these workers in advance so that the latter can meet their living expenses. Then, they will help them make compensation claims and deduct the relevant amount from the compensation payouts. Actually, the Government may carry out a reform in this regard. If we had a central, comprehensive social security system which covered employees' compensation and unemployment insurance, in other words, if workers used part of their income to take out employees' compensation insurance which is managed by a central authority, this problem would have been solved. Unfortunately, however, the Government has long refused to take on board the idea of establishing a comprehensive social security system or an insurance system which is able to cover most members of society. Without centralized management using government resources, this task is actually impossible.

In this regard, the Government is certainly duty-bound. To put it simply, the Government has to make efforts to regulate the insurance industry in Hong Kong. It may actually impose conditions on insurance players which wish to carry on insurance business in Hong Kong, or it may develop a certain product to compete with insurance players. However, the Government seems to be at its wits' end. Why? Because the insurance industry has enormous power. Basically, the Government can hardly monitor the insurance industry in the Hong Kong market. We can see that the insurance industry, instead of minding its core business, just engages in other businesses, such as selling others' savings products or even investment products. Actually, this has sufficiently proved that this industry is monopolized by a small group of people, and the OCI, which operates in a black box, is unable to deal with it.

I have some personal experience with a complaint case. Among the complaints received by the Legislative Council, one of them involved a lady who did not have any need of taking out insurance, and she suffered from a psychiatric illness. However, certain salespersons from the insurance industry persuaded her into taking out an insurance policy, and when they found out later that she had psychiatric problems, they did not allow her to stop making contributions. When her husband came to the Complaints Division of the Legislative Council and lodged a complaint, I said right away in front of the reporters that in that case,

I would certainly take up the case with the insurance company concerned. It was only under this circumstance that the representative of the company called me after a couple of hours, saying, "Mr LEUNG, things have been settled, thank you. There is no need for them to make contribution to that insurance policy anymore." See? The insurance sector is complaining today that claims made by intermediaries have made business difficult for them. What a joke. As practitioners in the insurance industry, do they not know how to do risk assessment? When they conduct risk assessment, do they not obtain overall figures and average them out? Do they just know how to work out the figures of a single item of employees' compensation? Is there such business at all?

Therefore, it is simple. If the Government does not take up its due responsibility in this regard and does not exercise due diligence, that is, if the Government, being aware of the problem concerning employees' compensation insurance, does not develop a certain kind of product and a more comprehensive employees' compensation or unemployment insurance system, this problem will not come to an end. As the insurance industry does not operate as a charity, and neither does it run its business based on average figures, it will only impose premium increases for a certain type of insurance when business is not good. But the Government will not do so. This is where the problem lies, and the ultimate problem is certainly that our system is a small circle election. Do you want the votes? The insurance sector and the financial sector are together, and quite a number of votes are at stake. How would you improve it?

For this reason, I personally think that this Council should require the Government to develop a kind of product, the financing and management for which should be responsible by the Government, in order to benefit the self-employed persons and employees in Hong Kong.

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

MR PAUL TSE (in Cantonese): President, just now many Honourable colleagues from different sectors and background let out their emotions towards this phenomenon or gave views on the problem identified. Now, let me spend some time talking about my observations.

We all know the so-called "butterfly effect". It means that a small butterfly flapping its wings at a certain place may induce a great impact. I wish to point out that the root of this "butterfly effect" is a piece of legislation enacted or passed in 1989, which is Cap. 71, that is, the Control and Exemption Clauses Ordinance. Section 7 of the Ordinance stipulates that concerning compensation for death or personal injury, no maximum limit should be imposed on the amount of compensation. No maximum limit should be set in this regard, be it in the form of agreement or notice. I understand that the legislative intent back then was to protect individual victims. If a maximum limit is imposed, victims in some miserable cases, such as those involving permanent disabilities, will be unable to receive the necessary protection and the protection they rely on for their living for the rest of their lives. However, it is precisely because of this effect that many problems arise. Unfortunately, we hear about accidents involving outbound tours every now and then, and regrettably, one case happened this week.

There are more and more hazards in this world. Natural disasters and man-made calamities often happen, protection is lacking in many circumstances, and there is no way to guarantee that accidents will not happen. Actually, whenever an accident happens, be it caused by problems in the local system and law or any other reasons, travellers who are unable to receive their legitimate compensation in the place concerned would regard Hong Kong as their final resort and sue the relevant travel agency when they return to Hong Kong. Over a decade ago, a case involving Kwan Kin Tours happened in Bai Teng Hu. It was a very serious case and an appeal was even made to the Privy Council more than a decade ago. Even in this situation, the travel agency was ordered in the end to make compensation in this case, even though its role was only to recommend or sign up members for this tour group and then pass it onto the local receiving agency for itineraries arrangement.

Families which travel abroad on their own rather than joining a tour group are actually unable to seek compensations under such circumstances, but as the travel agency was the agency which signed up members for this tour group from Hong Kong, it was held responsible. This was a so-called landmark case. In this regard, it can be said to be a watershed case, which has caused travel agencies to face many difficulties afterwards. For large-scale travel agencies with adequate financial strength, they may certainly leave such matters to insurance companies, but for travel agencies which are smaller in scale, they are actually incapable of doing so. They may only leave the responsibility to the travellers

and strongly advise them to take out travel insurance before setting off. Some travel agencies even engage in some kind of affiliated business in this respect.

However, looking more closely at the relevant arrangements, one may notice that the amount of insurance cover of such so-called travel insurance is actually very limited. When the amount of compensation has already exceeded the maximum limit and the claimant is still dissatisfied, he may, theoretically, sue the relevant travel agency when he comes back to Hong Kong. If the travel agency has not taken out any insurance, the only option is to close down the business or adopt the practice of some companies, that is, to make a cunning getaway. Similarly, to evade certain responsibilities, some leaders in the industry also gradually transfer the business from their companies to companies with a similar name and then continue their business operation. Actually, the mass media should follow up these cases when appropriate because the relevant cases are still undergoing judicial proceedings.

Back to the effect I mentioned just now. If a maximum limit is not imposed because of individual miserable cases — we understand the situations involved — or if a maximum limit is not set in order to allay the concern of the people involved, insurance companies often dare not underwrite such insurance policies as a result. Even if they agree to underwrite such policies, they would ask for very high premiums. If the compensation level is high, there will certainly be a motive for practices such as champerty and frauds mentioned by Honourable colleagues just now. It is a vicious circle. The requirement was originally well-intentioned. It sought to protect certain people from being unable to support their living for the rest of their lives. However, this arrangement has created a chain effect in the whole industry and other industries. The adverse consequence we see today may be one of the consequences of this effect.

How should it be handled, President? It may be a rather controversial observation and also a rather controversial proposal, and that is, we should examine whether the Ordinance should be improved to allow all people involved, including all employees and companies, to agree on a maximum level of compensation, with full knowledge of their own responsibilities and risks. That means one would know the maximum level of compensation he would receive if an accident happens to him. In setting a reasonable maximum limit, the amount is actually not too important. When there are a reasonable maximum limit, criteria and certainty, calculations and arrangements will become easy for

insurance companies. In calculating the costs of an insurance policy, they will also be able to work out a reasonable premium. In that case, both parties do not have to make guesses, and the Court does not have to hear such cases one after another.

The system in Hong Kong is better than that in the United States. At least, we do not have a contingency system under the appeal system, that is, the system under which the appellant has to pay the legal costs if his appeal is successful and *vice versa*. As we all know, in the United States, the maximum level of compensation is astonishing because it includes punitive damages, which is enormous. Although the arrangements in Hong Kong are a bit better, in that no maximum limit is imposed, there is great uncertainty after all, which has made it impossible for the entire industry to operate normally. In this regard, if Members are really concerned about this issue, I hope that apart from addressing the reasons pointed out by Honourable colleagues just now, we will also examine section 7 of Cap. 71 properly. If we allow such a system to continue, will we be able to address this problem properly in the end?

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, you may now speak on the three amendments. You have up to five minutes to speak.

MR TOMMY CHEUNG (in Cantonese): President, Mr CHAN Kin-por's amendment proposes to request the Department of Justice to initiate prosecution against contempt of court. It is actually encouraging the Department of Justice to take actions to punish those people for contempt of court with the intent of making fraudulent insurance claims. I absolutely agree to taking prosecution actions targeting these perjury cases. Besides, he proposes to establish a reporting channel and request the Hospital Authority (HA) to combat attempts to make fraudulent insurance claims by exaggerating clinical conditions and degrees

of injuries. Both proposals are in line with the Liberal Party's call for rigorous actions against insurance frauds. I, therefore, support his amendment.

The Liberal Party even considers that the Office of the Commissioner of Insurance can study the setting up of a database on insurance frauds for the information of the insurance industry, so that the latter and the relevant people or companies can heighten their vigilance. The HA can also strengthen its gate-keeping role and establish an internal reporting mechanism under which more stringent handling and examination procedures are adopted for suspicious cases and patients reported by insurance companies, law-enforcement agencies or other departments, in order to prevent such fraud cases.

I understand that this may touch on issues relating to the privacy legislation but I do not hope that the authorities will refrain from taking actions for this reason. Rather, they should actively study how this reporting mechanism can be established without breaching the law, in order to demonstrate their determination to combat such acts and intolerant attitude towards the swindlers.

Mr WONG Kwok-hing's amendment only proposes the inclusion of the recycling industry which is actually covered by the business services industry in my original motion. So, there is basically no difference between his amendment and the original motion of the Liberal Party. For this reason, I will also support his amendment.

Mr LEE Cheuk-yan's amendment is the most controversial. He proposes to set up a central employees' compensation fund, a proposal which does have certain controversies, because there have been examples in foreign countries of ineffective management of the central employees' compensation fund and as a result, the injection of government equities was even required to save the fund. Therefore, the Liberal Party opposed it in the past.

But nowadays, we do not see that the labour insurance market in Hong Kong has been operating well and worse still, its development has almost reached a cul-de-sac, threatening the commercial viability of SMEs. Under such circumstances, the setting up of a central employees' compensation fund may perhaps be the last resort. That said, whether or not the Liberal Party will ultimately throw weight behind this proposal depends on the details of the scheme

to be introduced by the Government. A prerequisite for the Liberal Party to render it support is that taxpayers' money should not be used to subsidize the enterprises in coping with the burden of labour insurance.

Our initial idea is that this fund should operate in a way similar to the Protection of Wages on Insolvency Fund which is funded by contributions made by trades and industries, with the Government being responsible for managing the fund and making compensation to claimants. As the Government is responsible for managing the financial accounts and if the fund shows a deficit, the authorities would be pressed to control the losses by particularly taking actions against insurance frauds and thoroughly reviewing the judicial, enforcement and medical aspects to plug the loopholes. In the event of serious losses recorded by the fund in a certain year, the Government can spread the recovery work over a period of several years without having to recover all the money in one year, just as it has been doing for the Protection of Wages on Insolvency Fund.

Therefore, if the problem faced by SMEs in taking out insurance remains not resolved after long delays and becomes more and more serious, we consider that the authorities can study the setting up of a central employees' compensation fund according to the basic proposal of the Liberal Party.

President, I so submit.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Mr Tommy CHEUNG and Members speaking earlier have offered many valuable opinions just now. As I said in my opening remarks, these opinions will serve as important reference in enhancing the operation of the insurance industry and the regulatory system.

First of all, I would like to respond to the issue of premium increases. We have noted that the rate of motor insurance premium for commercial vehicles has been on the increase since 2009. In fact, there is fierce competition in the insurance market of commercial vehicles, including trucks, container trucks, taxis and public light buses. Coupled with huge insurance payouts, underwriting losses have continued to be registered in the commercial vehicle insurance business from 2006 to 2009, with a loss of around \$100 million per annum on

average. The increase in the premium rate of these commercial vehicles is due to the huge underwriting losses of the insurance industry. As a result, it is necessary to adjust the premium rate to a more reasonable and sustainable level. This line of business had continued to register losses until 2010 when premiums started to be adjusted upwards, and improvement could only be seen then. However, the amount of claims arising from the liquidation of the Anglo Starlite Insurance Company taken over by the Insolvency Fund managed by the Motor Insurers' Bureau of Hong Kong has not been factored into this.

As to employees' compensation insurance, the case is the same as that of motor insurance for commercial vehicles. There is fierce competition in the market of employees' compensation insurance. Coupled with huge insurance payouts for industrial injuries, and deliberate misstatement or omission by individual employers of the number of employees, salaries and types of workers (for example, misstating high-risk technical staff as low-risk clerical staff), underwriting losses have continued to be registered over the past 10 years or so, with a loss of around \$500 million per annum on average. Therefore, it is necessary for insurance companies underwriting this type of insurance to adjust the premium rate upwards to a more reasonable and sustainable level.

As mentioned above, huge payouts have been recorded in the business of employees' compensation insurance and motor insurance in recent years. Other than the consistent high number of accidents and high amount of compensation handed down by the Court, it is also attributable to illegal activities such as fraud, exaggerated claims, champerty, and so on. Employer organizations, the transport and insurance industries have agreed that fabricated incidents of deliberately causing injuries to a person by another person, and serious misstatement or exaggeration of injury condition have happened occasionally. The solution to this problem is to combat these illegal activities.

The numerous proposals in the motion and Members' speeches aim to reduce the costs and difficulties of various trades and industries in taking out insurance. Regarding Mr Tommy CHEUNG's proposals concerning the Employees' Compensation Insurance Residual Scheme (ECIRS), I would like to give the following brief introduction and response.

The ECIRS was introduced in 2007 to assist employers who encounter difficulties in taking out employees' compensation insurance in offering them

necessary insurance coverage. The Employees' Compensation Insurance Residual Scheme Bureau has, based on information provided by the Labour Department, drawn up a total of 19 high-risk industries. And, relevant premium benchmark rates of these high-risk industries have been set by independent actuaries. The ECIRS will review these premium benchmark rates and the list of high-risk industries every year. If applications for insurance coverage are repeatedly submitted by the same industry in the same year, the ECIRS will consider adding this industry to the list of high-risk industries. As far as we understand, since the number of applications for employees' compensation insurance to the ECIRS by the cleaning, recycling and logistics industries has been on the increase, the ECIRS has added these three occupations to the list of high-risk industries and commissioned independent actuaries to set premium benchmark rates for these three occupations.

President, regarding Mr LEE Cheuk-yan's proposal of setting up a publicly-operated "central employees' compensation fund", serious consideration must be given to the possible impacts and problems brought by this mechanism. In fact, discussions on this proposal were held in the Legislative Council Panel on Manpower in 2005. The four risk factors of the relevant scheme are as follows:

- (1) Without risk-diversification and cross-subsidization through other lines of business, the scheme may run into financial difficulties in the event of unexpected risks, for example, SARS;
- (2) Create public expectation for the Government to act as a guarantor to provide financial support if the scheme faces financial difficulties, thereby shifting the burden of paying compensation from employers to taxpayers;
- (3) Fuel demands for enhancement in compensation benefits and reduction in premium rates which, taken together, would undermine the financial viability of the scheme; and
- (4) Subject the setting of premium rates to economic and political considerations, thus affecting the financial viability of the scheme.

In view of the above risk factors, the Panel on Manpower back then agreed to introduce the ECIRS on a trial basis. Subsequent to the introduction of the model, main features and implementation timetable of the ECIRS by the Hong Kong Federation of Insurers (HKFI) to the Panel on Manpower in 2007, the ECIRS officially ran into operation on 1 May the same year.

As certain administration, management and operation fees are necessary for the daily running of a "central employees' compensation scheme", no savings on administration costs will be resulted. The impact on employees' compensation insurance premiums and the cost-effectiveness of establishing a central employees' compensation scheme in Hong Kong are not known.

Past experiences have shown that the ECIRS has been running smoothly. From its establishment on 1 May 2007 to 30 November 2011, the ECIRS has received 155 applications. Twenty-five of them have been offered employees' compensation insurance coverage by the ECIRS; 27 are being vetted; two have been withdrawn by the employers; and the remaining 101 applications have eventually been offered employees' compensation insurance coverage by other insurance companies.

I wish to make use of this opportunity to quote an example to explain the operation of the ECIRS. In the middle of this year, it came to the knowledge of the Office of the Commissioner of Insurance (OCI) that the scaffolding industry had encountered difficulties in taking out labour insurance. After the meeting of the ECIRS Bureau with the scaffolding industry arranged by the OCI, it was noted that as the location of work and the number of scaffolding workers were subject to fluctuation daily, and evasion, inaccuracy and omission of the report of wages on the part of workers were very common, insurance companies generally had not much interest in underwriting labour insurance for the scaffolding industry. In the end, after numerous discussions between the ECIRS Bureau and the organization representing the scaffolding industry, two forms, namely, the "daily workers for insurance coverage declaration" and the "daily actual workers declaration" were designed taking account of the actual situation and the relevant problems to ensure the accurate report of work types and wages. After the implementation of this system, the scaffolding industry has been able to take out labour insurance.

Apart from offering employers who encounter difficulties in taking out employees' compensation insurance a residual market, the ECIRS has also set underwriting standards for the market, resulting in enhanced market transparency. At the same time, it has also urged employers to step up the enforcement of measures on occupational safety and risk management.

Moreover, regarding the issues of enhancing the transparency of insurance companies and stepping up the regulation of insurance companies raised by Mr CHEUNG, actually, in order to enhance the transparency of the insurance market in Hong Kong, the OCI publishes statistics on the insurance industry every year, outlining details of every insurance company such as its business performance, the insurance premium of every line of business, the amount of insurance payouts, the provision for loss reserves, and so on, for the public to understand the operation situation of individual insurance companies.

The OCI has also required insurance companies to set up speedy and effective procedures to handle complaints. Insurance companies must refer to the guidelines on the handling of complaints issued by the HKFI and appoint staff specifically responsible for handling cases of complaints, so as to increase the protection for policy holders.

Huge insurance payouts recorded in the business of employees' compensation insurance and motor insurance may involve illegal activities such as fraud, exaggerated claims, champerty, and so on. To combat such illegal activities, relevant government departments have attended a number of meetings of the Legislative Council Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector (the Joint Subcommittee) to carefully listen to the views of the transport industry on the impacts of these illegal activities on the industry. We are aware that such fraudulent activities have also occurred in the business of employees' compensation insurance.

In order to effectively combat insurance frauds and champerty, the police have set up dedicated groups of "insurance fraud" and "maintenance and champerty" under the Commercial Crime Bureau to play a leading role in the prevention and combat of fraudulent cases involving insurance and champerty. Regarding the report of criminal cases, including suspected insurance fraudulent cases, by the public or any members of the public, the police will take follow-up action correspondingly.

Regarding insurance frauds, the police have indicated that consideration is now being given to revising the procedures of reporting a case in response to the aspirations of the transport and insurance industries. The Commercial Crime Bureau will co-ordinate and follow up reported cases of traffic accident fraudulent claims referred by the insurance sector. Through the combat of these illegal activities, we believe the problem of exaggerated claims in the business of employees' compensation insurance and commercial vehicle insurance will see an improvement.

In Mr CHAN Kin-por's amendment to the original motion, he requests the Hospital Authority (HA) to combat attempts to make fraudulent insurance claims through obtaining prolonged sick leave certificates by exaggerating clinical conditions and degrees of injuries. In this regard, the insurance sector expressed similar views in the Joint Subcommittee. The HA stated clearly back then that doctors made medical assessment and signed medical certificates based on their professional judgment in the light of the clinical condition of an individual patient. And, doctors in the HA would continue to maintain their professionalism and independence and sign medical certificates for patients in accordance with their actual clinical conditions. The Food and Health Bureau and the HA have heard the voices of the insurance and transport sectors. We believe the Joint Subcommittee will continue to hold discussions and look for solutions.

Regarding Mr CHAN's proposal of asking the Department of Justice to initiate prosecution against civil contempt of court, so as to deter misstatement with the intent of making fraudulent insurance claims, the Department of Justice has stated clearly that subsequent to investigation by the police, if the complaint is substantiated, the Department of Justice will initiate prosecution according to the merits of the case. Moreover, anyone who makes false statement in judicial proceedings may violate the laws of Hong Kong.

Lastly, I would like to reiterate our views on the operation and regulation of the insurance market. In terms of operation, insurance companies set premium rates on the basis of underwriting risk, namely, the rate of accident and the amount of claims. The local insurance industry has all along upheld the principle of free market economy. The premium level of insurance companies should continue to be determined by adjustments of the free market.

We believe that through the co-operation between relevant government bureaux and departments and the industry to improve occupational safety and combat illegal activities such as insurance frauds and champerty, relevant insurance claims will hopefully be reduced, thus giving premium rates room for downward adjustment.

President, I so submit.

PRESIDENT (in Cantonese): I now call upon Mr CHAN Kin-por to move the amendment to the motion.

MR CHAN KIN-POR (in Cantonese): President, I move that Mr Tommy CHEUNG's motion be amended.

Mr CHAN Kin-por moved the following amendment: (Translation)

"To delete "given that in recent years" after "That," and substitute with "as recently"; to delete "on various pretexts" after "by insurance companies" and substitute with "for various reasons"; to delete "; and" after "insurance claims, etc." and substitute with ", and to establish a reporting channel for the public and insurance companies to report cases of suspected fraudulent insurance claims; (c) to request the Hospital Authority to combat attempts to make fraudulent insurance claims through obtaining prolonged sick leave certificates by exaggerating clinical conditions and degrees of injuries; (d) to request the Department of Justice to initiate prosecution against civil contempt of court, so as to deter misstatement with the intent of making fraudulent insurance claims; and"; and to delete the original "(c)" and substitute with "(e)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Kin-por to Mr Tommy CHEUNG's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, as Mr CHAN Kin-por's amendment has been passed, you may now move your revised amendment.

MR WONG KWOK-HING (in Cantonese): President, I move that Mr Tommy CHEUNG's motion as amended by Mr CHAN Kin-por be further amended by my revised amendment.

Mr WONG Kwok-hing moved the following further amendment to the motion as amended by Mr CHAN Kin-por: (Translation)

"To add "(f) when enhancing the Employees' Compensation Insurance Residual Scheme, to include recycling industry as well" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr WONG Kwok-hing's amendment to Mr Tommy CHEUNG's motion as amended by Mr CHAN Kin-por be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, as the amendments by Mr CHAN Kin-por and Mr WONG Kwok-hing have been passed, you may now move your revised amendment.

MR LEE CHEUK-YAN (in Cantonese): President, I move that Mr Tommy CHEUNG's motion as amended by Mr CHAN Kin-por and Mr WONG Kwok-hing be further amended by my revised amendment.

Mr LEE Cheuk-yan moved the following further amendment to the motion as amended by Mr CHAN Kin-por and Mr WONG Kwok-hing:
(Translation)

"To add "(g) to set up a publicly-operated 'central employees' compensation fund' for lowering administration fees under the privately-operated employees' compensation insurance system, which not only can reduce employers' expenses on taking out insurance, but also provide better protection for employees" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr LEE Cheuk-yan's amendment to Mr Tommy CHEUNG's motion as amended by Mr CHAN Kin-por and Mr WONG Kwok-hing be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Kin-por rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kin-por has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): A quorum is not present in the Chamber. Clerk, will you please ring the bell to summon Member back to the Chamber.

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

PRESIDENT (in Cantonese): Members please return to your seats for the Clerk to do a head count.

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, Ms Miriam LAU, Mr Tommy CHEUNG, Mr WONG Ting-kwong and Mr Paul TSE voted for the amendment.

Dr Raymond HO, Dr Philip WONG, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Paul CHAN and Mr CHAN Kin-por voted against the amendment.

Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the amendment.

Mr LAU Kong-wah voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 13 were present, five were in favour of the amendment, seven against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 17 were present, 15 were in favour of the amendment and one against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Alleviating the difficulties of small and medium enterprises in taking out insurance" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Alleviating the difficulties of small and medium enterprises in taking out insurance" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, you may now reply and you have two minutes eight seconds.

MR TOMMY CHEUNG (in Cantonese): President, I very much thank the three Members who have proposed amendments and the nine Members who have spoken today.

I have listened to the response made by the Secretary. The Secretary's reply is, of course, generally about the work of the Hospital Authority and the police, but such work cannot help the industries, and there has not been any case of successful investigation resulting in prosecution recently. I hope that the Secretary can convey the problem to the relevant Policy Bureaux for continuous discussion.

President, if the Government just continues to look on with folded arms and does not take a more proactive and positive attitude, it is basically difficult for competition and checks and balance to be restored expeditiously in the insurance industry.

Earlier on some colleagues asked us why we support Mr LEE Cheuk-yan's amendment. Frankly speaking, the problem has deteriorated to a state where actions can brook no delay. My sector is not the sector facing the greatest difficulties, and Members should have heard earlier on that other sectors face even greater difficulties. The biggest difficulty is that when we held meetings with the insurance industry to discuss the problem, we found that actually nobody would wish to go on operating this business. They said that they do not wish to go on operating this business not because this business is like "chicken ribs" which are tasteless and yet not bad enough to be disposed of, but because it is like "food" that they do not want to eat and they will be like poisoned after eating it. They said that they do not wish to continue operating it because they cannot make any profit, and they simply suffer a loss for accepting every insuree. They have told us the amount of losses incurred over the last two decades. We have now proposed that the Government should think about ways to solve the problem because the industry has been suffering losses to the extent that they no longer wish to continue operating this business.

Although some colleagues do not support Mr LEE Cheuk-yan's amendment, I think the Government should still think about the solution, or else

SMEs — not just in one industry, but in many industries — will face increasingly more difficulties in business operation.

I hope colleagues will support my motion. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Tommy CHEUNG, as amended by Mr CHAN Kin-por and Mr WONG Kwok-hing, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday 21 December 2011.

Adjourned accordingly at sixteen minutes past Twelve o'clock.