

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 24 June 2015**

**The Council met at Eleven o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, B.B.S., M.H.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P., Ph.D., R.N.

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN, J.P.

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

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

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, 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 ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, S.B.S., J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, S.B.S., J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU, J.P.

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN, B.B.S.

**MEMBER ABSENT:**

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

**PUBLIC OFFICERS ATTENDING:**

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

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S.,  
J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

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

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

MR LAU KONG-WAH, J.P.  
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.  
SECRETARY FOR SECURITY

DR THE HONOURABLE KO WING-MAN, B.B.S., J.P.  
SECRETARY FOR FOOD AND HEALTH

**CLERKS IN ATTENDANCE:**

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MS ANITA SIT, ASSISTANT SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

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

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

### **TABLING OF PAPERS**

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

- No. 102 — Correctional Services Children's Education Trust  
Report by the Trustee  
for the period from 1st September 2013 to 31st August 2014
- No. 103 — Hong Kong Trade Development Council  
Annual Report 2014/15
- No. 104 — Sir David Trench Fund for Recreation  
Annual Report 2014-2015
- No. 105 — Independent Commission Against Corruption  
Hong Kong Special Administrative Region  
Annual Report 2014
- No. 106 — Independent Commission Against Corruption  
Complaints Committee  
Annual Report 2014
- No. 107 — The Ombudsman, Hong Kong  
Annual Report 2015
- No. 108 — Airport Authority Hong Kong  
Annual Report 2014/15

Report No. 24/14-15 of the House Committee on Consideration of  
Subsidiary Legislation and Other Instruments

Report of the Panel on Information Technology and Broadcasting  
2014-2015

Report of the Panel on Environmental Affairs 2014-2015

Report of the Panel on Security 2014-2015

Report of the Panel on Public Service 2014-2015

Report of the Panel on Administration of Justice and Legal Services  
2014-2015

Report of the Panel on Commerce and Industry 2014-2015

Report of the Panel on Home Affairs 2014-2015

Report of the Panel on Welfare Services 2014-2015

Report of the Panel on Financial Affairs 2014-2015

## **ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. Mr Andrew LEUNG will address the Council on the "Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2014".

### **Independent Commission Against Corruption Hong Kong Special Administrative Region Annual Report 2014**

**MR ANDREW LEUNG** (in Cantonese): President, as a member of the Advisory Committee on Corruption, I hereby brief Members on the Independent Commission Against Corruption Hong Kong Special Administrative Region Annual Report 2014 tabled in the Council today on behalf of the Independent Commission Against Corruption (ICAC).

The year 2014 marked the ICAC's 40th anniversary. Over the past four decades, the ICAC has strived persistently to eradicate corruption rigorously through a three-pronged strategy of investigation, corruption prevention and

community education. At the same time, it has established rules to eliminate any chances of corruption and reached out to the communities to promote a culture of probity. The achievements of the ICAC over these 40 years are there for all to see. The ICAC has successfully turned Hong Kong from a city once plagued by graft into an internationally recognized model of success in combating corruption.

As far as investigation is concerned, the ICAC received 2 362 corruption complaints (excluding election-related complaints) in 2014, representing a drop of 11% compared with last year. Of these, the number of complaints related to the private sector was the greatest which accounted for 63%; the number of complaints against government departments ranked second and accounted for 30%; and complaints against public bodies, which were smallest in number, accounted for only 7%.

Despite a drop in the number of complaints, corruption in Hong Kong is still well under control and the investigation work of the ICAC has enhanced in both quantity and quality. In 2014, 223 persons were prosecuted, representing an increase of 3%; the person-based conviction rate was 85%, which was an increase of seven percentage points and the sum total of custodial sentences of three years or above was more than doubled when compared with the figures of last year. Besides, the results of an opinion survey showed that only 1.5% of the respondents had actually come across corruption in the past 12 months. This percentage was far lower than some developed countries.

In December last year, a former Chief Secretary for Administration and three prominent businessmen were found guilty of charges of corruption and misconduct. The case shows that the anti-corruption system in Hong Kong is highly effective and that the ICAC would discharge its law-enforcement duties fearlessly and impartially regardless of the background, status and position of the persons involved.

In relation to corruption prevention, the ICAC has considered corruption risks and responded to the development of society and public concern. It has actively assisted government departments, public bodies and private organizations to enhance their internal controls, so as to plug loopholes that may give rise to corrupt malpractices, dereliction of duty and abuses of power.



In 2014, the ICAC completed 68 assignment studies on the systems, practices and procedures of public bodies. In addition, advice on corruption prevention was provided on 526 occasions for government departments and public bodies before new legislations, policies and procedures were promulgated or major projects were launched. Appropriate preventive advice was also given to private organizations free of charge on 460 occasions.

Since the number of corruption complaints which involved private organizations accounted for more than 60%, the ICAC has developed prevention training packages particularly for procurement and the construction industry in the private sector, so as to promote probity and enhance corruption prevention awareness among the trades and industries.

Given that in recent years, some public officials were involved in cases or allegations of corruption or misconduct and as the public became more concerned about the conduct of public officials, the ICAC has revised sample codes of conduct for employees of government departments and public bodies. In addition, it has organized briefings for principal officials and officials appointed under the Political Appointment System and provided face-to-face training to more than 23 000 civil servants to ensure that the integrity of public officers will meet public expectations.

Regarding preventive education, the ICAC continued to maintain close ties with the public through face-to-face contact, and publicized anti-corruption messages with the help of the mass media, Internet and other new media platforms to enlist their support for the work of the ICAC. In 2014, the ICAC reached more than 680 000 people and about 2 500 organizations through its district entrenchment work. The aggregate visits of its main website and platforms were recorded at 4.4 million last year.

To tie in with the ICAC 40th Anniversary in 2014, the ICAC organized various thematic publicity activities, including the joint project with the 18 District Councils on the theme A Clean Future for Our Next Generation, the ICAC Open Day, the premiere of the ICAC Investigators 2014 drama series and visits of a mobile exhibition truck to promote to the public its 40-year battle against corruption and the latest anti-corruption initiatives. These activities were well received in the community.

The graft-fighting achievements of the ICAC have been firmly acknowledged and recognized in the global arena and the ICAC has served as a sample reference for many countries. In 2014, the ICAC received more than 3 500 visitors from international organizations all over the world for exchange of ideas and experience. For the 20th consecutive year, the Heritage Foundation has rated Hong Kong as the freest economy in the world, acknowledging that "Hong Kong enjoys low rates of corruption". While praising Hong Kong as a front runner in the fight against corruption, Dr Huguette LABELLE, former Chair of Transparency International, invited the ICAC to share its graft-fighting experience as a role model for Transparency International's regional study in anti-corruption agencies. Furthermore, Mr McCARTHY, the Vice President of the World Bank, also hailed the ICAC as "a trendsetter from whom many can learn".

The success of Hong Kong in the battle against corruption is attributed to the rule of law, a sound legal and judicial foundation, professional graft-fighters and a virtuous and relentless anti-corruption strategy. Equally important are the full co-operation of government departments and the private sector, and the wide support of the community. In fact, the slogan of "The advantage of Hong Kong is always You and the ICAC" is a concise explanation of this point.

Finally, on behalf of the Commissioner of the Independent Commission Against Corruption, let me thank all members of the Advisory Committee on Corruption for their invaluable contributions and this Council and the public for their support of the ICAC's work. Embarking on a new stage, I am convinced that the ICAC will carry on with the three-pronged approach on the fronts of investigation, prevention and education, and enhance anti-corruption work to build a society of fairness and probity for the future generations.

President, I so submit.

**PRESIDENT** (in Cantonese): Mr Jeffrey LAM will address the Council on the "Independent Commission Against Corruption Complaints Committee Annual Report 2014".

## **Independent Commission Against Corruption Complaints Committee Annual Report 2014**

**MR JEFFREY LAM** (in Cantonese): President, as a member of the Independent Commission Against Corruption Complaints Committee (the Committee), I hereby table the Independent Commission Against Corruption Complaints Committee Annual Report 2014 on behalf of the Committee. The Annual Report gives a summary of the work of the Committee in the past year.

The Committee's major responsibility is to monitor the handling by the Independent Commission Against Corruption (ICAC) of non-criminal complaints lodged by anyone against the ICAC and its officers. Moreover, the Committee will identify any faults in ICAC's work procedures which lead or might lead to complaints, and make recommendations for improvement.

Upon receipt of all complaints, the Internal Investigation and Monitoring Group (IIMG) of the ICAC will conduct a preliminary assessment. If it considers that a full investigation is not warranted, it will state the reasons and submit an assessment report for the Committee's consideration. As for complaints with sufficient information for further investigation, the IIMG will submit an investigation report to the Committee and report the relevant findings after an investigation is completed. All investigation and assessment reports submitted by the ICAC will be arranged to be discussed at a meeting of the Committee. When necessary, the Committee may seek additional information from the ICAC before drawing any conclusion on the cases. The complainants will subsequently be advised of the Committee's conclusions in writing.

The Committee held three meetings in 2014 to consider the investigation and assessment reports submitted by the ICAC. Of a total of 21 complaints covering 68 allegations considered by the Committee, eight allegations in four complaints were found to be substantiated or partially substantiated. The officers concerned in these cases were given suitable advice by their senior officers. The Committee also considered and endorsed eight assessment reports. Preliminary enquires showed that there were no grounds or justifications in these complaints that would warrant formal investigations, and the Committee agreed that no further investigative actions be taken.

In considering the complaints, the Committee will also scrutinize the ICAC's internal procedures, guidelines and practices to see whether they need to be revised, with a view to making improvements. Arising from the investigation reports considered during 2014, the ICAC had reviewed certain operational procedures and made improvement. For example, the ICAC had implemented a revised procedure to require officers to make a detailed and accurate description in records in respect of seizure of computers and related accessories. The ICAC had also reviewed and refined its procedure on inviting government servants for interview as witnesses on matters not relating to their official duties.

The publication of the Annual Report enables the Committee to brief the public on its work on a regular basis. It can also enhance the transparency and accountability of the Committee's work. Should Members have any comments on the Annual Report, they are welcome to forward their views to the Secretary of the Committee. The support of this Council and members of the public to the work of the Committee is very much appreciated. Thank you, President.

**PRESIDENT** (in Cantonese): Dr Elizabeth QUAT will address the Council on the "Report of the Panel on Information Technology and Broadcasting 2014-2015".

### **Report of the Panel on Information Technology and Broadcasting 2014-2015**

**DR ELIZABETH QUAT** (in Cantonese): President, in my capacity as Chairman of the Panel on Information Technology and Broadcasting, I now submit the report on the work of the Panel for the current Session, and highlight several major items of work of the Panel.

The Panel held a meeting to follow up issues relating to the operation of Asia Television Limited (ATV). The Panel passed a motion expressing regret at ATV's default on payments of employees' wages and urging that the Administration must consider the past performance of applicants when processing their applications for renewal of free television (TV) licences. The Chief Executive in Council subsequently announced on 1 April 2015 that the licence of ATV would not be renewed. The Communications Authority (CA) also announced that it would withdraw all the frequencies assigned to ATV as from 2 April 2016.

The Panel also held a meeting at which it relayed to the authorities the view that if ATV terminated its service before the expiry of its licence on 1 April 2016, the provision of analogue TV service would be subject to uncertainty. The Administration advised that a task force would be set up to deal with relevant issues, and to monitor and facilitate the roll-out of new free TV services. In view of members' concern about the allocation of spectrum vacated by ATV on expiry of its licence, the Panel passed a motion urging the authorities to handle properly issues relating to the non-renewal of ATV's licence, including the arrangements for re-assigning the TV spectrum.

The Panel later came to know that on 12 May 2015, the Chief Executive in Council approved the renewal of the licence of Television Broadcasts Limited (TVB) for a period of 12 years. Subsequently, the CA also announced the administrative assignment of TVB's spectrum, and the Panel further held a meeting to follow up the matter. Some members opined that the broadcasting spectrum was highly concentrated in the hands of TVB and therefore urged the CA to re-assign the spectrum to be vacated by ATV to the applicants who intended to operate free TV service, so as to introduce new competition into the local free TV market.

The Panel followed up the progress of the authorities' processing of the applications for renewal of analogue sound broadcasting licences. Members noted that Commercial Radio and Metro Radio had submitted to the CA their proposed six-year investment plans. In view of the relatively low percentage of weekly average broadcast hours of programmes for young persons, senior citizens and children, as well as arts and culture programmes, provided by the two radio stations, members urged the CA to conduct a review at the time of renewal of their licences. Given that the hosts of some current affairs programmes banned speakers from presenting their views in full or quoted other people's views out of context, members were of the view that the assessment of the performance of the radio stations should not be based solely on the nature and number of complaints received, but should also take into account the impact of their programmes on the community. As there were too few radio stations in Hong Kong, some members urged the CA to consider introducing competition to avoid media control.

Regarding the review on the regulation of person-to-person telemarketing calls (P2P calls), some Panel members criticized that the Administration had all along adopted an approach of procrastination which had caused Hong Kong's

regulatory regime to lag behind international practices. These members opined that in the absence of legislative provisions governing P2P calls, the self-regulatory regime was ineffective. The majority of members opined that there was a genuine need to enhance the regulatory regime, including establishing do-not-call registers. However, some other members considered that P2P calls could bring economic benefits, and so a balance should be struck between the two aspects. The authorities advised that they would undertake a comprehensive landscaping exercise before deciding on the way forward, and would report the findings of the exercise to the Panel.

On the review of the Control of Obscene and Indecent Articles Ordinance, the Panel agreed with the Administration's proposal to abolish the administrative classification function of the Obscene Articles Tribunal while leaving the Tribunal to only deal with judicial determination. Some members expressed concern that the publishing industry would be deprived of a classification avenue after the abolition of that function. Some members opined that the Tribunal's adjudicators should be drawn from a cross-section of the community to ensure its representativeness. Some other members opined that the existing self-nomination system of the adjudicators would lead to bias, and suggested changing it to nomination by the authorities, and that the term of appointment of the adjudicators should be shortened from the existing 12 years to six years to speed up turnover and increase the representativeness of the Tribunal. As regards the control of obscene or indecent articles on the Internet, some members also suggested that a safe harbour mechanism be introduced into the Ordinance to protect the interests of Internet service providers.

The Panel followed up the progress of the Government's digital inclusion initiatives. Members noted that in the past three years, the Administration had launched two rounds of the Funding Scheme for the Development of Digital Inclusion Mobile Applications to support the development of assistive tools for persons with special needs. The developers were selected by the relevant service organizations through an open tendering process. Members urged the Administration to step up promotional efforts to increase download counts of the mobile applications and to monitor the process of selecting the developers.

As far as creative industries were concerned, members also noted that the Administration had proposed to facilitate cinema development and to reserve space for cinemas in major cultural and entertainment development areas. Some

members urged the authorities to provide subsidies to support cinemas' operations. The authorities should also consider including new terms in the assignment of land to developers by requiring a certain percentage of land to be used for building cinemas. However, some members did not consider the proposal commercially viable as audience had turned to watching films on digital video discs and the web.

I would like to take this opportunity to thank members for their support for the work of the Panel, and the Secretariat for its assistance.

President, I so submit.

**PRESIDENT** (in Cantonese): Mr CHAN Hak-kan will address the Council on the "Report of the Panel on Environmental Affairs 2014-2015".

### **Report of the Panel on Environmental Affairs 2014-2015**

**MR CHAN HAK-KAN** (in Cantonese): President, in my capacity as Chairman of the Panel on Environmental Affairs, I submit the report on the work of the Panel for 2014-2015 and briefly highlight several major items of work of the Panel.

Waste management remained high on the agenda of the Panel. The Panel discussed the framework proposal of the Government for the implementation of a municipal solid waste charging scheme. Members generally supported such a scheme. Members were, however, concerned that the scheme might pose a financial burden on low-income families, and advised the authorities to address the needs of people with financial hardship when determining the level of charge. Members generally considered that the Administration should at the same time promote recycling at the community level, improve the recycling network and proactively foster a favourable environment for the development of the recycling industry.

The Government has been progressively implementing mandatory producer responsibility schemes for various products based on the "polluter pays" principle, including mandatory producer responsibility schemes on waste electrical and electronic equipment. The Panel supported in principle the

implementation of the relevant schemes. However, members were concerned that if recycling fees would be imposed on and collected from regulated electrical equipment suppliers, the relevant fees might be shifted to consumers. In addition, recyclers might circumvent the licensing requirement and dispose of waste electrical and electronic equipment in an unlawful manner.

While members generally supported the mandatory producer responsibility scheme on glass beverage bottles, they were concerned about the quantity of and sustainable outlets for waste glass recovered, as well as administrative costs incurred on registered suppliers of glass bottles in the area of reporting. Given the proposal of the authorities that suppliers might apply for exemption from paying recycling fees by submitting a corporate reuse or recycling plan, members urged the Administration to set out clearly the exemption requirements and operational details. At the same time members requested the authorities to extend the scheme to cover glass food or sauce bottles.

Regarding the extension of the Environmental Levy Scheme on Plastic Shopping Bags to cover all retailers in Hong Kong, some members were concerned about the effect of the scheme in reducing the excessive use of plastic bags and whether the Administration had sufficient manpower to conduct surprise checks and follow-up investigations. Members considered that the authorities should further promote the habit of bringing one's own shopping bag, and at the same time publicize the Environmental Levy Scheme on Plastic Shopping Bags among tourists, so as to prevent conflicts between tourists and retailers over the collection of the relevant charge.

Regarding the improvement of air quality, members urged the Government to commence the review of the Air Quality Objectives as early as possible, and identify the major types of air pollution sources in individual districts, so as to formulate improvement measures. Members also generally welcomed the plan to control the air pollutant emissions of non-road mobile machinery, and supported the extension of the duration of implementing the Cleaner Production Partnership Programme in collaboration with Guangdong Province, so as to continuously improve air quality in the districts.

This year the Panel continued to follow up pollution problems arising from external lighting in Hong Kong, and engaged in discussions with the authorities and the Task Force on External Lighting over the report and recommendations of



the Task Force. Members held diverse views on whether any legislation should be enacted to regulate external lighting, but they generally considered that the Administration should focus on districts with heavy pollution arising from external lighting and external lighting installations that caused greater nuisance, and proactively examine with persons in charge of the relevant installations on how to minimize the extent of nuisance caused by the installations on residents.

As the environmental impacts of the Three-Runway System Project of the Hong Kong International Airport were of great public concern, the Panel held two meetings to discuss the issue and receive public views. Members urged the authorities to adopt a "Conservation before Construction" principle and implement the mitigation measures and recommendations put forth by the Advisory Council on the Environment to enhance the protection of ecology before commencing the project. On the other hand, the House Committee already endorsed the proposal of this Panel and the Panel on Economic Development to appoint a subcommittee under the House Committee to follow up on issues relating to the development of the three-runway system.

President, I take this opportunity to express my gratitude to members of the Panel and colleagues of the Secretariat for their support in the past year. Thank you, President.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him will address the Council on the "Report of the Panel on Security 2014-2015".

### **Report of the Panel on Security 2014-2015**

**MR IP KWOK-HIM** (in Cantonese): President, in my capacity as Chairman of the Panel on Security, I now submit to the Legislative Council a report on the work of the Panel in this Legislative Session. As the work of the Panel is already set out in detail in the report, I will only highlight some major tasks of the Panel.

In view of the wide public concern and discussion across the community over the Police's handling of incidents relating to the Occupy movement between September and December last year, how the Police handled large-scale public

assemblies continued to be the main focus of the Panel during the current Session. Some members criticized that certain police officers had used excessive and unnecessary force against participants of the Occupy movement, and they called on the Administration to critically review the Police's guidelines and procedures on the use of force. Some members took a different view that some participants of the Occupy movement had violently charged at the Police, yet the latter discharged their duties professionally and impartially. The Police also stressed that only minimum force reasonably necessary to achieve a lawful purpose would be used and once that purpose had been achieved, the use of force should cease.

The Panel also examined the justifications for the proposed procurement of specialized crowd management vehicles with water spray device (commonly known as "water cannon vehicles"). Some members expressed grave concern that whether such vehicles would be used for suppressing assemblies and would cause heavy casualties, and hence they requested the Government to withdraw the plan. Some other members, however, opined that the deployment of such vehicles during large-scale assemblies could help maintain a distance between demonstrators with violent acts and police officers. These members considered that the crux of the issue was how the proposed specialized vehicles would be used. In this connection, members had requested the Administration to provide the Panel with the relevant guidelines on the use of such vehicles after procurement.

Furthermore, the Panel discussed in detail the proposal to implement the Next Generation Smart Identity Card (ID) System and the identity card replacement exercise at three meetings. Some members were concerned about the security and privacy protection of the new smart ID system under wireless technology, in particular whether the information stored inside the new smart ID cards would be read by others within a close distance without being noticed. Some members also raised concern about the scope of information stored in the chip of the new smart ID cards, the serviceable lifespan of new smart ID cards as well as the arrangement of ID card replacement exercise. The Administration stressed that the proposed new smart ID cards would adopt a bi-level encryption mechanism and the question of someone, without being authorized, reading information stored inside a new smart ID card would not be allowed. At the request of members, the Administration provided the Panel with relevant supplementary information on the security and privacy protection of the new

smart ID cards. Having regard to the Administration's explanation, the Panel raised no objection to the Administration's proposal. The funding proposal was submitted to and subsequently approved by the Finance Committee this May.

President, I so submit.

**PRESIDENT** (in Cantonese): Mr POON Siu-ping will address the Council on the "Report of the Panel on Public Service 2014-2015".

### **Report of the Panel on Public Service 2014-2015**

**MR POON SIU-PING** (in Cantonese): President, in my capacity as Chairman of the Panel on Public Service, I would like to present the report of the Panel for the current Session and briefly discuss some of its major tasks.

This year, the Panel continued to actively follow up the manpower situation of the civil service workforce and the retirement age of civil servants. Although members generally supported extending the retirement age of new appointees to the Civil Service, some members were of the view that all serving civil servants should be given the option to extend their service beyond their current retirement age up to the retirement age to be set for new recruits without going through any selection by the management. The Panel held a public hearing on 18 May 2015, a majority of the deputations called upon the Government to give serving civil servants, particularly those at junior ranks, the option to work beyond their retirement age. In closing, members urged the Administration to maintain a close dialogue with the staff sides to ensure the smooth implementation of the various initiatives relating to the extension of service of civil servants, to avoid creating a culture of cronyism or flattery in the Civil Service, and to ensure that there would be no adverse impacts on promotion prospects of serving officers.

The Panel continued to follow up closely the employment of non-civil service contract (NCSC) staff and the use of agency workers. The Panel expressed grave concern that although the total number of NCSC staff had reduced, the number of NCSC staff who had worked for five or more years still stood high at around 4 533. Members urged the Administration to speed up the pace of replacing NCSC positions by civil service posts, and critically review the

manpower situations of those departments which had a relatively high ratio of NCSC staff. When filling civil service vacancies, priority should be given to NCSC staff with relevant experience.

Concerning the 2013 Pay Level Survey, some members considered that only raising the salaries of civilian civil servants in Job Level 5 (that is, those remunerated on the Master Pay Scale (MPS) points 45 to 49), civil servants in the disciplined services and Independent Commission Against Corruption (ICAC) staff remunerated on the equivalent range of pay points as Job Level 5 as well as civilian directorate civil servants and heads of discipline services and ICAC by 3% with effect from 1 October 2014 was tantamount to "fattening the top and thinning the bottom". Some members questioned the need of conducting a six-yearly Pay Level Survey which required much time and resources to complete, as the annual Pay Trend Survey could also achieve the purpose of ascertaining whether civil service pay remained broadly comparable with private sector pay.

Some members considered that the Pay Level Survey should continue to be conducted in future, unless a better alternative could be identified to ascertain whether civil service pay was broadly comparable with private sector pay. The Panel noted that the Administration would conduct a review of the Pay Level Survey, after completion of its work on taking forward the recommendations of the Standing Commission on Civil Service Salaries and Conditions of Service on the 2013 Pay Level Survey. The review would take place before the next Pay Level Survey exercise.

On the request for a grade structure review of civil service lifeguards, some members were dissatisfied about the Government's refusal to introduce a separate grade for civil service lifeguards in recognition of the professional nature of their work, so as to better attract qualified candidates to become and remain as lifeguards. To prevent temporary closure of public swimming pools and suspension of lifesaving service at beaches due to insufficient lifeguards on duty, the Leisure and Cultural Services Department was urged to create more civil service lifeguard posts to obviate the need of employing seasonal lifeguards.

President, the details of the work of the Panel have been set out in the written report. I so submit.

**PRESIDENT** (in Cantonese): Dr Priscilla LEUNG will address the Council on the "Report of the Panel on Administration of Justice and Legal Services 2014-2015".

**Report of the Panel on Administration of Justice and Legal Services 2014-2015**

**DR PRISCILLA LEUNG** (in Cantonese): President, in my capacity as Chairman of the Panel on Administration of Justice and Legal Services, I submit the work report for this Session and highlight a number of important areas of work.

During this Session, the Panel continued to monitor the manpower and other support for the Judiciary, and invited representatives of the Judiciary and the Administration to report the situation to the Panel. As informed by the representatives, all judicial posts at various levels of court, except at the Court of First Instance level, were largely substantively filled. In view of the difficulties on the recruitment of Court of First Instance Judges and in order to address the long-term needs of the whole Judiciary, the Judiciary was conducting various reviews, including a review on the terms and conditions of service of judges and judicial officers and another on the statutory retirement ages of judges and judicial officers. The Panel urged the Judiciary to expeditiously complete the reviews. Also, the Panel has made a number of recommendations, which include recruiting more Judicial Assistants and providing greater transparency and wider choices in the recruitment of judges and judicial officers.

The Panel had discussed the implication of the Occupy Central movement on the rule of law. Regarding the prosecutions policy, a member asked if the Administration had sufficient prosecutors given the large number of persons arrested for participating in the movement and that some of them were famous personalities and legal practitioners. Another member was concerned if the law-breakers would be let go of lightly as a result of insufficient manpower. The Administration assured members that in considering whether or not to prosecute an alleged breach of criminal law during a public order event, the Department of Justice would adopt the same principles as those adopted when handling other criminal cases, that is, to consider whether there was sufficient evidence in support of the charge, and whether it was in the public interest to prosecute.

Arising from the proposal of the Law Society of Hong Kong of providing a common entrance examination as an alternative route for law graduates to practise as solicitors in Hong Kong, the Panel held a public hearing on 27 April 2015 to listen to the views of the three law schools, a law students' association, a law alumni association, the Hong Kong Bar Association and other interested parties on the provision of legal education and training in Hong Kong. Many members supported the introduction of the common entrance examination as an alternative route for law graduates to qualify as lawyers in Hong Kong, so that law graduates who were denied admission to the Postgraduate Certificate in Laws (PCLL) programmes due to limited PCLL places could have another chance to become lawyers and to better meet the varying circumstances of law graduates, such as those law graduates who attained their law degrees some years after graduating with non-law degrees. Members urged the Standing Committee on Legal Education and Training to engage more stakeholders, especially law students and prospective employers, in the comprehensive study on legal education and training in Hong Kong.

The Panel continued to urge the Administration to improve legal aid services, with a view to improving access to justice. Members urged the Legal Aid Services Council to expeditiously complete the review on whether there was any room to further expand the scope of Supplementary Legal Aid Scheme, and that it should duly consider the views of or further consult the two legal professional bodies in the course of review.

A member noticed the considerable legal aid costs and asked if the authorities had accorded higher priority for certain types of cases (such as judicial review cases) while neglecting many other cases requiring legal aid because of the excess demand. Concerning the possibility of improper touting or champerty in legal aid cases, the Panel noted that to enhance the transparency and fairness in the assignments of lawyers, the Legal Aid Department (LAD) and the Independent Commission Against Corruption (ICAC) had formed a Corruption Prevention Group in mid-2013 to discuss issues relating to prevention of corruption and bribery. The ICAC had recently completed their study on LAD's assignment system for lawyers and experts, and had submitted its report with recommendations to the LAD in January 2015. The LAD would carefully study ICAC's report and recommendations.

The Panel had also discussed with the Judiciary on the provision of screens for complainants in sexual offence cases during court proceedings. Members agreed that the Judiciary should improve the relevant Practice Direction to require the counsel to, during the Pre-trial Review of every sexual offence case, advise the presiding judge of whether the complainant had requested a screen and whether the prosecution considered it appropriate to make such an application. Notwithstanding that, members considered that the Judiciary and the Administration should pursue to revise the relevant legislation to require the provision of screens for complainants in sexual offence cases upon request by the prosecution.

During this Legislative Session, the Panel had also discussed the draft Court Procedural Rules for the Competition Tribunal, the Law Reform Commission Report on Adverse Possession and the 2014-2015 Judicial Service Pay Adjustment.

President, a full account on the work of the Panel is given in the written Report. I so submit.

**PRESIDENT** (in Cantonese): Mr WONG Ting-kwong will address the Council on the "Report of the Panel on Commerce and Industry 2014-2015".

### **Report of the Panel on Commerce and Industry 2014-2015**

**MR WONG TING-KWONG** (in Cantonese): President, in my capacity as Chairman of the Panel on Commerce and Industry, I present the report on the work of the Panel for the current Session and give a brief account on its major areas of work.

In respect of the support for small and medium enterprises (SMEs), the Panel supported the Government's proposed increase in commitment and enhancement measures for the SME Export Marketing Fund and SME Development Fund. Members also urged the Administration to provide clear application guidelines for the Dedicated Fund on Branding, Upgrading and Domestic Sales so that the applicant enterprises did not need to seek the assistance of intermediaries who charged very high service fees.

As regards the development of economic and trade relations, members called on the Administration to conclude the free trade agreement (FTA) negotiations with the Association of Southeast Asian Nations (ASEAN) expeditiously and expand the FTA network with other economies to secure favourable market access for Hong Kong goods and services. Members also suggested strengthening the Economic and Trade Office (ETO) network in the Mainland and overseas. In view of the gradual shift of the global economic balance towards the east, members considered it imperative to increase resources to set up more ETOs and such offices on a smaller scale in the ASEAN member states and emerging economies.

Regarding the promotion of intellectual property trading, members urged the authorities to inject more resources to help enhance SMEs' intellectual property awareness and protect and capitalize on their intellectual assets, formulate a comprehensive human resource development plan, foster the development of intellectual property financing and insurance markets in Hong Kong, and step up its efforts in developing Hong Kong into an international legal and dispute resolution services centre, so as to complement the long-term development of intellectual property trading in Hong Kong. The Panel supported the Government's legislative proposals to amend the Patents Ordinance in principle and called for an early implementation of the "original grant" patent system to keep up with the international trend on the development of patent system.

In respect of the development of innovation and technology and the research in this area, the Panel urged the authorities to speed up the usage of the Innovation and Technology Fund and increase the resources to deepen the collaboration among the Government, industry, academic and research sectors to encourage technology transfer, facilitate the realization and commercialization of research and development (R&D) results, encourage the private sector to increase investments in scientific research, and attract Mainland and overseas technology companies with high added value and development potentials to set up their R&D bases and do business in Hong Kong. Some members also stressed that the authorities should foster an innovative culture in the community, implement initiatives to nurture local talents in innovation and technology and R&D, and also attract overseas talents to build up a talent pool. Members also suggested that the authorities should formulate relevant policies and legislation to facilitate the investments from angel investors, venture capitalist firms or crowdfunding.



Besides, the Panel supported in principle the Hong Kong Science and Technology Parks Corporation's establishment of a Corporate Venture Fund to help start-ups. Members also supported the implementation of the revised Industrial Estate Programme and urged the authorities to ensure that the specialized multi-storey industrial buildings to be constructed would be designed to meet the production needs of target industries to avoid competing with traditional industrial buildings for tenants.

President, the work of the Panel is already set out in detail in the written report. I so submit and I would like to take this opportunity to thank members for their support for the work of the Panel.

**PRESIDENT** (in Cantonese): Ms Starry LEE will address the Council on the "Report of the Panel on Home Affairs 2014-2015".

### **Report of the Panel on Home Affairs 2014-2015**

**MS STARRY LEE** (in Cantonese): President, in my capacity as Chairman of the Panel on Home Affairs, I now submit the Report of the Panel for this Legislative Session. Since the work of the Panel is already set out in detail in the Report, I will only highlight several major items of work of the Panel.

In respect of district administration, the Panel discussed a total of 17 project proposals under the Signature Project Scheme submitted by 11 District Councils. Members urged the Administration to expedite the submission of the remaining signature project proposals. The Administration indicated that the remaining project proposals would be submitted to the Panel in batches for consideration as soon as the necessary procedures were completed. In addition, the Panel also discussed the implementation progress of the pilot scheme on the enhancement of district administration through District Management Committees in Sham Shui Po and Yuen Long. Members urged the Administration to conduct a comprehensive review of the pilot scheme upon its completion in August 2015, so as to facilitate the full implementation of the scheme in all the 18 districts of Hong Kong.

The Panel was also very much concerned about the Government's sports development policy as well as educational and career development support for elite athletes. While expressing support for the Government to promote sports in the community, members were concerned about the inadequacy of the provision of public sports facilities in Hong Kong. They considered that the Education Bureau should encourage schools to open up their sports facilities after school hours for use by local sports associations and the general public. Members considered that the Home Affairs Bureau should co-ordinate with the Education Bureau to raise students' interest in physical education. Members were also concerned about the Administration's support for athletes in their pursuit of further education, employment and the development of a second career upon retirement, and urged the Administration to develop a comprehensive career development plan for retired athletes.

The review of the Building Management Ordinance was another major concern of the Panel. Members were concerned that the new measures as proposed in the consultation document on the review might not be effective in addressing the problem of bid-rigging in the tendering process of large-scale building maintenance projects. Some members pointed out that the Hong Kong Housing Society and the Urban Renewal Authority had put in place safeguard measures for the prevention of syndicated bid-rigging in building repair and maintenance works carried out under the Operation Building Bright, and the authorities should make reference to such safeguard measures when amending the relevant ordinance. There was a suggestion that the authorities should consider establishing a central database that captured information on market prices for various maintenance items and past performance of consultants/contractors in the market for reference of owners or owners' corporations in planning building maintenance works. The Administration advised that the Government would continue to adopt a multi-pronged approach and implement various proactive measures, such as the provision of better support for owners' corporations and owners as well as active investigation and enforcement actions to prevent unlawful activities in the course of building maintenance works.

The Panel also discussed the outcome of the public consultation exercise on the review of the Hotel and Guesthouse Accommodation Ordinance. Members generally supported the Administration's proposed amendments to the Hotel and Guesthouse Accommodation Ordinance. The Administration

proposed to empower the Hotel and Guesthouse Accommodation Authority to refuse to issue or renew a licence if the Deed of Mutual Covenant of the building concerned contains any express provision that prohibits the premises concerned from being used as a hotel or guesthouse for commercial purpose or for any purpose other than for private residential purpose. In this connection, members were concerned about the possible impact on the existing licensed guesthouses and urged the Administration to introduce measures to assist the affected operators. Some members suggested that the Administration should allow a longer transitional period to help affected operators to adapt to the new licensing requirements. The Administration advised that to allow sufficient time for the current guesthouse operators to adapt to the new licensing regime, the authorities proposed to renew their licences once in accordance with the existing licensing requirements for a period of 12 months upon the commencement of the amendment bill.

Apart from the aforesaid items of work, the Panel also held discussions over the review of the honorarium arrangement for District Council members, the outcome of the public consultation on the enhanced measures against shop front extensions, and the review of the Chinese Temples Ordinance. Finally, I would like to take this opportunity to thank members and the Secretariat for supporting the work of the Panel.

President, I so submit.

**PRESIDENT** (in Cantonese): Mr CHEUNG Kwok-che will address the Council on the "Report of the Panel on Welfare Services 2014-2015".

### **Report of the Panel on Welfare Services 2014-2015**

**MR CHEUNG KWOK-CHE** (in Cantonese): President, in my capacity as Chairman of the Panel on Welfare Services, I now submit to the Legislative Council the report on the work of the Panel in 2014-2015. As the work of the Panel is already set out in detail in the report, I will only highlight the work of the Panel in a number of aspects below.

Members were briefed on the progress of implementing the Special Scheme on Privately Owned Sites for Welfare Uses. The majority of members supported the use of public funding for this Special Scheme with a view to providing urgently needed services as soon as possible. They also called on the Administration to set the ratio of publicly funded services to self-financing services at 8:2, so as to ensure that public resources were put to use for needy groups in an equitable manner, rather than placing more emphasis on those who could afford the charges. The Administration was requested to update the Panel every six months on the progress of the Special Scheme.

Members noted that some non-governmental organizations (NGOs) did not provide backpay on salary adjustment for ex-staff who had departed the organizations before the payment date of salary adjustment. The majority of members took the view that as the annual pay adjustment was made having regard to changes in the cost of living, salary adjustment payments should be provided for such ex-staff. The Administration should uphold this principle and impose conditions in service contracts with NGOs to rectify the problem of some NGOs' non-provision of backpay on salary adjustment. They also expressed strong objections to some NGOs' provision of incentive payments which were in essence bonus payments to staff. These members were gravely concerned that in order to save up a larger sum of money for giving bonuses to staff, some NGOs might recruit fewer people and reduce staff remuneration resulting in a deterioration of the NGOs' service quality.

Members were also advised that the Elderly Commission would finish the preparation of the Elderly Services Programme Plan by 2016. They requested the Administration to prepare an interim report on the Programme Plan and brief the Panel on the report in November or December this year. The Panel also appointed a subcommittee to follow up the Elderly Commission's preparation of the Programme Plan and study the policies and measures relating to the future development of elderly services schemes. The subcommittee is currently on the waiting list pending activation.

Given the recent incident at Tai Po Cambridge Nursing Home, members cast doubt on the effectiveness of the inspection and licensing system for monitoring residential care homes for the elderly (RCHEs). Taking the view that some provisions of the Residential Care Homes (Elderly Persons) Ordinance

were outdated, members urged the Administration to immediately review the Ordinance and the related Code of Practice. They also requested the Social Welfare Department to strictly enforce the Ordinance and the related Code of Practice to ensure that the service quality of both private and subvented RCHEs could reach a reasonable level. The Panel will further discuss the monitoring and service quality of private RCHEs at its regular meeting in July this year.

Lastly, I wish to take this opportunity to thank members for taking part in the work of the Panel over the past year and the large number of deputations and individuals for giving their valuable opinions at the Panel meetings. I would also like to thank the Secretariat for its assistance.

**PRESIDENT** (in Cantonese): Mr CHAN Kin-por will address the Council on the "Report of the Panel on Financial Affairs 2014-2015".

### **Report of the Panel on Financial Affairs 2014-2015**

**MR CHAN KIN-POR** (in Cantonese): President, in my capacity as Chairman of the Panel on Financial Affairs, I now submit the report on the work of the Panel for the current Session and highlight several major areas of work.

In the current Session, the Panel continued to provide a forum for Members of this Council to exchange views with the Financial Secretary on matters relating to Hong Kong's macro-economic issues. Some members expressed concern about the recent slowdown in inbound tourism and retail sales as well as the continuous rise in local property prices. The Panel urged the Government to stay vigilant to the impact of the development in inbound tourism on the economy and labour market and to step up its efforts in increasing land and housing supply so as to maintain stable and healthy development of the property market.

Regarding the work of the Hong Kong Monetary Authority (HKMA), members expressed concern that the investment returns of the Exchange Fund in 2014 had continued to decline. Besides, the rise in the Hong Kong interest rates along with normalization of the United States interest rates in the near future might result in major consolidation of local residential property prices and

adverse impacts on mortgage loan borrowers. Members urged the HKMA to review the investment strategy of the Exchange Fund, and make timely adjustment to its prudential supervisory measures in tandem with the property market cycles.

On the development of the financial services industry in Hong Kong, the Panel, in addition to receiving a briefing on the work progress of the Financial Services Development Council, also discussed a number of relevant initiatives with the Administration. With regard to the development of the asset management industry, the Panel noted the Government's legislative proposal of extending the profits tax exemption for offshore funds. Furthermore, the Panel was also consulted on the legislative proposal of offering tax concessions to attract enterprises to establish corporate treasury centres in Hong Kong. The Panel supported the proposal in principle and stressed the need to include anti-avoidance provisions to avoid abuse of the concessions. However, in drafting the relevant bill, the Administration should avoid making the Inland Revenue Ordinance excessively complicated so as not to undermine Hong Kong's simple taxation regime.

The Government briefed the Panel on a pilot programme to enhance talent training for the insurance sector and the asset and wealth management sector, which would include promotion and education initiatives, internship programme for undergraduate students, and financial incentive schemes for professional training for the two sectors. While members did not raise any objection to the proposal, some were of the view that the two sectors had the responsibility to promote public awareness of the wide range of career opportunities and prospects in their sectors and provide relevant training.

The Panel noted that in light of the international developments on taxation matters, the Government would implement automatic exchange of financial account information in tax matters (AEOI) on a reciprocal basis with appropriate partners. Members stressed that the Inland Revenue Department should strike a balance between tax transparency and protection of data privacy, and prevent fishing expedition by AEOI partners in tax information exchange.

President, a full account on the work of the Panel is already given in the written report. I so submit.

**ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

**Calculation of Severance Payments and Long Service Payments**

1. **MR WONG KWOK-KIN** (in Cantonese): *President, under the Employment Ordinance (EO), the amount of severance payment (SP) and long service payment (LSP) of a monthly rated employee is calculated by multiplying his last month's wages or the average monthly wages in the last 12 months (which is capped at \$22,500, "monthly wage cap") by reckonable years of service and then by two-thirds. The maximum amount of SP or LSP payable to an employee is \$390,000 (the maximum amount). In this connection, will the Government inform this Council:*

- (1) *among the employees in Hong Kong, of the respective numbers and percentages of those whose monthly employment earnings were equivalent to the monthly wage cap and above such amount, and the percentile of such amount in the monthly wages of Hong Kong employees, in the past five years, together with a breakdown by year;*
- (2) *of the respective numbers of employees who were paid SPs and LSPs in the past five years; among these employees, the respective numbers and percentages of those whose last month's wages or average monthly wages in the last 12 months were equivalent to or above the monthly wage cap and of those who were paid the maximum amount, together with a breakdown by year; and*
- (3) *of the respective numbers of adjustments made to the monthly wage cap and the maximum amount since the inclusion of the provisions related to SP and LSP in EO, the years in which such adjustments were made and the rates of such adjustments, as well as the criteria based on which the authorities determined the new levels of such amounts and decided whether a review was necessary; the reasons for the authorities not making any adjustment to such amounts since the last adjustment and whether they have any plan to make adjustments expeditiously to tie in with the current wage level of employees; if they do, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, my reply to the question of Mr WONG Kwok-kin is as follows:

- (1) Based on the General Household Survey conducted by the Census and Statistics Department (C&SD), the information on the respective numbers and percentages of employees with monthly employment earnings of \$22,500 or below, and above \$22,500, as well as the percentile of monthly employment earnings of \$22,500 in the past five years is set out at Annex.
- (2) Under the Employment Ordinance (EO), employers are obliged to make severance payment (SP) to eligible employees upon retrenchment or long service payment (LSP) to eligible employees with not less than five years' service upon dismissal. However, the law does not require employers to report to the Government the amount of SP and LSP payable when they make such payments to their employees. The Government therefore does not have information on the number of employees paid SP and LSP, the number and percentage of such employees with their last month's wages or average monthly wages in the last 12 months equal to or above the monthly wage cap, and the number of employees paid the maximum payment amount and its percentage.
- (3) When EO was first enacted in 1968, it applied only to all manual employees and non-manual employees with monthly wages not exceeding a specific level. With effect from June 1990, the coverage of EO was extended to all manual and non-manual employees irrespective of their wage levels and a monthly wage cap of \$15,000 was set for the purpose of calculating SP and LSP. This monthly wage cap was raised to \$22,500 in 1995.

In respect of the maximum payment amount, at the time when SP and LSP were introduced, EO specified 12-months' wages as the maximum amount payable to an employee. With the extension of EO's coverage, this amount was subsequently amended in June 1990 to a maximum of 12 months' wages or \$180,000, whichever was the lower. In 1995, EO was further amended to remove the cap on 12-months' wages, and to increase the ceiling from \$180,000 to \$210,000, and a further increase of \$20,000 each year till it reached \$390,000 on 1 October 2003.



All along, the Government has reviewed labour legislation from time to time so as to improve employees' rights and benefits progressively, having regard to Hong Kong's social changes and pace of economic development, and taking into account the need to strike a reasonable balance between the interests of employees and employers. The purpose of SP and LSP is to provide compensation to employees who are retrenched, or are dismissed/leave employment after having served the same employer for a long period of time, so as to help alleviate an employee's financial hardship caused by loss of employment. As stated above, the Government has strengthened employees' protection in connection with SP and LSP progressively from 1995 to 2003, having regard to the prevailing social circumstances and the overall situation of employees' benefits. Separately, the Government introduced the Mandatory Provident Fund System since 2000 to provide statutory retirement protection to employees.

According to the General Household Survey conducted by the C&SD, the median monthly employment earnings of employees in Hong Kong in 2014 was \$13,000. At present, the current monthly wage cap (\$22,500) for calculating SP and LSP as laid down in EO is still far above the monthly wages of most employees and should be able to cover the majority of the cases, while the maximum payment amount of \$390,000 for SP and LSP should also be able to provide a reasonable level of economic support to employees. If such monthly wage cap and maximum amount were to be raised further, employers would have to, on top of other compensation under EO, pay a higher amount of SP or LSP in retrenching employees or dismissing those with more than five years' service. Employers retrenching workers owing to cessation of business or downsizing of operations, especially small and medium-sized enterprises (SMEs), would have to shoulder additional financial burden. Currently, over 98% of the enterprises in Hong Kong are SMEs and careful consideration should be given to their affordability. The Government has no plan at this stage to change the current statutory monthly wage cap and level of maximum payment amount applicable to SP and LSP.

## Annex

Employees by monthly employment earnings, and  
percentile of monthly employment earnings of \$22,500 for 2010-2014

Monthly employment earnings (HK\$)	Year									
	2010		2011		2012		2013		2014	
	Number	%	Number	%	Number	%	Number	%	Number	%
22,500 or below	2 550 900	81.5	2 567 500	79.9	2 586 500	78.7	2 581 000	77.0	2 570 500	75.4
above 22,500	578 400	18.5	647 100	20.1	700 400	21.3	769 200	23.0	836 600	24.6
Total	3 129 300	100.0	3 214 600	100.0	3 286 900	100.0	3 350 100	100.0	3 407 000	100.0
Percentile of HK\$22,500	82%		80%		79%		77%		75%	

Note:

There may be slight discrepancy between the sum of individual items and the total as shown in the table owing to rounding.

**MR WONG KWOK-KIN** (in Cantonese): *President, I note that the third paragraph in part (3) of the Secretary's main reply reads, "[T]he Government has reviewed labour legislation from time to time so as to improve employees' rights and benefits progressively, having regard to Hong Kong's social changes and pace of economic development, and taking into account the need to strike a reasonable balance between the interests of employees and employers." (End of quote)*

*Since the Government will review labour legislation from time to time, having regard to Hong Kong's social changes and pace of economic development, can I ask the Secretary why the Government has never conducted any review in the interval of 20 years since the relevant amounts for calculating SP and LSP were last adjusted in 1995? Is it the Secretary's view that since Hong Kong society has not undergone any changes and the cost of living index has never gone up due to factors such as inflation over the past two decades, the Government does not need to conduct any review of the relevant amounts for calculating SP and LSP?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thanks to Mr WONG for the question. As a matter of fact, I have already provided a clear explanation in the main reply.

First, what has remained unchanged for 20 years is only the monthly wage cap, that is, the present amount of \$22,500 after the last upward adjustment from \$15,000. As for the maximum payment amount of \$390,000, it has been in force since 2003, meaning that it has remained at this level over the past 12 years.

There is another point I would like to clarify. As stated in the main reply, the latest median monthly employment earnings of employees in Hong Kong is \$13,000. As shown clearly by the last row of figures in the Annex, the present monthly wage cap of \$22,500 can already cover more than 75% of Hong Kong employees, as their monthly income is below \$22,500. In other words, the present monthly wage cap is sufficient for most employees in Hong Kong. This is the first point.

President, the second point is about the adequacy of the maximum payment amount of \$390,000 in actual circumstances. Based on the existing formula, if the monthly income of an employee is \$22,500, or the monthly wage cap, he must have 26 years of service before he can receive the maximum amount of \$390,000. Based on a monthly income of \$15,000, the years of service required will be as long as 39 years. If the basis of computation is lowered further down to the median monthly employment earnings of \$13,000, the years of service required will even be 45 years. In our society today, many employees in the private sector cannot accrue such long years of service. This was especially the case in the past one to two decades when employees enjoyed more opportunities to switch jobs. Hence, in view of the actual circumstances and social changes, the relevant amounts already suffice to cover the interest of most employees. This point is very important.

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

**MR WONG KWOK-KIN** (in Cantonese): *The Secretary has not answered my supplementary question properly. I have asked the Secretary very clearly whether the Government has refrained from conducting a review owing to its view that society has undergone no changes and the cost of living index has never gone up due to inflation over the past two decades.*

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

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to supplement a few points regarding the actual circumstances. For almost 20 years since Hong Kong's reunification, there has been marked improvement to the protection of labour rights. Moreover, let us not forget that the Mandatory Provident Fund (MPF) Scheme was launched by the Government in December 2000 to provide statutory retirement protection to employees. This is an important milestone. The protection for employees is enhanced, and employers must increase their commitment accordingly. As a matter of fact, retirement protection and the protection offered by LSP are very similar in nature. This is already a step forward.

On Labour Day, 1 May in 2011, the statutory minimum wage was implemented to further strengthen wage protection for grass-roots employees. From the above, it is clear that during the said period, the Government has been improving labour rights, having regard to Hong Kong's changes and pace of economic development.

**MR CHEUNG KWOK-CHE** (in Cantonese): *President, adjusting the relevant amounts for calculating SP and LSP in the light of social developments is no doubt a very appropriate practice that can help us keep abreast of the times. But the greatest concern of wage-earners all along is the arrangement of offsetting SP and LSP against accrued MPF benefits.*

*President, paragraph 16 of LEUNG Chun-ying's election manifesto reads (and I quote): "We will adopt measures to progressively reduce the proportion of accrued benefits attributed to employer's contribution in the MPF account that can be applied by the employer to offset long-service or severance payments." (End of quote) May I ask the Government when it is going to implement paragraph 16 of LEUNG Chun-ying's election manifesto, so that the accrued MPF benefits of Hong Kong wage-earners will not be depleted due to offsetting against SP and LSP?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I am very grateful to Mr CHEUNG for the question. We and society at large are deeply concerned about this matter. This issue involves the interrelated rights of employers and employees and is thus an extremely complex topic. At this stage, the Government is still gauging the views of different parties to form the basis of overall consideration.

I must stress once again that this topic is both highly complex and marked by its own historical background. At the time when the legislation concerned was enacted years back, there was already a provision on the offsetting arrangement, and this was endorsed by everybody at that time. Hence, we must consider the matter objectively and comprehensively. But this is certainly a concern of the Government. We have been listening to different views in society to help us to consider the way forward.

**MR CHEUNG KWOK-CHE** (in Cantonese): *President, we have heard all the talks about objective consideration for three years. I am now asking the Government when it is going to launch the work required. The Secretary may give us any reply, say, two years later, but please tell me exactly when.*

**PRESIDENT** (in Cantonese): Secretary, can you give an exact time?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the Government does not have any concrete timetable at the moment. But I can tell Members that this issue is the concern of the Government, and we have been closely following all related aspects, especially the views of employers and employees, as well as the developments in our society as a whole. We will make a decision on how to handle the matter in due course.

**MR CHEUNG KWOK-CHE** (in Cantonese): *To put it simply, when he says that no timetable is available, does he mean that nothing will be done? He might as well tell me that the authorities do not intend to do anything at all.*

**PRESIDENT** (in Cantonese): Mr CHEUNG, your question just now is whether the Secretary can give an exact time, and the Secretary has already replied.

**MR POON SIU-PING** (in Cantonese): *President, the Secretary has said that the Government has no intention of reviewing the monthly wage cap of \$22,500. But as we all know, both salaries and commodity prices have seen adjustments, not to mention that the maximum MPF contribution level was increased twice, in 2012 and 2014 respectively. But the relevant amounts for calculating SP have remained unchanged for two decades. From what the Secretary said just now, I can of course understand that the Government is reluctant to conduct a review because it is concerned about the additional financial burden on employers. Since the Labour Advisory Board (LAB) comprises representatives of both employers and employees, may I ask the Secretary whether the authorities will refer the matter to the LAB for discussion, so as to gauge the views of both sides?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): At an appropriate time, we will definitely raise this matter in the LAB and explore it together with its members. The purpose of setting up the LAB is precisely to provide a platform for discussing topics of common concern. We do not rule out the possibility of raising the matter for preliminary exploration in the LAB at an appropriate time.

**MR TANG KA-PIU** (in Cantonese): *President, there is no mechanism to adjust the relevant amounts for calculating SP and LSP under the ossified system at present. As a result, wage-earners, especially middle-class wage-earners, cannot receive even one single cent of genuine SP or LSP because all the payments are met by the MPF contributions which employers have already made. What is more, after all the offsetting, nothing much is left in the accrued benefits from employers' contributions. This is totally unfair.*

*Can I ask the Secretary once again why no adjustment has been made over the past two decades? Is it because the business sector has been putting pressure on the Government?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thanks to Mr TANG for the question. As I pointed out clearly when answering Mr WONG Kwok-kin's supplementary question a moment ago, the consideration of the Government is based on the actual situation, that is, the actual situation that the current amounts of \$22,500 and \$390,000 can already cover practical circumstances of the majority of employees in Hong Kong. As clearly shown by the data concerned, the monthly employment earnings of 75% of all employees is \$22,500 or below, and the median monthly employment earnings of employees is \$13,000. Even if computation is based on the monthly wage cap of \$22,500, an employee must still have 26 years of service before he can receive the maximum amount. If computation is based on a monthly wage of \$15,000, the years of service required will even be 30-odd years. If the median monthly employment earnings of \$13,000 is adopted for computation, an employee must have 40-odd years of service. Such is the actual situation, so any increase in the amounts concerned may well be of mere academic interest rather than serving any practical purposes.

**MR WONG KWOK-HING** (in Cantonese): *President, because the monthly wage cap and the maximum amount have remained unchanged for 20 years and 12 years respectively, I am dissatisfied that the Secretary refuses to review the two amounts in his main reply to Mr WONG Kwok-kin's oral question.*

*Nonetheless, the Secretary also claims in the main reply that the Government would review labour legislation from time to time, having regard to Hong Kong's social changes and pace of economic development. Hence, let me raise one point about the Secretary's claim. The year 2000 saw the implementation of the MPF system, under which there is a mechanism for offsetting SP and LSP against employees' accrued benefits. This is a very big change. Before 2000, upon retirement or severance of employment, employees could receive the payments they were entitled to under the law. But after the implementation of the offsetting arrangement in 2000, as Honourable colleagues have mentioned, employees can no longer receive the payments they are entitled to, because such payments will be offset against accrued MPF benefits. This is a big change.*

*Secretary, do you agree that the establishment of the MPF system in 2000 is a big change, and the Government has failed to conduct any review of this change over the 10-odd years since 2000? I hope the Secretary can respond to this question.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thanks to Mr WONG for the question. Mr WONG is right in saying that a big change did occur in 2000. But it is not a bad change at all. Instead, this is a desirable, progressive and positive change.

Why do I say so? Prior to the implementation of the MPF system in 2000, we could only advise and encourage employers to offer retirement protection voluntarily for the benefit of employees. Such retirement protection was provided strictly on a voluntary basis, and there was no statutory requirement. Hence, employers were then allowed to have the offsetting arrangement as an incentive. If not, if employers were required to make double payments, they would not agree to bear the costs of the protection concerned. We also enacted legislation to further enhance the protection, and it is thus a kind of mandatory, statutory retirement protection. An employer who fails to make MPF contributions as required by the ordinance shall be guilty of an offence.

For employees, they can already enjoy a certain degree of retirement protection under the MPF system. The problem now lies mainly with the disputes over the offsetting mechanism. In our view, we should explore whether the relevant amounts and cap should be adjusted only after tackling the offsetting issue. We will monitor the actual situation and conduct review from time to time. For instance, the figures in the Annex can clearly show the changes in employment earnings on a year-to-year basis.

In case the number of beneficiaries decreases as a result of changes in employment earnings, we must take actions. But the existing amounts can already cover more than 70% of all employees in Hong Kong. As for higher-income employees, they simply do not need the protection accorded by this basic requirement. As we all know, the relevant provision only lays down the minimum requirement. Higher-income employees are invariably under the protection of employment agreements, and their contractual protection is definitely higher than the minimum standard. All in all, we are aware of the demands of the labour sector and hence, we will monitor the data continuously. If we consider that changes in employment earnings are against workers' interest, we will definitely initiate a review.

**MR SIN CHUNG-KAI** (in Cantonese): *President, the Secretary will surely default, at least on two counts, namely, the offsetting mechanism and standard working hours.*



*President, my supplementary question is also about the same paragraph of the Secretary's main reply. I think the Secretary may have made a mistake when reading out his reply. Rather than saying "the Government has reviewed labour legislation from time to time", he should have said "the Government has never reviewed labour legislation from time to time".*

*Actually, the authorities have proposed to introduce an automatic mechanism based on a formula linked to monthly median employment earnings for adjusting the minimum and maximum levels of relevant income for MPF contributions. In fact, this is a desirable approach. My supplementary question is whether the Secretary will consider making reference to the approach suggested for the MPF system, basing on a formula to adjust the ceiling, that is, the monthly wage cap of \$22,500.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thanks to Mr SIN for the question. At this stage, we do not intend to adopt a rigid formula. As I have just explained in detail, the existing practice can already cover most employees in Hong Kong and give them sufficient protection. We will keep the situation in view. If the data show that changes in employment earnings are against workers' interest, or that employees cannot receive adequate protection, we will definitely initiate a review. This practice is more flexible.

**MR SIN CHUNG-KAI** (in Cantonese): *The Secretary has not answered my question. Such a formula can move with the times, but there is no mechanism under the existing practice to enable the relevant amounts to keep abreast of the times. The Secretary's reply fails to explain how the relevant amounts can keep abreast of the times.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, as I said a moment ago, we will consider a basket of factors in our review. Apart from the actual situation in society, other factors include the level of protection given, changes in employment earnings, employers' affordability, and so on. We will make assessment based on the basket of factors, rather than any rigid benchmarks or formula.

**MR WONG KWOK-KIN** (in Cantonese): *President, we note from the Annex provided by the Bureau that the number of beneficiaries with earnings under the monthly wage cap of \$22,500 has dropped about 6% over the four years from 2010 to 2014, while the number of employees with earnings over the monthly wage cap of \$22,500 has increased by 6% over the same period, from 18.5% in 2010 to 24.6% in 2014. In other words, a quarter of all employees do not get this protection.*

*Secretary, what percentage increase in the number of employees with earnings above the monthly wage cap does the Government want to see before it starts studying, reviewing and adjusting this amount?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *President, as I said a moment ago, we will be glad to refer the issue to the LAB for discussion at an appropriate time. When we do so, everybody may then analyse the relevant data objectively. We honestly are not averse to handling this issue. In fact, it is the practice of the LAB to review various labour issues from time to time, and we will refer the issue to the LAB for exploration at an appropriate time.*

**PRESIDENT** (in Cantonese): *Second question.*

### **Supply of Live Chickens Imported from the Mainland and Plight of Live Poultry Trade Members**

2. **MR VINCENT FANG** (in Cantonese): *President, after samples of live chickens imported from the Mainland had been tested positive for avian influenza H7 virus, the authorities suspended at the end of last year the supply of live chickens from the Mainland, which was resumed in February this year. Some members of the trade have relayed to me that although no avian influenza virus has been discovered again at the mainland farms supplying poultry to Hong Kong, the daily number of live chickens imported from the Mainland has increased from about 1 000 in February this year only to about 4 000 at present, which is far less than the previous normal level of about 7 000 chickens each day. Furthermore, the supply of mature chickens to Hong Kong from the Guangdong*

*Province, which was previously a major supplier of live chickens to Hong Kong, has not resumed, while the quantity of day-old chickens imported from the Mainland has restored to the previous level. This reflects that there is a communication problem between the Hong Kong authorities and the Guangdong authorities in this regard. As a result, live poultry importers, wholesalers and transporters have been "on saline drip", with their livelihood affected. In this connection, will the Government inform this Council:*

- (1) of the respective average daily quantities of live chickens and day-old chickens imported from the Mainland since February this year, as well as the respective places of origin and market shares for such live chickens and day-old chickens; whether the Hong Kong authorities have approached the Guangdong authorities to gain an understanding of the reasons why the current quantity of imported live chickens still has not restored to the previous level and the expected time for the restoration;*
- (2) as the authorities have indicated that they will study the future of the live poultry trade and whether the sale of live poultry should continue, of the progress of the study; whether they have examined ways for relieving the business difficulties faced by live poultry wholesalers and retailers; given that the authorities are progressively phasing out pre-Euro IV diesel commercial vehicles, whether the authorities will consider giving live poultry transporters a longer grace period so as to alleviate their plight; and*
- (3) whether the authorities have assessed the prospect for restoring the quantity of live chickens imported from the Mainland to the previous normal level; if the prospect is dim, whether they will consider re-launching the scheme for surrender of business licences for live poultry trade; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, on 30 December 2014, the Government detected H7 avian influenza (AI) virus in a number of samples from a consignment of live chickens imported from a registered farm in Guangdong. In accordance with the established risk management mechanism, the Government culled the live poultry concerned and

closed the Cheung Sha Wan Temporary Wholesale Poultry Market (Wholesale Poultry Market) for 21 days. During the closure period, trading of live poultry was suspended. The Wholesale Poultry Market resumed live poultry trading on 22 January 2015.

The Food and Health Bureau, the Agriculture, Fisheries and Conservation Department (AFCD) and the Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department have all along been maintaining close liaison with the State General Administration of Quality Supervision, Inspection and Quarantine, and the Entry-Exit Inspection and Quarantine Bureaux of Guangdong, Zhuhai, Shenzhen and Hainan on issues relating to live chicken supply from the Mainland.

According to the monthly national surveillance results of animals for H7N9 AI released on the Internet by the Ministry of Agriculture of the People's Republic of China, H7N9 AI virus has been detected in poultry farms and live poultry markets in different Mainland provinces and municipalities (including Guangdong Province) since 2013. As regards confirmed human cases of AI A (H7N9), there have been a total of 653 cases since 2013 reported by the Mainland health authorities, while 213 cases, including 72 in Guangdong, have been reported since November 2014 (the third wave in the Mainland). Meanwhile, the threat of H5 AI persists. In various states of the United States, successive cases of large-scale H5N2 AI outbreak among birds were recorded this year. In the Mainland, a number of cases of live poultry and human infection with H5N6 AI virus were recorded in the past year as well. In Hong Kong, H5N6 AI virus was detected for the first time in two wild bird carcasses in April this year. These cases show that subtype and antigenic changes in AI remain a frequent phenomenon.

We are given to understand that the relevant Mainland authorities have, in the light of the prevailing state of AI threat in the Mainland and nearby areas as well as the associated risks, chosen to adopt, on grounds of prudence, more stringent measures for managing registered farms supplying live poultry to Hong Kong and Macao. Their concern is legitimate that the relevant Mainland inspection and quarantine authorities have deemed fit to adopt more stringent measures is in our view an appropriate response under the present circumstances. We are fully appreciative of the efforts they put on safeguarding public health in Hong Kong.

Meanwhile, we have kept the local live poultry trade abreast of latest developments related to the supply of Mainland live poultry and day-old chicks to Hong Kong.

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

- (1) Since the resumption of live poultry trading at the Wholesale Poultry Market on 22 January this year, more than 22 000 live chickens had been imported from the Mainland (as at 22 June). These chickens mainly came from Hainan, accounting for 1.23% of the total supply of live chickens on the market. During the same period, the number of minor poultry (pigeon, common pheasant and chukar) imported into Hong Kong from the Mainland was about 180 000, accounting for 100% of the total supply in the local market. As mentioned above, in the light of the current state of AI threat, the relevant Mainland authorities have adopted more stringent measures for managing registered farms which supply live poultry to Hong Kong and Macao. We have expressed our appreciation of and support for their efforts in this regard. Through meetings, written correspondence and telephone exchanges, we have maintained close dialogue with the relevant Mainland authorities. The two sides agree that, in moving forward towards gradual resumption of live poultry supply, we should uphold the science-based approach, having regard to risk assessments and the need to safeguard public health.

Since 25 January this year, the Mainland has gradually resumed the supply of day-old chicks to Hong Kong. As at 22 June, a total of 420 000 day-old chicks, mainly from Zhuhai and Guangdong, had been imported, accounting for 22.98% of the total supply of day-old chicks to local chicken farms. Supply of day-old-chicks in early 2015 had registered a drop relative to that in the fourth quarter of 2014. Following our communication with the relevant entry-exit inspection and quarantine bureaux, the level of import has returned to normal, thereby stabilizing the supply of live chickens from local chicken farms.

- (2) Contact with infected live poultry is the main risk factor insofar as human infection by AI is concerned. Over the past decade or so, the Government and the local live poultry industry, together with the

Mainland inspection and quarantine authorities and the farms supplying live poultry to Hong Kong, have collaboratively built up a stringent system for the surveillance and control of AI so as to reduce the AI risks in Hong Kong. However, no surveillance system can attain zero risk. For public health considerations, the Government has commissioned a consultant in mid-June 2015 to study the future of the live poultry trade in Hong Kong and make recommendations. We hope to complete the study within this year and thereafter consult the public on the consultant's recommendations.

When the Government rolled out the buyout scheme for the live poultry trade in 2008, we had made it clear to the Legislative Council and the trade that those operators who chose to stay in the live poultry trade had to bear the risks of further AI incidents. We understand that the drop in the supply of Mainland live poultry in the past few months may have affected the business of some local live poultry operators. The Government has carefully examined the current situation. We do not see sufficient justifications to offer ex-gratia payment or rental waiver.

To improve roadside air quality and better protect public health, the Government has adopted an incentive-cum-regulatory approach starting from March 2014 to phase out some 82 000 pre-Euro IV diesel commercial vehicles (DCVs), including goods vehicles, light buses and non-franchised buses by the end of 2019. These DCVs are phased out by different statutory deadlines according to their first registration dates. Eligible vehicle owners may apply for an ex-gratia payment. The Government does not intend to give live poultry transporters an additional grace period.

- (3) The Food and Health Bureau, the AFCD and the CFS will continue to liaise closely with the Mainland authorities for gradual resumption of live chicken supply based on risk assessment and the need to safeguard public health. As regards the future of the live poultry trade, we will take into consideration the recommendations put forward by the consultant mentioned above as well as fully engage stakeholders to seek their views before considering the implementation of relevant measures.

**MR VINCENT FANG** (in Cantonese): *President, the Secretary mentions in the main reply that between 22 January and 22 June, more than 22 000 live chickens were imported, mainly from Hainan, while a total of 420 000 day-old chicks, mainly from Zhuhai and Guangdong, were imported. Can I ask the Secretary why live chickens were imported mainly from Hainan instead of Zhuhai and Guangdong? Was it due to communication problems? Besides, the risk of importing day-old chicks is low, and the risk of importing live chickens is higher. But day-old chicks and live chickens are of the same breed, so why aren't they handled in the same way by the authorities?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, first of all, the viewpoint put forward by Mr FANG in the second part of his supplementary question is correct. According to risks assessments conducted by experts relating to AI and the spread of AI, day-old chicks do give rise to lower risk when compared with live chickens. As regards why the import of live chicken from the Mainland has not returned to the normal level, I have explained very clearly in the main reply that it is mainly because the AI (H7N9) epidemic in the Mainland has never really stopped. We still receive reports on human infection by H7N9 in the Mainland. Besides, the Mainland authorities have been maintaining close surveillance on AI (H5) and AI (H7) in both live chicken markets and poultry farms, and it is learnt that poultry carrying the H7 AI virus are still detected in some farms. As a matter of fact, the threat of AI (H5) is still present in our neighbouring places and other parts of the world. There have also been cases in other places, including the United States, of large-scale poultry infection by the H5 AI virus. This can show that even in developed countries where the most advanced breeding methods are employed, large-scale culling of chickens is still inevitable.

On account of such risks, we do understand why the Mainland authorities have rolled out stricter quarantine requirements for live chickens to be supplied to Hong Kong. It is learnt that owing to commercial and risks considerations, Mainland poultry farms have not requested to reinstate the past level of live chicken supply to Hong Kong so far.

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

**MR VINCENT FANG** (in Cantonese): *President, the Secretary has not answered my question.*

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

**MR VINCENT FANG** (in Cantonese): *My supplementary question is about the fact that live chickens from Hainan can be supplied to Hong Kong but those from Guangdong cannot. Is this due to the inadequate communication between the Secretary and the Guangdong authorities? The Secretary has not answered this question.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): No, President. I think I have said very clearly that we have all the time maintained very close liaison with the relevant inspection and quarantine (I&Q) authorities in the Mainland, including Guangdong.

Concerning this matter, we have not made any new requests. As regards when to resume live chicken supply to Hong Kong and the number of chickens to be supplied, it is all up to individual farms supplying live poultry to Hong Kong to make their own decisions having regard to the requirements of their local I&Q authorities, as well as their risk assessments and commercial considerations.

**MR GARY FAN** (in Cantonese): *President, at present, huge quantities of live chickens supplied to Hong Kong are imported from the Mainland. But many people in Hong Kong are worried that such chickens, which were reared in doubtful hygiene conditions, may increase the risk of an AI outbreak in Hong Kong.*

*Will the Secretary consider a pilot scheme of "Hong Kong chickens for Hong Kong people"? In other words, will he resume the issuing of a suitable number of Livestock Keeping Licences to increase the number of locally bred chickens, rather than banning the supply of live chickens altogether? In his reply just now, the Secretary kept stressing that "Hong Kong chickens for Hong Kong people" could not attain zero risk. But I wish to ask the Secretary a question in response. Can a total ban on the supply of live chickens really attain zero risk and completely eliminate the risk of an AI outbreak? If it cannot, why*



*should the Secretary deprive local chicken farmers of their livelihood and a chance to save themselves? I wish to hear a detailed explanation of the reasons from the Secretary, not just a brief reply.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): First, I must point out that we have already commissioned a consultant to study the future of live poultry supply in Hong Kong and make recommendations. Therefore, at the present stage, the Government does not have any pre-conceived position, let alone any intention to ban the supply of local live chicken.

Besides, Mr FAN asks whether a total ban on live chicken supply can really attain zero risk. We have to look at this question from two perspectives. It all depends on whether we are talking about human beings or poultry. In the case of poultry, as long as there is poultry farming, there will always be the risk of an AI outbreak. As I have pointed out, the whole thing is quite regardless of the stringency of any bio-safety measures. Even in places more advanced than Hong Kong, where the most advanced bio-safety measures are employed to breed large quantities of poultry, there are bound to be AI outbreaks necessitating the massive culling of live poultry.

In the case of human beings, although it cannot be said that there will be zero risk, it should be noted that in places where there is no supply of live poultry in the markets, there are rarely any cases of human infection by AI. So far, of all the globally reported cases of human infection by AI, most actually originated from occasions of direct human contacts with live poultry and their environments. Even if we look at Hong Kong, we will also see that so far, cases of Hong Kong people getting infected by AI (H7N9) in the Mainland all involved live poultry environments or live poultry markets. Hence, in a place with no supply of live poultry, the risks of human infection by AI or AI outbreaks among the people in that place are very low.

In spite of this, I must add that as I have just mentioned, at the present stage, the Government does not have any intention (or pre-conceived position) regarding any arrangements for supplying live poultry to the market in the future. After the consultant completes its report, we will consider its recommendations first and then consult the public.

**MR TOMMY CHEUNG** (in Cantonese): *President, having listened to the Secretary's answer, I also see the difficulties in handling this problem.*

*President, I wish to talk about the first paragraph of Part (1) of the main reply, in which the Secretary says, "Through meetings, written correspondence and telephone exchanges, we have maintained close dialogue with the relevant Mainland authorities. The two sides agree that, in moving forward towards gradual resumption of live poultry supply, we should uphold the science-based approach, having regard to risk assessments and the need to safeguard public health." President, after reading these sentences, I must say that the Secretary's words are the best example of clandestine operation. What does he mean by all these words? Perhaps he does not know either. In a word, when he decides that there should be supply of live chickens, there will be live chickens supply, but when he decides otherwise, there will be no supply, and he needs not explain anything. Actually, the state of the live poultry industry today — no chicken farming in local poultry farms, short supply of live chickens in the market, the plight of the chicken transportation industry, and high prices of live chickens — was ...*

**PRESIDENT** (in Cantonese): Mr CHEUNG, please ask your supplementary question.

**MR TOMMY CHEUNG** (in Cantonese): *... was actually created by York CHOW, but you are so unlucky because since you took office, the situation has gone from bad to worse ...*

**PRESIDENT** (in Cantonese): Mr CHEUNG, please state your supplementary question.

**MR TOMMY CHEUNG** (in Cantonese): *President, I am about to ask the question. Mr Vincent FANG's question is actually very simple. Can the Secretary tell the industry and Hong Kong people for how much longer we must bear with the high prices of chickens? Please do not talk about any pre-conditions, risks, and so on. Just tell us when the supply of live chickens*

*can return to the normal level. Although I do not agree to Mr Gary FAN's proposal on "Hong Kong chickens for Hong Kong people", I must still say that after all, local chicken farms have track-records that can be referred to; the authorities can monitor them at close range; and, many chicken farms do have the capacity to breed more chickens. Why can't you relax the restriction immediately to increase the supply of live chickens?*

**PRESIDENT** (in Cantonese): Mr CHEUNG, you have stated your supplementary question. Please sit down and let the Secretary reply.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I have already made it very clear in my main reply and my response to the supplementary questions that we have already resumed the arrangement for importing live chickens from the Mainland. One simply cannot say that when I decide that there should be import of live chickens, there will be live chickens supply, but when I decide otherwise, there will be no supply. Buying and selling involves two parties. Even though we are willing to buy, there must be sellers. We have already resumed the arrangement for importing live chickens, but the availability of sellers must still depend on the stringent requirements imposed by the I&Q authorities of the Mainland and whether the poultry farms concerned are confident that they can meet these stringent requirements. It is all up to the poultry farms concerned to decide in the light of these circumstances whether they are going to apply for the resumption of live chicken supply to Hong Kong.

If Members are interested in learning more about our communications with the relevant Mainland authorities, I can explain more clearly. Our present agreement to resume the arrangement for importing live chickens is based on the principle of risks assessment, and risks assessment must in turn adopt a science-based approach. The farms intending to supply Hong Kong with live poultry and the I&Q authorities of the Mainland will conduct their risks assessments strictly under this approach. As regards when to resume the supply of live chicken to Hong Kong, they can make different decisions at different times.

It is true that the supply of live chickens to Hong Kong is very limited at present. But it should be noted that all actually depends on the I&Q requirements of the Mainland authorities and whether the farms concerned are confident that they can meet these requirements. The farms concerned must likewise assess the risks involved, because once they resume the supply of live chickens to Hong Kong, we will always conduct equally stringent sampling tests regardless of the quantities supplied. I believe the farms will certainly consider the risk of having to sustain another blow in case some of their chickens are still tested positive for AI in Hong Kong despite all their prior I&Q measures. Hence, I believe the crux of the problem should be the willingness or otherwise of the farms concerned to bear this risk, rather than whether the Food and Health Bureau of Hong Kong has put in place any policies to make life difficult for the farms concerned. Our only aim is to assure Hong Kong people that we will do our very best to minimize the risk of an H7N9 AI or H5N1 AI outbreak in Hong Kong.

**MR TOMMY CHEUNG** (in Cantonese): *President, the Secretary has not answered my supplementary question.*

**PRESIDENT** (in Cantonese): Mr CHEUNG, as Members have taken too much time to ask questions, there is not enough time for other Members to ask questions.

**MR TOMMY CHEUNG** (in Cantonese): *The time taken by the Secretary's reply was longer than the time I took to ask the question. He is simply giving us the runaround.*

**PRESIDENT** (in Cantonese): Mr CHEUNG, we have spent almost 24 minutes on this question, exceeding the time limit stipulated in the House Rules. Third question.

## Marine Fire Safety

3. **MR STEVEN HO** (in Cantonese): *President, it has been reported that a number of fires occurred at the typhoon shelters of Hong Kong in recent years, resulting in the burning down of a number of fishing vessels, including a hang trawler which was ravaged by fire near Castle Peak Bay on the 21st of last month. Quite a number of fishermen have expressed concern about marine fire safety, particularly a surge in fire hazards during the fishing moratorium and certain festivals (e.g. the Lunar New Year, Tin Hau Festival as well as Spring and Autumn Ancestral Offerings Ceremonies) when a large number of fishing vessels are berthed close to each other at the typhoon shelters. In this connection, will the Government inform this Council:*

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

- (1) *of the respective average response times for fireboats to arrive at various typhoon shelters to fight fire in the past three years, with a breakdown by typhoon shelter;*
- (2) *as some fishermen have repeatedly relayed to me that their lives and properties lack protection due to insufficient fire-fighting equipment in typhoon shelters, whether the Fire Services Department (FSD) will, before the next peak season of fishing vessels berthing at typhoon shelters, expeditiously put in place more effective fire-fighting measures (e.g. deploying fireboats to station round the clock at typhoon shelters, ports and bays where fire hazards are high and inspecting whether the existing marine fire-fighting equipment is in good functionality); if FSD will, of the details; if not, the reasons for that; and*
- (3) *as the implementation of a number of major infrastructure projects (e.g. the construction of an artificial island for the Hong Kong-Zhuhai-Macao Bridge and the expansion of the airport into a three-runway system) and the designation of a new marine park in the waters of the New Territory West (NTW) will create constraints to the accessibility of the waters, whether FSD has assessed if*

*fireboats can promptly arrive in the NTW waters where a fire has broken out to fight fire, particularly in the vicinity of the Castle Peak Bay Typhoon Shelter; whether FSD will enhance the marine fire-fighting equipment in the NTW waters or make appropriate deployment to address the fire hazards that may arise in the next peak season of fishing vessels berthing at typhoon shelters; if FSD will, of the details; if not, the reasons for that?*

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, the Fire Services Department (FSD) reviews from time to time its overall marine fire-fighting and rescue strategies in Hong Kong as well as the related equipment. The FSD conducts risk assessment for different water areas, taking into account factors including the distribution of vessels, utilization of shipping channels, existence of high risk facilities at sea and along coastal areas, and so on, in deciding the location of fireboat stations and deployment of fire vessels (that is, fireboats and fire speedboats). Upon receiving a fire call relating to vessels in Hong Kong waters, the Fire Services Communications Centre will, having regard to the circumstances, despatch the fireboats and fire speedboats nearest the incident scene to handle the fire. In addition, the nearby on-shore fire stations will deploy fire appliances to provide speedy support.

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

- (1) The average response times of the FSD's fire vessels (including fireboats and fire speedboats) in handling marine fire calls at various typhoon shelters in the past three years are set out at the Annex.
- (2) During peak seasons including the fishing moratorium and important festive periods, fishing vessels return to berth at typhoon shelters. The fire risks of the typhoon shelters may consequently increase as fishing vessels are densely anchored therein. The FSD will therefore step up patrol along the shipping channels within the shelters, and conduct fire drills in the shelters before the fishing moratorium and the Lunar New Year every year in collaboration with the Hong Kong Police Force and the Marine Department (MD), so as to enhance the efficiency in fire-fighting and rescue operations and strengthen the co-ordination among relevant departments in response to marine fires.

In view of the fire risk assessment of the Tuen Mun Typhoon Shelter (TMTS) during peak seasons, the FSD has specially deployed a fire speedboat to stand by in the TMTS at night since July 2012. This enables the fire speedboat to swiftly pass through the narrow shipping channels inside the shelter and arrive at the incident scene for fire-fighting and rescue operations in cases of emergency. The FSD has turned this stand-by arrangement to a round-the-clock one with effect from January 2013.

On publicity and public education, the FSD has been organizing thematic talks on fire prevention through fishermen groups, the MD and different District Offices. These talks aim to remind fishermen of the precautions when using and maintaining electrical installations on vessels and to teach them the correct way to use a fire extinguisher, and so on, with a view to enhancing their fire safety awareness. The FSD also conducts regular checks on its fire vessels and their fire-fighting equipment to ensure that they are in good working condition at all times.

- (3) The FSD patrols different water areas in Hong Kong and assesses their overall fire risks from time to time. As regards the waters of the New Territories West, the FSD considers that the various major infrastructure projects in progress and under planning will not affect the navigation or rescue operations of the fireboats and fire speedboats in that water area.

To facilitate the construction of the Tuen Mun-Chek Lap Kok Link project, the existing Tuen Mun Fireboat Station located at the Tuen Mun River Trade Terminal will be reprovisioned to the waterfront at the North Portal of the Tuen Mun-Chek Lap Kok Sub-sea Tunnel Section. By then, the FSD's fire vessels will continue to strategically cover for the north-westerly waters in Hong Kong and the Tuen Mun Typhoon Shelter.

The FSD will continue to closely monitor various developments in Hong Kong waters and assess the fire risks from time to time. It will review the deployment of fire service resources and operational strategies on a regular basis and make appropriate arrangements in the light of the needs of individual water areas or periods. The FSD

will also continue to strengthen its fire safety publicity and educational efforts at the typhoon shelters to enhance the fire safety awareness of fishermen for fire prevention purpose.

## Annex

Average response times of the FSD's fire vessels (including fireboat and fire speedboat) in handling marine fire incident at various typhoon shelters (2012 to 2014)<sup>(1)</sup>

<div> <div>Typhoon Shelter</div> <div>Number of cases/ Average response time</div> <div>Year</div> </div>	Aberdeen	Tuen Mun (Castle Peak Bay)	Cheung Chau	Causeway Bay	Shau Kei Wan	To Kwa Wan	New Yau Ma Tei	Rambler Channel	Shuen Wan	Yim Tin Tsai
2012	3/ 13 mins	1/ 17.4 mins	1/ 13.7 mins	--	--	--	--	--	1/ Not Applicable <sup>(2)</sup>	--
2013	--	4/ 8.6 mins	1/ 7.3 mins	1/ 15.2 mins	1/ 24 mins	--	1/ 15.1 mins	--	--	1/ Not Applicable <sup>(2)</sup>
2014	4/ 8.5 mins	1/ 11.8 mins	--	1/ 10.3 mins	1/ 16.2 mins	1/ 25 mins	--	1/ 10 mins	--	--

Notes:

- (1) In general, when the FSD receives a call of marine fire incident, it will deploy, apart from fire speedboats, at least two fireboats which are nearest to the incident scene for operation. In addition, the adjacent on-shore fire stations will also deploy fire appliances to provide speedy support.
- (2) As the fire had been put out by on-shore fire personnel whilst fire vessels were heading to the fire incident, the fire vessels had not arrived at the fire scene.

**MR STEVEN HO** (in Cantonese): *The Secretary has provided an Annex for part (1) of the main reply. In the main question, I ask about "the respective average response times for fireboats to arrive at various typhoon shelters to fight fire". But the Secretary's reply is interesting, as he has also included the response time of fire speedboats. Fire speedboats can of course arrive at*



*incident scenes very quickly, but Members cannot tell from the main reply the actual time required by other fire vessels to reach the scenes, except for fire speedboats. Fire speedboats, however, do not have sufficient equipment to fight big fires as their fire hoses are not so powerful. Therefore, I hope the Government will provide the response time of fire vessels other than fire speedboats, so that Members can examine whether the fire-fighting equipment for NTW and Hong Kong at large is sufficient. I hope the Government will respond to this supplementary question.*

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, when there is a fishing vessel fire, the prime consideration of the FSD is certainly the prompt arrival of fire-fighting equipment and firemen at the incident scene to put out the fire. As to whether a fireboat can be used, all depends on the location of the incident scene. If the waterways of the incident scene are very narrow or shallow, fire vessels may be unable to gain direct access to the scene. For example, while some typhoon shelters are deep enough for large fireboats to enter, some are too shallow for even medium fireboats to pass through, especially during low tide periods. Therefore, if the incident scene is inside a typhoon shelter, the FSD will definitely deploy fire speedboats in the first place as they can speedily pass through the narrow and shallow waterways and reach the scene to carry out rescue operations. The next to arrive will certainly be medium or large fireboats, which will berth close to the scene as far as possible and fight the fire with more powerful fire hoses.

If the incident scene is near the shore, apart from fireboats, the FSD may also deploy land-based fire engines and firemen to put out the fire. Therefore, today's reply is based on the response times of the first fire vessels arriving at the scenes for fire-fighting.

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

**MR STEVEN HO** (in Cantonese): *Just now, I asked if the Secretary can provide the time required by fire vessels other than fire speedboats to reach the typhoon shelters. I wonder if he can provide the information after the meeting.*

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

**SECRETARY FOR SECURITY** (in Cantonese): If the FSD has the required information, I will provide it after the meeting, but I must first ascertain with the FSD on the availability of detailed information. (Appendix I)

**MR IP KWOK-HIM** (in Cantonese): *May I ask the Secretary how the Administration makes arrangements for the fire-fighting equipment for various typhoon shelters in the light of environmental or other concerns? And, in particular, has the Administration considered if there is sufficient equipment to address the fire hazards of vessels berthing near or farther away from the shore when a large number of fishing vessels are berthed at the typhoon shelters during the annual fishing moratorium? We have heard a lot about fires spreading from one vessel to another. The consequences can be very serious. Has the Administration reviewed if the existing fire-fighting equipment is sufficient?*

**SECRETARY FOR SECURITY** (in Cantonese): I thank Mr IP for his supplementary question. First of all, during peak periods of fire outbreak, the foremost task of the FSD is to promote fire safety awareness, organize talks on fire prevention and invite fishermen again to take part in fire drills. As we all know, the speediest way to put out a marine fire is to make use of the appropriate fire-fighting equipment on vessels. In fact, I am aware that all vessels must undergo fire-fighting equipment inspection before the issuance of licences. If satisfactory fire-fighting equipment is available on a vessel, it can be used expeditiously in case a fire breaks out.

Upon receipt of a fire report, the FSD will certainly deploy personnel to the scene as soon as possible. Just as Mr IP has said, there are peak periods when vessels are berthed close to each other at the typhoon shelters, such as fishing moratoriums and the Lunar New Year. The FSD will step up patrol during such periods, and precisely because large numbers of vessels berth close to each other, the waterways during such periods will be narrowed. In that case, the FSD has to deploy fire speedboats for patrolling. Fire speedboats are small in size and cannot carry many people, but just as Mr HO has said, they have on board fire pumps and hoses. Although the equipment installed on speedboats is not as

good as that of fireboats, their high speed enables them to promptly reach the scene for initial fire-fighting before fireboats and land-based firemen arrive. This is the first point.

The second point is that we have set up fireboat stations in, for example, Aberdeen and Tuen Mun, where the environment permits, but these fireboat stations are not inside typhoon shelters. Yet, we have planned to relocate the fire stations to nearer places, so as to shorten the time required by fireboats or speedboats to reach the scene. In other words, we will adopt multi-pronged measures and take actions on both prevention and fire-fighting, so as to safeguard fishermen's life and property.

**MR TONY TSE** (in Cantonese): *In his reply, the Secretary stressed that fire hazards would increase if vessels are berthed close to each other, and he also mentioned the importance of maintaining unblocked and sufficient waterways. As such, may I ask the Government if it has conducted any study on the demand for and supply of berthing spaces in typhoon shelters in the next few years? When I talk about demand and supply, I mean not only fishing vessels but also yachts. This is because, as I am aware, not only fishing vessels but also yachts are allowed to berth in typhoon shelters. If it has not conducted any such study, why?*

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, I think the provision of berthing spaces in typhoon shelters does not fall under the purview of the FSD, and perhaps other government departments like the MD can provide more information to Mr TSE. Nonetheless, though this is not under my supervision, I do have an opinion. Even if we wish to provide more berthing spaces for vessels, there is a lack of suitable location in Hong Kong and this is the problem that we must tackle.

**MR TAM YIU-CHUNG** (in Cantonese): *Deputy President, I am also aware that a fishing vessel was ravaged in Castle Peak Bay and casualties resulted. A similar incident also occurred in Cheung Chau. In the aftermath of these incidents, we have requested, together with the fishing community and families of the victims, the FSD and the Government to increase the number of fire vessels as this is of paramount importance to them. Although the Secretary has all along*

*vowed to step up prevention, accident are accidents, and despite all preventive efforts, their occurrence cannot be predicted. The greatest concern of the fishing community is whether fire vessels can come to their rescue as promptly as possible when there is a fire, as their wooden vessels are inflammable. Fishing vessels mean the life and property of fisherman families, and we can notice from previous incidents that such fires will invariably get out of control. I was once present at the fire scene and saw that practically everything was reduced to charcoal. The present situation is not desirable and the availability of fire vessels could be described as having only six or seven lids for 10 pots because the FSD has to deploy fire vessels from other areas to provide support. I nonetheless do not consider this a solution. To tackle the problem at root, there must be sufficient fireboats and fire-fighting equipment. What does the Secretary think?*

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, I have a simple map here. As Members can see, the present locations of the FSD's fireboat stations can basically cover waters with busy sea traffic.

The sizes of the fire vessels to be deployed are, however, subject to various constraints. As I have just said, many areas are inaccessible to fireboats. Even if fireboats can access these areas under normal circumstances, they cannot even get near them if a fire unfortunately breaks out during low tide.

I would like to make a few points in response to Mr TAM's supplementary question. Firstly, it is the reason for the FSD's efforts to develop a fleet of fire speedboats. Fire speedboats have many functions. Apart from fighting fire, they can promptly carry out rescue operation when disasters occur in other places. The FSD will keep a close eye on this.

However, since Mr TAM has raised his serious concern, and the Administration is likewise very concerned about this issue, I want to mention one thing in passing. We understand that the major cause of fishing vessel fires is the presence of many electrical appliances on board. Such electrical appliances are full of cable connections. As Members may be aware, fishing vessels have to head out to the sea. Owing to the effects of winds, rains and corrosion by sea water, slight corrosion of such cable connections may easily occur. This, coupled with prolonged use, often make cable connections the cause of fire.

The recent vessel fire mentioned by Mr TAM in his supplementary question was precisely caused by the chimney-like structure on the vessel. Thus, the FSD will step up publicity and call on fishermen to hire electricians for the purpose of conducting regular checks, preferably during the fishing moratorium, to see if any cable connections on their vessels are damaged or corroded and to promptly repair them. I think this would minimize the risk of fire.

Mr TAM was right in saying that vessel fires are basically uncontrollable as vessels are mostly made of wood. Also, vessels are particularly inflammable with the presence of gasoline or inflammable materials. Even if there is a fire vessel to spray water by its side, the vessel on fire would still be ravaged after the fire is put out. In response to Mr IP's supplementary question, I stressed that we should make preventive efforts, particularly in respect of high-risk spots. This is precisely because accidents cannot be avoided, and the only thing we can do is to take preventive measure, so as to minimize the incidence of fires and the damage caused by them. For example, if fishermen can learn how to use fire extinguishers, they will be able to use them to put out a fire when it occurs. In this way, the damage done to vessels would naturally be minimized. The fact is that we cannot possibly deploy firemen on standby next to every fishing vessel throughout the territory. This is downright impossible.

Therefore, apart from the need for the FSD to inspect the fire-fighting equipment concerned, we think the most effective way, just as I have highlighted in the main reply, is to strengthen communication with fishermen and explain fire hazards to them. With proper preventive measures, fire hazards and the loss of fishermen's life and property can be reduced.

**DEPUTY PRESIDENT** (in Cantonese): Fourth question.

### **Government's Work on Constitutional Reform**

4. **MR JAMES TO** (in Cantonese): *Deputy President, the Secretary for Constitutional and Mainland Affairs said early this month in a media interview that he was worried about the intensifying social conflicts over the constitutional reform issues. Following the voting on the constitutional reform proposals by this Council, Hong Kong would move on to the "post-constitutional reform" era,*

*in which the Government would focus on rebuilding the relationship between the Central Authorities and the Hong Kong Special Administrative Region, in particular that between Beijing and members from the pan-democratic camp. In this connection, will the Government inform this Council:*

- (1) whether the Government has, after the discussions on the constitutional reform issues by various sectors of the community in the last two years, reassessed Hong Kong people's aspirations for the selection of the Chief Executive by means of genuine universal suffrage without screening;*
- (2) of the work plan and timetable set by the Government for implementing the provisions in the Basic Law on the selection of the Chief Executive and the formation of the Legislative Council ultimately by universal suffrage after the voting on the constitutional reform proposals by this Council; and*
- (3) whether it has assessed how the relationship between the Central Authorities and members from the pan-democratic camp may be improved and mutual trust may be built, so that the governance by the Government will better meet the overall interests of Hong Kong and uphold the core values of Hong Kong?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, to attain the ultimate aim of selecting the Chief Executive by universal suffrage provided for in Article 45 of the Basic Law, after two rounds of extensive and systematic public consultations which lasted for a total of seven months, the HKSAR Government put forward a package of proposals for the method for selecting the Chief Executive by universal suffrage, and on 2 June 2015 moved at the Legislative Council a motion to amend Annex I to the Basic Law concerning the method for the selection of the Chief Executive. The proposals are constitutionally in order, lawful, reasonable and rational. Unfortunately, with 28 Members voting against it, the motion was vetoed at the Legislative Council meeting on 18 June 2015. The HKSAR Government has expressed deep regret over the 28 Members' vetoing the motion, and is disappointed that constitutional development has come to a standstill as a result. The aim of selecting the Chief Executive in 2017 by universal suffrage has fallen

through; it is difficult to know when the aim of selecting all Members of the Legislative Council by universal suffrage could be attained. Our reply to the questions raised by Mr TO is as follows.

According to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 adopted on 31 August 2014, if the motion moved by the HKSAR Government to amend Annex I to the Basic Law concerning the method for the selection of the Chief Executive could not obtain endorsement by a two-thirds majority of all Members of the Legislative Council, the method for selecting the 4th term Chief Executive in 2012 will continue to be adopted to select the 5th term Chief Executive in 2017, that is, the Chief Executive is to be elected by a 1 200-member Election Committee. As the Government has reiterated in many occasions earlier on, it would be legally infeasible and impracticable in terms of timetable for the current-term Government to restart the "Five-step Process" of constitutional development. Whether or not the next term Government would restart the "Five-step Process" should naturally be decided by the next Chief Executive.

The work of the current-term HKSAR Government in taking forward constitutional development has come to an end. The Chief Executive has clearly stated that in the remaining two years, the current-term Government will focus on handling economic and livelihood policies. The HKSAR Government hopes that different sectors of the community could work together, enhance communication with each other, and rebuild mutual trust in tackling various economic development and livelihood issues.

As the Secretary for Constitutional and Mainland Affairs mentioned in his closing remarks for the motion to amend the method for the selection of the Chief Executive at the Legislative Council meeting on 18 June, the relationship between the Central Authorities and the HKSAR is the core issue for the selection of the Chief Executive by universal suffrage. To successfully implement universal suffrage in the future, we must have "three bases" handled properly, namely legal basis, communication basis, and basis of mutual trust.

On legal basis, the Basic Law has clearly stipulated, under "one country, two systems", the relationship between the Central Authorities and the HKSAR; the constitutional powers of the Central Authorities; as well as the respective

powers vested in the Legislative Council, the Chief Executive, and the Standing Committee of the National People's Congress (NPCSC) in handling constitutional development. This constitutional order has to be recognized and respected by different sectors of the community. It is clearly stipulated in the Constitution of our Country, the Basic Law, and the relevant Interpretation and Decisions of the NPCSC. Therefore, any constitutional development proposal must be formulated strictly in accordance with the Basic Law and the relevant Interpretation and Decisions of the NPCSC. Consensus could be forged only when all are on this same legal basis.

On communication basis, we consider communication very important in narrowing differences and avoiding misunderstandings. At the 31 May meeting in Shenzhen, some pan-democratic Members expressed to officials of the Central Authorities their wish to have sustained communication. However, the key to successful communication lies not in the form of communication, but the attitudes of both sides. Even with appropriate arrangements, such efforts could not bring any substantive results if the communication was not conducted with sincerity, open minds, willingness to listen, or in a respectful manner. In fact, the HKSAR Government has in the past arranged a number of precious opportunities for the pan-democratic Members to directly communicate with the Central Authorities on constitutional development, but regrettably some Members did not grasp such opportunities; some pan-democratic Members even made use of the opportunities to make political postures and take all sorts of unnecessary actions, simply wasting those communication opportunities.

The final basis is the basis of mutual trust. Mutual trust takes time and a process to build. Only when all parties could return to the same legal basis and make good use of the communication basis, could mutual trust be gradually built. During the process, any inappropriate gesture or expression may destroy the mutual trust.

Without the establishment and consolidation of the "three bases" mentioned above to strengthen the relationship between the Central Authorities and the HKSAR, we are afraid there are insufficient objective conditions in the community to kick-start the "Five-step Process" to achieve universal suffrage for the Chief Executive election.



**MR JAMES TO** (in Cantonese): *Deputy President, the SAR Government's aim of implementing "fake universal suffrage" has fallen through, but people's efforts to demand "genuine universal suffrage" will continue. May I ask the SAR Government whether there is in fact only one chance for it to activate the constitutional reform process under the law? Why can't the SAR Government strive to build the "three bases" of enhancing communication, forging consensus and restarting the constitutional reform process in the next few months? Or, has the SAR Government already made a firm decision on the matter and LEUNG Chun-ying will definitely not seek to forge consensus and restart the constitutional reform process? Must people force the Central Authorities to replace LEUNG Chun-ying before the constitutional reform process can be restarted and "genuine universal suffrage" achieved?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, the Government's work in taking forward constitutional development has come to an end and the "Five-step Process" will not be restarted by the current-term Government. It would be infeasible to restart the process as a matter of law, as a matter of politics and as a matter of time. The question of whether the "Five-step Process" is to be restarted by the future Government is left to the future Chief Executive. Regarding the bases mentioned by Mr TO, as I said in the main reply, the legal basis is the most important of all. During the 20-month consultation period and in the process of communicating and exchanging ideas with Members in the past, we deeply felt that the views of pan-democratic Members were not in compliance with this basis. I think one point made by the Chief Secretary for Administration in her concluding speech on the voting day is worth consideration by pan-democratic Members, and I quote, "In taking constitutional development forward, if the SAR Government deviates from the policy of 'one country, two systems' and ignores the constitutional requirements, it will lose the most fundamental basis to conduct any discussion. As a result, it will be difficult to make even the slightest progress and nothing can be achieved". I very much hope that Mr James TO can give this point more thoughts.

**DR CHIANG LAI-WAN** (in Cantonese): *Deputy President, today I am very pleased that in part (3) of his main question, Mr James TO from the pan-democratic camp raises the point of how the relationship between the*

*Central Authorities and Members from the pan-democratic camp may be improved. I think this is a good thing. We met with the Beijing authorities on many occasions in the past, but we discussed serious topics and met for a very short time in meeting rooms only. Deputy President, I suggest the Government make arrangements for the Central Authorities and Members to meet for longer periods of time in the future, so that we can walk around in different places on the Mainland in a relaxed manner. In this way, Members can gain more understanding of the Mainland situation. I believe this is one way of improving the relationship between the Central Authorities and Members. Will the Government consider this suggestion please?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, as far as Dr CHIANG Lai-wan's suggestion is concerned, the SAR Government also made similar efforts in the past even outside the political reform consultation period. Certainly, the Government also arranged a few meetings during the political reform consultation period. Looking into the future, we strongly agree that it is very important to have more communication and fewer mutual attacks. Communication can take place in many different forms and ways and I hope that Members can create the right conditions.

**MS CLAUDIA MO** (in Cantonese): *Deputy President, Hong Kong needs a new beginning. But this time around, this very important motion relating to such a costly and widely-publicized government project could get only eight votes of support, and the whole thing has become an international joke. Furthermore, if this happens in a truly civilized and free society, the government official responsible will definitely resign to bear responsibility. It is very regrettable that this has not happened here. However, it will be a waste of time for me to raise any questions in this regard.*

*Here is my supplementary question. Since Members very much welcome opportunities to communicate with Beijing officials, can we invite such officials to come to Hong Kong to meet us in places other than the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, such as the Dining Hall or other spacious venues in the Legislative Council Complex, so that we can hold good discussions? If venues in the Legislative*

*Council Complex are considered not quite so appropriate, is it possible to hold meetings in places such as the Hong Kong Convention and Exhibition Centre, instead of adopting the communication approach of summoning all the Legislative Council Members to Shenzhen to be lectured by Beijing officials?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, I thank Ms MO for the question. I am very glad to hear Ms MO say that we need "a new beginning". In fact, during the 20-month process in the past, we realized that communication was very important. However, when we were communicating, holding meetings or exchanging ideas, problems of "one kind or another" would occur. I will not dwell on this point, but we very much hope that in the future, the forms of communication suggested by Ms MO ...

**MS CLAUDIA MO** (in Cantonese): *Deputy President, I wish to seek clarification. Can he explain what he means by "one kind or another"?*

**DEPUTY PRESIDENT** (in Cantonese): The public officer is giving his reply now. Secretary, please continue.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Regarding the forms of communication to be adopted in the future, as I said in my reply to Dr CHIANG Lai-wan's question, any form or way of communication can be considered. But, it is crucial for us to accept the important bases. In relation to constitutional reform, if Members do not acknowledge or agree to the constitutional and legal bases, it would be hard to have a basis of communication and dialogue. All of us should have the intention of building a basis of communication and mutual trust.

**MS CLAUDIA MO** (in Cantonese): *I wish to seek clarification. Can he tell us clearly what he means by "one kind or another"?*

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): I have already covered that point in the main reply.

**MR GARY FAN** (in Cantonese): *Deputy President, Chief Executive LEUNG Chun-ying has said time and again that if the constitutional reform proposals are vetoed, the process of constitutional development will not be restarted. However, there are no provisions in the Basic Law or the "Five-step Process" which prohibit the Government of the same term to restart the process of constitutional development if the constitutional reform proposals are not passed by the Legislative Council. Quite the contrary, the SAR Government has a constitutional duty to fulfil the promise of selecting the Chief Executive by universal suffrage as stipulated in Article 45 of the Basic Law.*

*May I ask the Secretary whether the decision not to restart the process of constitutional development is made by the SAR Government itself, or whether it is an instruction of the Beijing Government? If it is made by the SAR Government itself, can we say that the current-term Government has abandoned the Basic Law promise of selecting the Chief Executive by universal suffrage in accordance with the principle of gradual and orderly progress?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, regarding the supplementary question raised by Mr Gary FAN, he will find a clear answer if he refers to the constitutional arrangements described in the "Five-step Process". Our submission of the constitutional reform proposals to the Legislative Council was the third step in these constitutional arrangements. If the Legislative Council vetoed the proposal, we had to stop at that step. In fact, since the proposals failed to get the support of a two-thirds majority of all Members of the Legislative Council, it was effectively negated. According to the constitutional arrangements, the process had to stop there. However, if the need arises in the future, the "Five-step Process" can be restarted according to the Basic Law. That will be decided by the future Chief Executive and the Government of the next term.

**MR JAMES TIEN** (in Cantonese): *Deputy President, my question concerns part (3) of the main question. As far as parts (1) and (2) are concerned, since the constitutional reform proposals have now been vetoed, we will not be putting forward any proposal of restarting the "Five-step Process" until we discuss the election of the Chief Executive in 2022. In other words, any such proposals will not be put forward until 2019 (that is, five years later). However, I would ask a question on part (3) of the main question, which concerns how the relationship between the Central Authorities and the democratic camp may be improved.*

*As pointed out by the Secretary in his reply, all hinges on the attitudes of both sides, rather than the form of communication; and without sincerity, successful communication would be unlikely. But, I doubt whether everything must really depend on the form of communication or sincerity. I think that once dialogue is underway, sensible discussion may naturally follow. Therefore, I agree to the suggestions made by Dr CHIANG Lai-wan and Ms Claudia MO, and I would like to see the taking place of all such meetings. However, whether our country will thus interfere with "one country, two systems" seems to be a very complex issue. Anyway, whether Mainland officials would come to Hong Kong for formal or informal meetings, or whether the meetings are to be conducted in Shenzhen or the Hong Kong Convention and Exhibition Centre, I always hope there can be more communications. Well, even on many other issues like the co-location of boundary control facilities, we also need to hold many discussions. We must discuss whether the facilities are to be set up in Hong Kong or Shenzhen. Is that right, Deputy President?*

*May I ask the Secretary whether the Government will conduct a review and discuss with Beijing how the relationship between the Central Authorities and the pan-democratic camp may be improved, and then put forward proposals to the Legislative Council?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, I thank Mr James TIEN for correctly pointing out that communications can take different forms and may relate to different subjects. As the Chief Executive has already said, we will not raise the subject of constitutional reform in the next two years, but will focus our time and efforts on economic and livelihood issues, so as to make up for the time lost. We may start by having more communications and exchanges on economic and livelihood issues. This will enable us to build a basis of mutual trust gradually. On this basis, we may proceed to forge a consensus on constitutional and legal issues. I

believe that would provide a direction for the Government of the next term to follow. Therefore, Mr TIEN, I entirely agree to what you said just now. There can be a lot more opportunities for us to communicate on various economic and livelihood issues in the future.

**MR JAMES TIEN** (in Cantonese): *May I ask whether the Government would prepare a document containing proposals to the Legislative Council on how the problem can be resolved?*

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, each Policy Bureau of the Government will surely give an account to Members on all the relevant issues.

**MR CHAN KAM-LAM** (in Cantonese): *Deputy President, dialogue is surely better than confrontation. But unfortunately, the constitutional reform proposals were negated by the 28 votes of the opposition camp. I think when they now talk about restarting the constitutional reform process, they must realize that the provisions of the Basic Law and the Decision adopted on 31 August must still be adhered to. Mr Gary FAN said that according to Article 45 of the Basic Law, universal suffrage must be implemented under the principle of gradual and orderly progress. Secretary, you would probably agree that gradual and orderly progress actually means the attainment of democratic development step by step, right? Unfortunately, the pan-democratic camp has been stressing that the proposals would be here to stay. This means that they do not want any gradual and orderly progress or step-by-step development. In that case, Secretary, how can it be possible to build the required legal basis or basis of communication? Does the Secretary agree that the pan-democratic camp must first withdraw the proposal of civil nomination before discussions can continue?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Mr CHAN has pointed out a very important reason why the constitutional reform proposals fell through: some Members have all the time insisted on proposals which run counter to the provisions of the Basic Law and

the Decision made by the NPCSC. As a result, the aim of the constitutional reform proposals have fallen through and constitutional development has come to a standstill. If these Members do not revise or withdraw their advocacy, I am afraid that it will be very difficult for us to take forward constitutional reform. Therefore, the Secretaries of Departments and the Directors of Bureaux have said on various occasions that the legal basis is of very great importance. It is impossible for us to promote democracy without a solid legal basis. I hope Members can learn a lesson from the experience this time around.

**DEPUTY PRESIDENT** (in Cantonese): Fifth question.

### **Dissension Within Society Arising from Controversies over Constitutional Reform**

5. **MR WU CHI-WAI** (in Cantonese): *It has been reported that the Head of the Central Policy Unit had earlier pointed out that if the selection of the Chief Executive by universal suffrage was implemented in 2017, dissension within society might be intensified, while the Chief Secretary for Administration commented that if the constitutional reform proposals were negated by this Council, dissension within society would continue. According to what they said, dissension within Hong Kong society is inevitable after the voting on the constitutional reform proposals by this Council. Moreover, when exchanging views on constitutional reform with Members of this Council in Shenzhen on the 31st of last month, the Director of the Hong Kong and Macao Affairs Office of the State Council said that members from the pan-democratic camp could be grouped into two categories, one of which being not only "the opposition", but also "the uncompromising faction" or "the obstinate faction". The stance of the Central Authorities was to resolutely fight against this category of people. When asked by the media if the Government would also fight against "the uncompromising faction", the Secretary for Constitutional and Mainland Affairs (the Secretary) said that "[I] do not quite grasp the subtlety of it". The Secretary also does not support the establishment of a new platform to serve as a normal communication channel with the pan-democratic camp for resolving the constitutional reform issues. In this connection, will the Government inform this Council:*

- (1) *whether measures are in place to resolve dissension within society; if so, of the details; if not, the reasons for that;*

- (2) *whether it has assessed if the remarks on fighting given by the aforesaid official of the Central Authorities will intensify dissension within Hong Kong society; if the assessment outcome is in the affirmative, whether the Secretary, who has not quite grasped the subtlety of the matter, will carry out the instructions on fighting given by the officials of the Central Authorities; if he will, of the details; if not, the reasons for that; and*
- (3) *of the reasons for the Government not supporting the establishment of the aforesaid platform; whether it has assessed if the establishment of such a platform can help resolve the constitutional reform issues and the problem of dissension within society; if the assessment outcome is in the affirmative, of the details; if the assessment outcome is in the negative, the reasons for that?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, our reply to the questions raised by Mr WU is as follows.

With 28 Members voting against, the motion to amend Annex I to the Basic Law concerning the method for the selection of the Chief Executive moved at the Legislative Council by the SAR Government was vetoed at the Legislative Council meeting on 18 June 2015. There are analyses suggesting that the core issue was certain Members' unwillingness to understand the constitutional role and power of the Central Authorities under "one country, two systems", and refusal to accept that the political system expounded in the Basic Law is based on the principle of an executive-led system. After 20 months of highly politicized and polarized debate, the SAR Government considers that, following the veto of the constitutional development proposals, the community needs time to calm down, put the arguments aside, and start afresh; so that we may focus on handling well various economic development, social, and livelihood issues that would benefit the public.

The SAR Government hopes that, when handling various imperative social issues and rising to all sorts of challenges for Hong Kong, different parties and groups should set aside their own views and adopt a pragmatic and understanding approach; and through enhancing communication and rebuilding mutual trust, work together in handling various issues in the community.



The SAR Government considers that the Hong Kong community has already had extensive, in-depth, and heated discussions on constitutional development for a period of time. There have also been certain irrational and even extreme behaviours that aggravated differences among people. In the coming two years, we have to conduct four public elections. It is our primary objective and task to ensure that the four elections are held in an open, fair, and honest manner. Apart from that, we will not and cannot restart the "Five-step Process" of constitutional development. We also do not have any plan to set up a platform to discuss constitutional development.

**MR WU CHI-WAI** (in Cantonese): *Deputy President, first of all, I would like to state some facts to supplement what the Secretary says in his main reply. At the Legislative Council meeting on 18 June, the constitutional reform proposals were vetoed by a majority vote. Twenty-eight Members voted against the fake universal suffrage proposals. The undeniable fact is that the constitutional reform proposals were supported by eight Members only. Thirty-three Members did not cast their votes, meaning that they did not show their support.*

*Deputy President, here is my supplementary question. The Secretary said in reply to Mr James TO earlier that to establish mutual trust, we must adhere to the legal basis and accept the 31 August Decision of the Standing Committee of the National People's Congress (NPCSC). However, the fact is that nearly 40% of Hong Kong people do not accept this decision, and it will not be possible to resolve the problem overnight. The Government therefore says that it will instead concentrate on tackling other problems in our society for the being. In other words, the Secretary no longer has any work to do. There are four upcoming elections, but with their past experience, the Electoral Affairs Commission and the Registration and Electoral Office should be able to deal with the work. Can I ask whether the Secretary and his "Constitutional Affairs Bureau" will tender resignation to the Chief Executive, transfer the officials in charge of constitutional reform to other Policy Bureaux related to people's livelihood for the purpose of assisting in the promotion of livelihood policies, and leave the constitutional reform issue to the new Government, so as to save public money?*

(Dr Helena WONG clapped in her seat)

**DEPUTY PRESIDENT** (in Cantonese): Dr Helena WONG, please do not clap in your seat. The meeting is in progress. Please remain solemn.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, I would like to correct Mr WU Chi-wai. The full name of our Policy Bureau is "Constitutional and Mainland Affairs Bureau", not just "Constitutional Affairs Bureau." In the past 20 months, one of the tasks of the Constitutional and Mainland Affairs Bureau was to conduct consultation on constitutional reform. It was doubtlessly a great pity that we failed to achieve our original objective, but the Bureau will still dutifully do every task well in other areas, including Mainland affairs and human rights, the four elections, and the technical preparations for local legislation on the method for selecting the Chief Executive.

**DR PRISCILLA LEUNG** (in Cantonese): *The pan-democrats have all along distorted the concepts of "one country, two systems" and the Basic Law. They are bent on rejecting the constitutional reform proposals, and they may even reject them forever. I have kept making this point over the past few months, but I still hear pan-democratic Members tell the public today that rejecting the constitutional reform proposals is the same as rejecting the 31 August Decision of NPCSC. This is totally misleading. As the opposition camp sticks to their wrong attitude and upends the concept of "one country, two systems", Hong Kong as a whole will ultimately suffer. May I ask the Secretary how the authorities are going to promote the real legal basis of "one country, two systems" among the public, especially the supporters of pan-democrats?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, the basis of the Government's motion on constitutional reform is the Basic Law and the NPCSC decisions, including the 31 August Decision. Therefore, the motion proposed by the authorities to the Legislative Council has a sufficient legal basis. As to who should be held responsible for the rejection of the motion, I believe it is very obvious and members of the public can make a judgment themselves. I agree with Dr Priscilla LEUNG that the promotion of the Basic Law in the future is very important, and we hope that the Constitutional and Mainland Affairs Bureau will continue to do this task well. Dr LEUNG is always welcome to give us her suggestions.

But I believe Dr LEUNG also agrees that, as I said earlier, some Legislative Council Members insisted on making proposals that deviated from the Basic Law, and we feel very sorry. This was also the root cause of the rejection of the constitutional reform proposals.

**DR PRISCILLA LEUNG** (in Cantonese): *I must say that what I have put forward is a very specific and concrete observation. I hope the Secretary would address the problem squarely. The pan-democrats have sought to create confusion over the relationship between the Legislative Council of the SAR and the NPCSC. They claim that rejecting the constitutional reform proposals is the same as rejecting the NPCSC Decision. This involves "one country, two systems", and I hope the Government will address it and lay special emphasis on the relationship between Hong Kong and "one country, two systems" in the course of promotion.*

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, I note her views.

**MR GARY FAN** (in Cantonese): *The dissension in our society stems not only from constitutional reform. One of the very important causes is the Beijing Government's wanton trampling of "one country, two systems" and "Hong Kong people ruling Hong Kong" as well as its tactic of "uniting one camp to fight against the other". A classic example is the advocacy of a resolute struggle against pan-democratic "die-hards" advanced by the Director of the Hong Kong and Macao Affairs Office. The Umbrella Movement and the rejection of the constitutional reform proposals have made the SAR Government and the Beijing Government lose ...*

**DEPUTY PRESIDENT** (in Cantonese): Mr FAN, what is your supplementary question?

**MR GARY FAN** (in Cantonese): *Deputy President, I am going to ask my question.*

**DEPUTY PRESIDENT** (in Cantonese): You are expressing your views but not asking your question.

**MR GARY FAN** (in Cantonese): *No, I am about to ask my question. Please do not interrupt me. I agree that the meeting should be conducted solemnly. But I must still point out that you already called upon the government official to reply just now before Mr WU Chi-wai could even finish asking his question. I saw this very clearly.*

**DEPUTY PRESIDENT** (in Cantonese): Mr FAN, are you going to ask your supplementary question?

**MR GARY FAN** (in Cantonese): *Deputy President, can I ask my question now?*

**DEPUTY PRESIDENT** (in Cantonese): Mr FAN, please ask your supplementary question now.

**MR GARY FAN** (in Cantonese): *The Umbrella Movement has made the Government lose the support of a whole generation of young people in Hong Kong. Will the SAR Government evaluate the situation, rationalize its relationship with the Beijing Government, respect the original intent of "one country, two systems" and exercise its power of formulating a constitutional reform package, rather than tolerating the Beijing Government's high degree of intervention in our internal affairs?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, Mr Gary FAN's comments still sound belligerent and confrontational. He advocates communication on the one hand, but continues to be belligerent on the other. I think this approach does not make any

sense and is not very appropriate either. Precisely for this reason, the SAR Government has kept saying that we should put aside political disputes in the next two years. If we do not do so, the kind of confrontational sentiments referred to by Mr FAN will be aroused. This is undesirable to society as a whole. In the future, we want to spend all our energy and time on improving the economy and people's livelihood. I hope Mr FAN can render his support.

Mr FAN has asked how we should conduct publicity and education in the community and among young people in the future, and he also asked how the Constitutional and Mainland Affairs Bureau and the Government should step up publicity on the Basic Law and "one country, two systems". We will continue to vigorously step up the publicity efforts concerned.

**MR MICHAEL TIEN** (in Cantonese): *Deputy President, there are 14 months before the next Legislative Council election, and whether the next Government can succeed in making any progress in constitutional reform really hinges on the composition of the next Legislative Council. If "bundled pan-democrats" are still elected, even the reactivation of the "Three-step Process" of constitutional development will be largely meaningless. The constitutional reform proposals were vetoed. This means that even though the proposals had the support of 50% of the people, they were still opposed by more than 30% of our population. We must do our very best to persuade this 30% of people, rather than clamping down on them; otherwise, the number of opponents will not decrease and may even go up.*

*Will the Government launch an avalanche of efforts to lobby the public in the next 14 months? In particular, will it communicate with the supporters of pan-democrats, rally the strength of those pan-democrats who support the constitutional reform proposals, seek the support of more pan-democrats, and communicate with the Central Authorities to promote constitutional reform, so as to change the position of the 30% of people who originally opposed the proposals? Of course, it would be excellent if we could win their support. Will the next Government propose a constitutional reform package capable of commanding the support of two thirds of Members?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, as the issues raised by Mr Michael TIEN are election-related, it is inappropriate for the SAR Government to get involved.

However, in different areas including politics, the economy or people's livelihood, the SAR Government certainly wants to win the support of the Legislative Council or the public. We would make the best efforts and we hope that Members of the Legislative Council would render its support.

**MR CHAN KAM-LAM** (in Cantonese): *Deputy President, as mentioned in Mr WU Chi-wai's main question, the Head of the Central Policy Unit and the Chief Secretary for Administration pointed out earlier that there might be dissension within society or dissension might be intensified whether the constitutional reform package was passed. I would like the Secretary to clarify the cause of dissension within society. Have divergent views on constitutional reform caused dissension within society? Some people, especially the pan-democratic camp, insisted on the illegal occupation of some major roads in Hong Kong, hindering normal life of the community. They also insisted on carrying out non-cooperation movement in this Council, hindering financial provisions or the implementation of public works projects. Who have caused dissension within society? What is the root cause? Can the Secretary tell us?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, different people, parties and groupings may have different interpretations of Mr CHAN Kam-lam's observations. During the constitutional reform consultations in the past 20 months, the SAR Government adhered to the principle that constitutional reform should be taken forward according to the Basic Law and the NPCSC Decision, and this is recognized and supported by the public. Unfortunately, some Members and members of the public deviated from the ideas of the Basic Law and the NPCSC Decision in this process. Their ideas are simply unrealistic, and here lies the fundamental difference. Mr CHAN referred to the non-cooperation movement in the Legislative Council, which frustrated government officials at different levels. As Ms Claudia MO said, we all want a new beginning and we hope that the non-cooperation movement would come to an end as soon as possible, allowing us to establish new partnerships in respect of economic and livelihood issues.

**MR IP KWOK-HIM** (in Cantonese): *Deputy President, during the constitutional reform discussions and consultations in the past 20 months, the mainstream public opinion was in support, and 42 pro-establishment Members*

*resolutely and fully supported the constitutional reform proposals. This is obvious to all. In the voting process at the 18 June meeting, I committed a serious technical mistake, resulting in the failure of 33 Members to cast their votes, and I accept responsibility for that. However, let me make one thing very clear. The 28 Members who vetoed the constitutional reform proposals were absolutely not in the majority Members, and the only thing was that 33 Members did not cast their votes ...*

**DEPUTY PRESIDENT** (in Cantonese): Mr IP, what is your supplementary question?

(Mr Dennis KWOK stood up to speak)

**DEPUTY PRESIDENT** (in Cantonese): I have just asked Mr IP Kwok-him to ask his supplementary question.

(Mr Dennis KWOK continued to speak)

**DEPUTY PRESIDENT** (in Cantonese): You stood up after I had asked Mr IP Kwok-him to ask his question. Although you were standing up, I had not allowed you to speak.

Mr IP, please ask your supplementary question.

**MR IP KWOK-HIM** (in Cantonese): *Some Members have asked if there will be another exchange platform. I agree with the Government, especially the Secretary, that the authorities will not re-activate the constitutional reform process but we need to resolve disputes in our society, in order to properly deal with livelihood and economic issues. Secretary, have you considered how dissension within society can be resolved and more opportunities can be provided for contacts between pan-democratic Members and the Central Authorities, so as to help our society turn over a new leaf?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, in view of our work in the past two years or so, the present political climate and the constitutional arrangements, we reiterate that, in the remaining term of office of the current Government, we will not provide any platform for constitutional reform discussions. Yet, a few Members have just mentioned the point made by Mr IP Kwok-him, and they are of the view that there is still plenty of room for communication and co-operation in respect of economic and livelihood issues. There are political differences but there are also common grounds. If Members can put aside their differences and work together on issues about which they share common views, they will be able to establish mutual trust. I really hope that Members would start making efforts in this direction.

**DEPUTY PRESIDENT** (in Cantonese): Last oral question.

### **Demand for and Supply of Parking Spaces and Dissemination of Information on Vacant Parking Spaces**

6. **MR FRANKIE YICK** (in Cantonese): *In its Report on Study of Road Traffic Congestion in Hong Kong published in December last year, the Transport Advisory Committee (TAC) put forward a number of recommendations, which included reviewing parking policy, disseminating real-time information on vacant parking spaces, and examining how to solicit the cooperation of operators of commercial off-street car parks to make available information on vacant parking spaces, so that motorists would not need to circulate and wait on roads looking for available parking spaces, which might cause congestion. The authorities announced last month that the various recommendations in the Report will be taken forward in phases. In this connection, will the Government inform this Council:*

(THE PRESIDENT resumed the Chair)

- (1) *as I have learnt that The Hong Kong Polytechnic University has developed an Advanced Automobile Parking Navigation Platform, an award-winning system in an international exhibition of inventions, which enables motorists to know the number of remaining parking*



*spaces in nearby car parks through mobile phone applications, but at present only a few private car parks support the system, whether the Government will consider installing facilities which support the system in government car parks and encouraging more private car parks to follow suit; if it will, of the details; if not, the reasons for that;*

- (2) whether the authorities had, before closing the Middle Road Multi-storey Car Park on 1 July last year, conducted a study on the demand and supply situation of the parking spaces in the Tsimshatsui district; if they had, of the details, including the shortage of parking spaces in the district and the authorities' mitigation measures in place; if they had not conducted such a study, the reasons for that; and*
- (3) whether it will consider reviewing the standards and guidelines on the provision of parking facilities in the Hong Kong Planning Standards and Guidelines and launching again a study on the demand for parking spaces, in order to plan for the number of parking spaces in response to the changes in the number of vehicles; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I would like to state the Government's view on the growth of vehicle fleet size and the policy direction on parking before replying the substantive questions raised by Mr Frankie YICK.

The Government is very concerned about the current growing trend of private cars. The Transport Advisory Committee (TAC) submitted the "Report on Study of Road Traffic Congestion in Hong Kong" to me late last year. The report points out that currently private cars account for about 70% of the total number of licensed vehicles. The private car fleet size has grown by 40% between 2003 and 2013, constituting about 90% of the total increase in the number of licensed vehicles during the same period. If the vehicle fleet is allowed to grow at the current trend, the total number of vehicles in Hong Kong will reach 1 million in 10 years' time, of which 700 000 will be private cars.

Owing to the geographical, engineering and environmental constraints in respect of building new roads, the growth in public road will not be able to catch

up with the growth rates of the vehicle fleet and vehicle usage. The public is also concerned about the impact caused by the road traffic on the air quality. As such, the Government agrees that there is a need for a multi-pronged strategy to tackle road traffic congestion problem, including managing the growth of the private car fleet size, and at the same time, enhancing the capacity of the public transport system that is efficient in terms of road usage, so as to reduce the reliance on private cars.

In respect of parking need, the land resources in Hong Kong are scarce. Currently, the Government's policy in the provision of parking spaces is to accord, as far as possible, priority in considering and meeting the parking demand of commercial vehicles. Commercial vehicles (in particular goods vehicles and coaches) serve the function of carrying passengers and goods. They have substantive demand for parking spaces in their daily operations, and have been playing an important role in the logistics industry, tourism industry, as well as the overall economy.

Compared to commercial vehicles, private cars are largely used for private purposes. The Government has always been adopting a policy that is centred on public transport, in maintaining a public transport system with wide coverage, high efficiency and diversity. Private cars are not essential as a transport mode under most circumstances. Currently, 90% of the passengers are relying on the public transport services, which amount to around 12 million.

On the policy premises of according priority to the parking need of commercial vehicles and centering on public transport, the Government will still provide an appropriate number of parking spaces for private cars if the overall development permits, but not intend to attract passengers to opt for private cars in lieu of public transport. How the balance is struck would base on the policy principles and also the actual situation in the districts. When there are new development or redevelopment projects, which give the opportunity to increase the parking provision for private cars, in considering providing more parking spaces, we have to also consider the need for other land or floor area uses.

My replies to the various parts of Mr Frankie YICK's question are as follows.

- (1) It is one of the Government's transport policy objectives to actively pursue the use of the latest technology for managing road traffic more efficiently. We share the view that if motorists can obtain

real-time information on vacant parking spaces in car parks, the instances where they circulate on roads looking for parking spaces, thus causing traffic congestion, can be reduced.

At present, the hourly parking spaces provided in the car parks managed by the Transport Department (TD) and the Housing Department account for about 3% of the total number of hourly parking spaces in Hong Kong, with the rest owned and operated by commercial entities. We will review to see if the real-time parking space information system should be provided in government car parks, taking into account factors including cost effectiveness, resources required and the exemplary effect. Meanwhile, the TD will communicate with and encourage operators of commercial public car parks to make better use of web-based technology to disseminate real-time information on vacant parking spaces in their car parks.

- (2) As regards the redevelopment plan for the Middle Road Car Park, the Government had commissioned a consultant to conduct a traffic impact assessment on the traffic and parking space situation in Tsim Sha Tsui. Based on the consultant's recommendations, the Government has requested the developer to provide, on top of the 72 parking spaces for private cars required for the development project itself, an additional 345 private car parking spaces after completion of the redevelopment project, giving a total of 417 parking spaces. It is expected that they can meet the long-term needs in the district. During the redevelopment, the public car parks within the district should largely be able to cope with the short-term parking need thereat. Moreover, with the relatively comprehensive public transport network in Tsim Sha Tsui, the public can use public transport to go there.
- (3) Apart from managing the private car fleet size, the TAC has also pointed out in its report that, the Government should review the parking policy to find out the optimum level of parking provision.

The Government agrees with TAC's recommendations, and plans to commence the review of parking policy in a timely manner. We will accord priority in considering and meeting the parking need of commercial vehicles. At present, apart from providing a designated

number of parking spaces for commercial vehicles in industrial buildings, the Government meets the demand mainly through road side parking spaces and short-term tenancy car parks. Depending on the review result in future, the TD will explore improvement measures and consider whether there is a need to update the Hong Kong Planning Standards and Guidelines, and to provide more parking spaces for commercial vehicles through other means.

The TD will continue to monitor the parking situation of all vehicle types and will endeavour to provide more parking facilities at suitable sites without compromising road safety or affecting other road users.

**MR FRANKIE YICK** (in Cantonese): *President, the Secretary mentions in part (1) of his main reply that since the hourly parking spaces provided in government car parks only account for about 3% of the total number of hourly parking spaces in Hong Kong, they have to take into consideration factors such as cost-effectiveness and the exemplary effect. Since it is the Government's plan to develop Hong Kong into a Smart City ... I have been to Singapore recently and noticed that the people there are using one such system which, in my view, is very effective. I therefore want to raise this question after my return to Hong Kong.*

*It appears to me that the Bureau does not understand the situation too well. In fact, they only need a phone line connecting to the programme supplier of the government-run portal Data.Gov.HK, and they will be able to obtain the relevant information. The problem now is that private car parks are reluctant to disclose their information, and our society is thus made to pay the social cost of traffic congestion, which causes a waste of time and resources. Furthermore, the exhaust fumes generated by traffic congestion will have a bearing on the healthcare costs in the future.*

*I would like to ask the Government the following two questions. Firstly, will it go about the task to set an example as soon as possible? Secondly, if private car parks refuse to co-operate, will it consider providing incentives to encourage car park operators to disclose the relevant information, so that Hong Kong as a whole will benefit?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the availability of real-time information showing the vacant parking spaces inside car parks and on the roadsides will certainly help reduce motorists' need for circulating on the roads. We support this view, and agree that there is the need to make better use of new technology.

Just now, Mr YICK also pointed out that as the hourly parking spaces provided by government car parks only accounted for a very limited proportion in the total number of hourly parking spaces throughout the territory, the effect will be insignificant if private car parks do not co-operate. In spite of this, the Government will consider the cost-effectiveness of providing real-time information on parking spaces in its car parks, and will take the lead in taking forward the matter. However, whether the matter can be taken forward will need the co-operation of private car parks. The supplementary question of Mr YICK concerns investment costs, information sharing and even issues such as security. The Transport Department (TD) will actively liaise with private car parks on these matters. We have also considered if it is worthwhile to provide real-time information on vacant parking spaces on the roadsides. But this requires thorough technical consideration because roadside parking spaces are not yet equipped with sensors to detect whether they are vacant. If it is decided to proceed with the matter, we will certainly need to install lots of new equipment and a central platform must also be set up to record all such data. We do need to study these technical issues in detail.

**MR CHARLES PETER MOK** (in Cantonese): *President, Mr YICK's question is on whether the Government will consider certain measures. However, the Government's reply is vague, ambiguous and just beating around the bush. No wonder the Government has failed to tackle all sorts of social and economic problems. Honestly, all problems actually lie with the Government itself.*

*The Secretary has referred to the issue of sensors. In his 2014 Budget Speech, the Financial Secretary has already asserted the need to install a large number of sensors throughout the territory. Now that two years have passed, why is the Secretary still telling us that he is not going to do anything because sensors have not yet been installed?*

*President, my supplementary question is as follows. The TD will encourage operators of public car parks to make better use of web-based technology to disseminate real-time information on vacant parking spaces, but*

*has the TD included this as a licensing condition to be fulfilled by operators applying for the operation of these public car parks? Since government departments should be responsible for co-ordinating or undertaking planning work, have the authorities ever considered the idea that from now on, when approving applications for operating public car parks, they should introduce a condition requiring operators to share and make available the relevant information?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we can certainly include the relevant terms or requirements in the case of new car parks in the future. However, if the required equipment is to be added to existing car parks, we must liaise and negotiate with the operators concerned. They will also take into consideration the various factors which I have mentioned.

In fact, the Government has not beaten around the bush and we are sure this is the direction which Hong Kong should follow.

**MR CHARLES PETER MOK** (in Cantonese): *President, I was exactly question whether the authorities would request new car parks to make available the relevant information from now on? It appears that the Secretary has not given a straight answer to this question.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): In my reply, I responded to this point right in the first sentence. We will consider imposing relevant conditions on operators in the case of new car parks.

**MR TONY TSE** (in Cantonese): *President, the Secretary states in part (3) of his main reply, "TAC has also pointed out in its report that, the Government should review the parking policy ... The Government agrees with TAC's recommendations, and plans to commence the review of parking policy in a timely manner".*

*President, in fact there is an acute shortage of parking spaces at present, in particular those for commercial vehicles, and very often there is a mismatch of parking spaces in the districts. This is indeed indisputable. Does the Secretary*

*still think that it is not an appropriate time now. If the Secretary thinks that it is still not an appropriate time, may I ask him what factors will be taken into consideration to determine the appropriate timing for reviewing the policy on parking spaces?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, first of all, I have pointed out in the main reply that we agree to the TAC's recommendations on reviewing the parking policy; secondly, the Government's prevailing policy on parking is to accord priority in responding to and meeting the demands of commercial vehicles.

In terms of the total number of parking spaces throughout Hong Kong, it would appear that we have sufficient parking spaces as there are a total of 720 000 parking spaces (including roadside and off-street parking spaces) in Hong Kong while the total number of vehicles is around 700 000 (including motorbikes). As a result, the number of parking spaces should be sufficient. Yet, as mentioned by Mr TSE just now, there is somewhat a mismatch in various districts which make it necessary for us to examine the particular situation of individual districts. Insofar as the overall policy is concerned, we consider the current direction justifiable, that is responding to the demands (especially those of commercial vehicles such as goods vehicles and coaches) as far as possible, but we should at the same time ensure that vehicles will not circulate on roads instead of entering car parks.

Let us look at the figures of the multi-storey car parks managed by the TD in this April. The average usage rates during busy hours in various car parks are between 65% and 90% while the average usage rates in short-term tenancy car parks in Hong Kong is also about 80% only. In conducting the review, we need to grasp these statistics and understand the situation of different districts.

Referring to the phrase "in a timely manner" in my main reply, I must say it does not mean that we would not conduct a review. We have undertaken to conduct such a review but we must first make good preparations.

**MR TONY TSE** (in Cantonese): *President, the Secretary has not stated clearly if the Government has already commenced a review of its parking policy.*

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

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we are in the process of making preparation for the review.

**MR CHAN KAM-LAM** (in Cantonese): *President, the Secretary says in his main reply that currently, 90% of the passengers, or 12 million passenger trips, rely on public transport services. The Government is worried about the increasing number of private cars, but if we look at this figure, we may see that private cars are necessities for some people indeed. If the Secretary is worried that the number of private cars will reach 1 million in 10 years' time, I wonder if the Secretary has ever thought that a fair number of vehicles would have been phased out in 10 years' time. Given the existence of the park-and-ride scheme at present, will the Government consider expanding this kind of scheme?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, according to the study report submitted by the TAC, if the existing growing trend continues, it is anticipated that the total number of vehicles will reach 1 million in 10 years' time, of which 700 000 will be private cars that constitute the key growth. It is hoped that members of the public will reduce, as far as possible, their reliance on private cars as the daily transport mode unless necessary. For this reason, the Government considers it critical to improve the public transport system and enhance their capacity for the time being.

Mr CHAN has talked about making better use of the park-and-ride scheme and even kiss-and-ride facilities. The Government supports the use of such schemes and facilities. It is also pointed out in the TAC's study report that the relevant scheme is now mainly implemented at railway stations and public transport interchanges. But the difficulty encountered is that there is insufficient space in some public transport interchanges. We are also discussing with the MTR Corporation Limited as to how we can further promote the existing park-and-ride scheme, as well as implement the scheme making use of the multi-storey car parks or other relevant facilities around the MTR stations.

It is our hope to enhance the park-and-ride scheme such that even if the public need to drive their private cars, they will be able to utilize the public transport system after dropping off at the main interchange or MTR stations.



**MR LEUNG CHE-CHEUNG** (in Cantonese): *President, the Secretary's main reply to the main question contains a very important figure: the total number of vehicles will reach 1 million in 10 years' time, of which 700 000 will be private cars. It is not at all easy for the Government to reduce the growth although it has already formulated a number of measures (including public policies) to encourage the public to change to public transport after parking, so as to reduce the number of private cars.*

*However, the imbalance between the numbers of vehicles and parking spaces is an indisputable fact. Will the authorities consider providing more public parking spaces when constructing government buildings? Every time when we suggest the provision of more public parking spaces in public works projects, our proposal is often turned down by the Government, and this has resulted in the under-utilization of parking spaces in government buildings. Will the Government consider taking the lead to increase the number of public parking spaces?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as a long-term and sustainable measure, we will include certain provisions in the Conditions of Sale in respect of private developments, requiring the developer to provide an appropriate number of public parking spaces, but the exact number will be subject to the actual situation of individual districts. If the demand for parking spaces from a particular type of commercial vehicles is particularly high in certain districts, we will also make corresponding arrangements, including granting land on short-term tenancy for use as car parks designated for particular type of vehicles.

Regarding Mr LEUNG's question on whether the Government will consider providing more public parking spaces in the construction projects of government buildings in the future, we are now giving consideration to this proposal.

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

## WRITTEN ANSWERS TO QUESTIONS

### Appointment of Unofficial Members to Advisory and Statutory Bodies

7. **MR RONNY TONG** (in Chinese): *President, there are comments that as the Government has been actively implementing development plans and launching infrastructure projects in recent years, it has deliberately appointed a number of persons with property development backgrounds as members of related advisory and statutory bodies (including the (i) Town Planning Board, (ii) Advisory Council on the Environment, (iii) Country and Marine Parks Board, (iv) Energy Advisory Committee and (v) Lantau Development Advisory Committee), in order to reduce the resistance the authorities may encounter when implementing development plans. In this connection, will the Government inform this Council:*

- (1) *among the unofficial members on the aforesaid five boards/councils/committees in the past five years, of the respective numbers of those who had the following backgrounds or expertise: environmental conservation, land planning and property development (set out the information in the table below); the considerations and criteria based on which the authorities determined the numbers and ratios of persons with these three types of backgrounds among the members of these boards/councils/committees; and*

<i>Background/expertise</i>	<i>Number of unofficial members</i>				
	<i>(i)</i>	<i>(ii)</i>	<i>(iii)</i>	<i>(iv)</i>	<i>(v)</i>
<i>Environmental conservation</i>					
<i>Land planning</i>					
<i>Property development</i>					

- (2) *given that a number of major infrastructure projects will be carried out in the western waters (including the construction of the third runway of the airport and related infrastructural facilities, extension of Tung Chung New Town and reclamation works at Lung Kwu Tan, Siu Ho Wan and Sunny Bay), and that concurrent implementation of these major projects may affect the marine ecosystem and marine life such as Chinese white dolphins in the western waters, whether*

*the authorities will consider appointing more people with expertise in environmental conservation (such as ecological experts and marine specialists) to the aforesaid five boards/councils/committees; if they will not, of the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President,

- (1) The Government makes appointments of non-official members to advisory and statutory bodies (ASBs) on the basis of the merits of the individuals concerned. When considering the appointment of members to serve on the ASBs under their purview, bureaux and departments take into account a candidate's ability, expertise, experience and commitment to public service, with due regard to the functions and nature of business of the ASBs as well as the relevant statutory requirements for statutory bodies.

The ASBs provide the Government with impartial, independent and fair recommendations and advice within their respective purview, or perform their functions as conferred by the relevant legislation. The ASBs' members are appointed and involved in the work of the ASBs in their personal capacity. They come from different sectors of the community, including the academia, professionals, environmental conservation groups, business and industrial sectors as well as the local community. Many ASBs' members may serve different sectors concurrently. The Government does not set any ratios for members from any sectors for the aforesaid five ASBs in accordance with their background or expertise.

- (2) When considering the appointment of members to the ASBs, we will continue to uphold the principle of appointment by merit to meet the function and practical needs of the ASBs. We are also committed to ensuring that their composition can broadly reflect the interests and views of various sectors of our community, or that they have the abilities to perform the functions as conferred by the relevant legislation. Currently, all the aforesaid five ASBs have members with expertise in environmental conservation.

## **Ticketing Arrangements for Concerts Held in Hong Kong Coliseum and Queen Elizabeth Stadium**

8. **MR LEUNG KWOK-HUNG** (in Chinese): *President, quite a number of members of the public have complained to me that in recent years, organizers of concerts held in Hong Kong Coliseum, Kowloonbay International Trade and Exhibition Centre, Queen Elizabeth Stadium and AsiaWorld-Expo allocated large quantities of admission tickets of the concerts for sponsors' consignment or for priority booking by holders of specified credit cards, with the result that only small quantities of admission tickets were available for sale to the public through Urban Ticketing System (URBTIX) or Hong Kong Ticketing. These members of the public have also complained that quite a number of lawbreakers openly sold admission tickets for profit at prices two to three times higher than the original prices on the Internet or outside the aforesaid venues, and some even sold fake admission tickets. In this connection, will the Government inform this Council:*

- (1) *given that as indicated in a paper submitted by the authorities to the Central and Western District Council in August 2012, the terms and conditions of hire for Hong Kong Coliseum and Queen Elizabeth Stadium provided that for all programmes held in these venues (including concerts), the total number of consignment tickets in each event corresponding to any ticket prices set out in the approved ticket price list must not exceed 80% of the total numbers of seats specified for such ticket prices on the approved seating plan of the event, whether the authorities have revised this percentage; if they have, of the latest percentage;*
- (2) *among the admission tickets sold for the concerts given by local artistes or groups in Hong Kong Coliseum in the past five years, of the numbers and percentages of the tickets sold through URBTIX, and set out the relevant information by name of concert in the table below;*

<i>Date</i>	<i>Name of concert</i>	<i>Tickets sold through URBTIX</i>	
		<i>Quantity</i>	<i>Percentage</i>

- (3) *whether it will immediately incorporate provisions into the terms and conditions for hiring Hong Kong Coliseum and Queen Elizabeth Stadium to require that all admission tickets of the concerts held by hirers in these two venues must be sold through URBTIX rather than being allocated for sponsors' consignment or for priority booking by holders of specified credit cards, so as to avoid causing unfairness to those members of the public who are not holders of the relevant credit cards; if it will, when it will do so; if not, the reasons for that;*
- (4) *whether the authorities deployed any personnel in the past five years to investigate if there were lawbreakers engaged in the scalping of concert admission tickets through various auction web sites or mobile phone software platforms and outside Hong Kong Coliseum; if they did, of the findings; if not, whether the authorities will immediately deploy personnel to conduct such an investigation; and*
- (5) *of the respective numbers of persons arrested and prosecuted by the authorities in the past five years for engaging in the following activities: (i) scalping of concert admission tickets through auction web sites and mobile phone software platforms, (ii) scalping of concert admission tickets outside Hong Kong Coliseum, (iii) selling of fake concert admission tickets through auction web sites and mobile phone software platform, and (iv) selling of fake concert admission tickets outside Hong Kong Coliseum?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, my reply to various parts of the question is as follows:

- (1) and (3)

According to the Terms and Conditions of Hire of the Hong Kong Coliseum (HKC) and the Queen Elizabeth Stadium (QES), a hirer organizing paid-admission event has the freedom to choose the Urban Ticketing System (URBTIX) or assigning other ticketing agent to sell tickets for the event. If a hirer chooses URB TIX for the sale of tickets, the total number of all consignment tickets to be issued in any price category of the approved ticket price scale for a particular performance shall not exceed 80% of the total number of seats as shown in the approved seating plan for that price category

for that performance. In other words, the hirer concerned is required to provide at least 20% of the seats for each price category for open sale. The term is still effective without any change. A hirer who chooses to assign other ticketing agent to sell tickets can decide on his own the proportion of tickets for open sale according to the ticketing strategy for the event.

Based on the free market principle, hirers of performance venues should be free to choose between URBTIX and other channels they considered appropriate and flexible to sell tickets for the event. The Leisure and Cultural Services Department (LCSD) will not make it mandatory for hirers of its performance venues (including the HKC and the QES) to use any particular ticketing channel or agent for the sale of tickets. The above ceiling on the proportion of consignment tickets applicable to hirers of the HKC and the QES who choose to sell tickets through URBTIX has taken account of hirers' needs in devising their ticketing strategies, while ensuring that a certain number of tickets is available for purchase by members of the public through URBTIX.

- (2) A list of concerts given in the past five years by local artistes or groups in the HKC of which tickets were sold through URBTIX is at Annex. The overall figures<sup>(1)</sup> for the above concert tickets sold through URBTIX are set out below:

<i>Year</i>	<i>Total Seating Capacities</i>	<i>Tickets available for open sale through URBTIX</i>	
		<i>Quantity</i>	<i>Average Percentage</i>
2014-2015	851 304	402 246	47.3%
2013-2014	1 002 250	455 569	45.5%
2012-2013	977 256	515 343	52.7%
2011-2012	1 178 498	622 793	52.8%
2010-2011	1 375 003	710 933	51.7%

- (4) According to the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation, no person shall sell any article within the area of the performance venues under the LCSD without authorization. During the period when concerts are held in

(1) Ticketing figures for individual concerts are not public information.

the HKC, additional venue staff and security staff will be deployed to patrol the area. They will advise anyone found engaging in the resale of tickets within such area to cease the activity and leave the venue. Assistance will be sought from the Police as and when necessary.

As for any other places of public entertainment licensed under the Places of Public Entertainment Ordinance (Cap. 172), such as cinemas, any person who sells, or offers or exhibits or has in his possession for sale, or solicits the purchase of, any ticket or voucher at a price exceeding the amount fixed for such a ticket or voucher shall be guilty of an offence. The Police will follow up on reported cases about ticket scalping and take enforcement actions as appropriate in accordance with the law.

The Government has been appealing to the public to purchase tickets through proper channels for the avoidance of loss from fraudulent activities. Buying unauthorized tickets through unofficial channels will carry certain risks and encourage ticket scalping activities. The "Terms and Conditions of Sale of Tickets" and "Notice to Ticket Buyers" of URB TIX specify that URB TIX has never authorized anybody to make alternative arrangements other than designated venues or channels for the sale of its tickets. The Government will keep monitoring the situation closely.

- (5) The Police have not maintained a breakdown of the number of arrests and prosecutions for scalping tickets and selling fake tickets.

Annex

Concerts given in the past five years by local artistes or groups in the HKC of which tickets were sold through URB TIX:

<i>Date</i>	<i>Name of Concert</i>
<i>2014-2015</i>	
18 to 20 April 2014	Sam Hui What a Wonderful World 2014
17 May 2014	Ivana Wong 2014 Concert

<i>Date</i>	<i>Name of Concert</i>
7 to 11 and 13 June 2014	BE THREE GRASSHOPPER IN CONCERT
19 to 21 June 2014	Back to Priscilla Concert
6 to 8 July 2014	CHI LAM Crazy Hours Live 2014
17 to 19 July 2014	ERIC KWOK Hong Kong Live
16 to 17 August 2014	Alex To My Virtual Planet Tour
27 to 28 August 2014	Summer Pop Live in HK 2014 — 歲月友情演唱會
30 to 31 August 2014	演唱會之父・榮耀紅館 Show <sup>*</sup>
6 to 7 September 2014	Tonight Fiona Live 2014
25 to 26 September 2014	周柏豪 Pakho Colors of Life Concert 2014 <sup>*</sup>
24 to 26 October 2014	Hins Live In Passion 2014
29 to 30 November 2014	衛蘭 Janice Walking to the Future Live 2014 <sup>*</sup>
20 to 22, 24 to 28 and 30 to 31 December 2014 and 1 to 2 January 2015	Touch Mi Sammi Cheng World Tour
14 to 18 January 2015	G.E.M. X.X.X. Live World Tour Concert — Hong Kong (Part II)
24 to 28 and 30 to 31 January 2015	Miriam Yeung Let's Begin World Tour 2015
6 to 7 February 2015	MiMi Choo In Concert 2015
13 to 25 February 2015	Alan Tam 40th Anniversary Live 2015
27 to 28 March 2015	Alex To My Virtual Planet Tour Part II
<i>2013-2014</i>	
1 April 2013	Miss You Much Leslie-Memorial Night
12 to 16 April 2013	G.E.M. X.X.X. Live
25 May 2013	Justin Tough Live 2013 World Tour
1 June 2013	Always Love Lydia
21 to 23 June 2013	雷頌德 Thank You 演唱會 <sup>*</sup>
6 to 14, 16 to 21, 23 to 28 and 30 to 31 July and 1 to 2 August 2013	Eason's Life Concert Hong Kong
16 to 17 August 2013	世紀情歌世紀情巨星演唱會 <sup>*</sup>
29 August 2013	Summer Pop Live in Hong Kong-Justin Tough Live Restart
5 to 6 October 2013	3 Divas Concert 2013



<i>Date</i>	<i>Name of Concert</i>
20 to 22 October 2013	MEMENTO Live HOCC何韻詩演唱會 2013
7 to 10 November 2013	歲月友情演唱會
30 November to 2 December 2013	Khalil Fong Soulboy Lights Up Concert-Hong Kong
6 to 15 December 2013	Alan Tam and Hacken Lee Live In Hong Kong 2013
21 to 28 and 31 December 2013 and 1 to 6 January 2014	Joey Yung in Concert 1314
19 to 24 and 28 February and 1 March 2014	徐小鳳2014演唱會*
14 to 15 March 2014	太平山下黃耀明演唱會2014*
22 March 2014	C AllStar我們的胡士托演唱會*
29 to 30 March 2014	IMAGINE NATION伍樂城幻想國度作品演唱會 56X LIVE 2014*
<i>2012-2013</i>	
3 April 2012	Wu Fung In Concert 2012
7 April 2012	Kenneth Choi In Concert 2012
13 to 16 April 2012	斤兩十足許冠傑演唱會2012*
20 to 23 April 2012	Tat Ming Pair Live 2012
4 May 2012	TaiChi Band of the Town Concert In Hong Kong
7 to 8 July 2012	[Filicious] Fiona In Concert 2012
13 to 14 July 2012	Paul Wong Rockestra
20 to 28 July 2012	Alan Tam X Teresa Carpio Live In Hong Kong 2012
11 August 2012	Summer Pop Live in Hong Kong 2012 — 太極 & FRIENDS演唱會 BAND OF THE TOWN 27TH [ENCORE]*
24 to 27 August 2012	Light And Shadow Ekin In Concert
21 to 24 September 2012	Sally Is Intimately Yours 2012
24 October to 4 November 2012	草蜢森巴大戰軟硬FANS演唱會*
30 November to 5 December 2012	顧嘉輝大師經典演唱會2012*
9 December 2012	RubberBand Easy Concert 2012
22 December 2012	Karen Tong 20th Anniversary Fever Party In Concert 2012

<i>Date</i>	<i>Name of Concert</i>
31 December 2012 to 1 January 2013	Shine Passion Live
4 to 5 January 2013	Mr. New Beginning Live
8 to 9 January 2013	吳雨霏 Kary Ng The Present Concert*
26 to 28 January 2013	A TIME 4 YOU Raymond Lam In Concert
2 to 3 February 2013	Your Favourite Shirley Kwan Suk'E In Concert
9 to 14 February 2013	The Big Four大家利事世界巡迴演唱會 2013*
18 to 20 February 2013	Jenny Tseng Love Show Finale In Hong Kong
23 to 24 February 2013	MiMi Choo In Concert 2013
8 to 10 March 2013	Deanie Sing For Me 2013
17 to 25 March 2013	Aaron Kwok De Showy Masquerade World Tour Encore Live In Concert 2013
31 March 2013	Miss You Much Leslie-Concert
<i>2011-2012</i>	
31 March to 2 April 2011	鄭少秋・汪明荃・喜多郎新紀元2011演唱會*
14 April to 10 May 2011	Jacky Cheung 1/2 Century Tour
14 to 16 May 2011	G.E.M. Get Everybody Moving 2011
27 to 29 May 2011	Andy Hui On and On 25th Anniversary Concert
17 to 19 June 2011	VINTAGE LAMUSIC CONCERT
3 to 4 July 2011	MR. Everyone Concert 2-People Sing For People
17 to 22 July 2011	Hacken Lee & Hong Kong Sinfonietta Concert Hall 2011
29 to 31 July 2011	Light Up My Live Raymond Lam In Concert 2011
25 to 28 August 2011	Summer Pop-Live In Hong Kong 2011
1 September 2011	Susanna Kwan In Concert 2011
3 to 4 September 2011	Mimi Choo In Concert 2011
9 to 10 September 2011	G.E.M. Get Everybody Moving 2011
23 to 25 September 2011	Sandy Lam MMXI Concert
7 to 9 October 2011	Leo Ku Amazing World Concert 2011

<i>Date</i>	<i>Name of Concert</i>
29 to 30 October 2011	Water • Lilies Ivana Wong Live In Hong Kong 2011
5 November 2011	三十小神仙吹唱會*
8 to 9 November 2011	William So In Concert
23 November 2011	Swing Goodbye Forever in Hunghom
5 to 11 December 2011	LeonXu Concert 2011
18 December 2011 to 3 January 2012	Aaron Kwok De Showy Masquerade World Tour Live in Concert 2011
13 to 14 January 2012	謝安琪2012你們的幸福演唱會*
20 January 2012	Jade Sings Concert 2012
28 to 29 January 2012	Edmond Leung 2012 BIG MAN Concert
4 February 2012	那些年，爆笑不離3兄弟*
9 to 14 February 2012	Concert YY
3 to 4 March 2012	Sandy Lam Concert MMXII
24 to 25 March 2012	Chris Wong True Colors 25th Anniversary Concert
<i>2010-2011</i>	
19 March to 6 April 2010	DUO Eason Live In Concert 2010
16 to 18 April 2010	Twins Live In Concert 2010
6 to 9 May 2010	Jenny愛 Show Farewell World Tour*
13 May 2010	Danny Summer & Friends Band Evolution Live 2010
16 to 17 May 2010	Teresa Carpio-I Am A Singer
1 June 2010	Mimi Choo In Concert 2010
3 June 2010	Rosanne Lui 2010 In Concert
8 June 2010	Super Voice In Concert 2010
13 June 2010	"殿堂巨星音樂演唱會" — 劉詩昆與他的朋友們紀念鄧麗君逝世十五周年*
16 June 2010	Fama Down To Earth Concert 2010
16 to 21 and 23 to 24 July 2010	Alan Tam 2010 Live In Hong Kong Concert
27 to 30 July 2010	Come To Me Beauty Live On Stage Raymond Lam In Concert
5 to 8 August 2010	金曲娛樂真經典演唱會*
27 to 29 August 2010	Summer Pop Live In Hong Kong
7 to 11 October 2010	Ladies & Gentlemen Miriam Yeung World Tour Live In Hong Kong 2010

<i>Date</i>	<i>Name of Concert</i>
16 to 17 October 2010	Fairy Janice 2010
23 to 30 October 2010	25 Grasshopper Concert
19 to 28 November and 3 to 4 December 2010	Joey Yung Concert Number 6
20 December 2010 to 8 January 2011	Andy Lau Unforgettable Concert 2010
27 to 28 January 2011	Justin "Around The World" Tour 2011
30 January 2011	Kary On Live 2011
4 to 9 February 2011	Wynners 38 Live In Hong Kong
25 February 2011	Brilliant Feminine Passion 2011
26 to 27 February 2011	Gigi Leung G Concert 2011
4 to 6 March 2011	Ekin Cheng Beautiful Day 2011 Concert
10 to 11 March 2011	Lui Fong Touching Moment Live 2011
19 to 20 March 2011	Deep V.25 Vivian Chow In Concert
26 to 27 March 2011	ChiLam In Concert 2011

Note:

\* Only Chinese titles are available.

## **Future Development of Electricity Market**

9. **MR JAMES TIEN** (in Chinese): *President, the Environment Bureau is conducting public consultation on the future development of the electricity market. In this connection, will the Government inform this Council:*

- (1) *as an independent energy consultant has suggested that consideration be given to lowering the permitted rate of return of the two power companies from the current 9.99% to 6%-8%, but some experts have pointed out that the Government has failed to clearly explain how the magnitude of the suggested rates of return were computed and this approach lacks transparency, whether the authorities will make public the relevant information on the computation methods (including the relevant contents of the consultancy report); if they will not, of the reasons for that;*

- (2) *as there are views that Hong Kong is now in a period when the interest rate is close to zero, a permitted rate of return at 6%-8% is already a very high level of investment return, whether the authorities have studied the possibility of further lowering the rate of permitted return, or negotiating with the two power companies the addition of provisions during the future interim review to stipulate that the authorities may further revise the rate of permitted return, in the light of the then prevailing business conditions and tariff levels of the two power companies;*
- (3) *as there are views that since the Mainland has been vigorously developing nuclear power generation in recent years, even if Hong Kong increases its import of nuclear power from the Mainland, the impact on the Mainland's total nuclear power capacity will be minimal and therefore nuclear safety risks will not increase significantly, and given that the prices of nuclear power are relatively cheap and stable, whether the authorities have studied if it is feasible to increase the share of nuclear power in the fuel mix for electricity generation, so as to reduce the financial burden on members of the public; if they have, of the details; if not, the reasons for that;*
- (4) *as the Government introduced a "stranded costs" provision to the Scheme of Control Agreements (SCAs) in 2008, enabling the two power companies to receive compensation for the impacts they sustain as a result of the Government's opening up of the electricity market, whether the authorities will consider discussing with the two power companies the removal of the provision from the new SCAs to be signed in 2018, so as to safeguard public interest; if they will not, of the reasons for that;*
- (5) *whether the authorities will, when they discuss with the two power companies on the new SCAs in 2018, explore the possibility of controlling tariff increases and introducing competition, including requiring the two power companies to implement power interconnection as well as introduce the technologies and hardware of third-party competitors when the authorities vet and approve the new electricity generation networks and power generation units of the two power companies in future;*

- (6) *whether the authorities will consider phased implementation of the voluntary emission reduction targets of the two power companies to avoid any drastic increases in tariff levels within a short period, with a view to balancing the considerations of environmental protection and the tariff affordability of members of the public as well as small and medium enterprises; and*
- (7) *as the Government has indicated that the introduction of competition to the electricity market will continue to be its objective, whether the authorities have formulated detailed and concrete work indicators and timetable; if they have, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the current Scheme of Control Agreements (SCAs) signed between the Government and the two power companies will expire in 2018 and we need to consider how to further develop the electricity market in Hong Kong. In conducting the review, we have been guided by the four energy policy objectives of safety, reliability, affordability and environmental protection, and have paid due regard to the goal to introduce competition when the requisite market conditions are present. The Government launched a three-month public consultation on the future development of the electricity market on 31 March this year. The consultation document covers a range of issues, including the performance of the current electricity supply, experience of overseas markets in introducing competition and the presence of relevant conditions in Hong Kong, possible areas for improvement in the regulatory framework, the future fuel mix for electricity generation, and so on. For the various parts of the question, our reply is set out below:

(1) and (2)

The Government commissioned a consultancy study during the mid-term review of the SCAs in 2013 to review the methodology, parameters and assumptions used for setting the permitted rate of return (RoR). Taking into account different factors including the risk free rate, the cost of equity and the cost of borrowing in a regulated utility market, the consultant suggested that we could consider reducing the permitted RoR to the range of about 6% to 8%.

As the analysis and content of the consultancy report involve strategic study and considerations, we consider it inappropriate to disclose the report as it may affect future negotiation on the SCAs. In addition, as set out in the consultation document, in preparing for the negotiation with the power companies, we will commission a study to review the need to update the proposal having regard to the latest market situation.

- (3) Regarding the future fuel mix, the Government received more than 86 000 submissions during the public consultation on fuel mix last year. Of the two options, most of the respondents preferred local generation. We plan to increase the percentage of local gas generation to around 50% in 2020. As regards the use of nuclear power, subject to a reasonable import price, we will maintain the current interim measure to import 80% of the nuclear output from the Daya Bay Nuclear Power Station, such that nuclear import would account for around 25%.

We have considered different options for importing electricity from the Mainland when we reviewed the future fuel mix for electricity generation last year. As compared with importing electricity from a dedicated power plant (including a nuclear power plant) using dedicated transmission lines, purchasing from the power grid would allow Hong Kong to benefit from the strong support provided by the Mainland power grid with multiple sources of supply and to gain access to multiple sources of supply on a grid-to-grid basis, thereby enabling us to achieve a higher degree of fuel diversification. In addition, the option of grid-to-grid purchase of electricity would provide us with greater flexibility in meeting possible changes in future demand within a shorter planning lead time, rather than limiting us to the planned generation capacity of the dedicated source. Also, the price differential of importing nuclear power through dedicated transmission lines and purchasing electricity from the grid would not be substantial. As such, we considered that purchasing electricity from the grid was preferable over importing electricity through dedicated transmission lines and promulgated it as one of the fuel mix options for public consultation.

- (4) According to international experience in the development of the electricity market, a mechanism has to be established to deal with stranded costs before full liberalization of the electricity market. In the absence of a mechanism to deal with the issue of stranded costs, power companies would very likely reduce long-term investment drastically, which may affect the safety, stability and reliability of electricity supply ultimately. Having considered international practices, the Government introduced stranded costs provisions to the existing SCAs. The Government may require power companies to implement measures to mitigate the amount of stranded costs pursuant to these provisions. As regards the future regulatory arrangement with the power companies, we would consider the views received after the end of the consultation in charting the way forward, and commence negotiation with the power companies.

(5) and (7)

A key determining factor of whether we are ready to introduce competition to the electricity market after the current SCAs expire in 2018 is the availability of stable and reliable sources of new supply. However, the result of the public consultation on the future fuel mix for electricity generation conducted last year shows that most of the respondents expressed reservation about importing electricity from the Mainland at this stage. Major reasons quoted include concerns over the stability and reliability of importing electricity from the Mainland, transfer of emissions from electricity generation to the Mainland in importing electricity from the Mainland, and turning Hong Kong into a captive buyer without any control over the quality and price of the imported electricity. On the other hand, it is unlikely that there would be a new, sizable local electricity supplier because of land constraints. Nevertheless, we consider it necessary to undertake the necessary preparatory work to pave the way for introducing potential new suppliers. We have therefore proposed in the consultation document that we would discuss and jointly conduct a study with the power companies on the detailed arrangements to enable access to the power grids by new players. We also plan to commission a study to look into the detailed arrangements for strengthening the interconnection between the power grids of the Mainland and Hong Kong as well as that between the existing grids



in Hong Kong. We will also pursue with the power companies to publish their segregated cost data pertaining to their generation, and transmission and distribution systems, in order to promote transparency and to pave the way for introducing new players.

In respect of tariff, we have proposed in the consultation document to expand the scope of the tariff approval mechanism by the Executive Council to include not only the Basic Tariff Rate but also the net tariff so as to enhance scrutiny of fuel price forecasting. We would like to hear the public's views on this arrangement.

- (6) To improve the environment, we consider it necessary to set emission reduction targets. In order to meet the pledged environmental targets for 2020, we need to increase the percentage share of local gas-fired generation and reduce coal-fired generation. As the price of natural gas is higher than that of coal, and we would also need to construct new generating units to replace some of the coal-fired generating units that will retire in succession in the coming few years, we expect that the tariff will increase. However, how the increase in generation costs for electricity would be reflected in tariff would depend on a host of factors, including the retirement schedule of existing units, the pace of capital investments, and so on. The tariff level of a particular year is also affected by other factors, including operating costs, sales volume, and changes in the balances of the Tariff Stabilization Fund and Fuel Clause Recovery Account. We will continue to perform our gate-keeping role with a view to maintaining tariff adjustments at reasonable levels.

### **Neighbourhood Support Child Care Project**

10. **MR TONY TSE** (in Chinese): *President, the Government announced in January 2011 that the Neighbourhood Support Child Care Project (NSCCP) would be regularized and extended to the 18 districts in Hong Kong. Some home-based child carers under NSCCP have relayed to me that since the launch of NSCCP in 2008, their incentive payments have all along remained at hourly rates between \$18 and \$22, which are even lower than the Statutory Minimum Wage rate. In addition, some organizations operating NSCCP (NSCCP*

operators) have pointed out to me that since the incentive payment rates for home-based child carers have been on the low side, it is difficult for them to recruit carers, resulting in a short supply of home-based child care service. In this connection, will the Government inform this Council:

- (1) whether it has reviewed the situation of the rates of the incentive payments received by home-based child carers being on the low side; if it has, why it has all along not raised such payment rates; whether it will consider raising the incentive payment rates to attract more people to work as home-based child carers, with a view to increasing and stabilizing the manpower provision of such carers;
- (2) whether the authorities will consider providing suitable training for home-based child carers for the purpose of enhancing and standardizing the quality of home-based child care service;
- (3) of the number of home-based child carers in the territory at present; whether it has assessed the number of families in need of child care services; if it has not, of the reasons for that;
- (4) whether, in the past two years, it examined and compiled statistics on the recruitment situation of home-based child carers by various NSCCP operators and the monthly average person-times using such service; if it did, of the details; if not, the reasons for that; and
- (5) other than NSCCP, of the respective numbers of creches and child care centres currently providing occasional child care services for children aged two or below, as well as their respective service quotas; whether it knows the monthly average numbers of (i) enquiries on occasional child care services received by and (ii) service applications on the waiting lists of various NSCCP operators in the past two years, as well as (iii) for how long the applicants have to wait, in general, before they are provided with the services?

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to the five parts of the question raised by Mr Tony TSE is as follows:

- (1) The Neighbourhood Support Child Care Project (NSCCP) aims to provide more flexible day child care service at the neighbourhood level for parents in need of child care service and, at the same time, foster mutual help and care in the community. Since October 2011, the NSCCP has covered 18 districts over the territory. Child carers who take part in the NSCCP are volunteers and they receive an incentive payment for their voluntary work. When the operators determine the level of incentive payment for child carers, they will usually consider such factors as the local families' ability to pay and the supply of child carers in the district, and so on.
- (2) According to the NSCCP service agreement signed between the operators and the Social Welfare Department (SWD), the operators have to provide appropriate training for child carers, which generally cover infant/child care skills, child nutrition, identification of child abuse cases and home safety, and so on, so as to ensure the quality of child carers.
- (3) As at December 2014, there were about 1 700 child carers under the NSCCP. At present, there are at least a total of 954 NSCCP places in the 18 districts. The service demand for the NSCCP is affected by different factors and will change from time to time. Operators will flexibly adjust the number of places to meet the actual local service demand and the SWD will provide additional funding to the operators according to the increase in the number of places as appropriate.
- (4) The SWD collects service data on a regular basis to review the implementation of the NSCCP. The total numbers of service users were 10 594 and 11 899 in 2013-2014 and 2014-2015 respectively, meaning that there were on average 883 and 992 users in a month respectively.
- (5) At present, there are altogether 10 aided standalone child care centres and 204 aided kindergarten-cum-child care centres providing a total of 434 places of Occasional Child Care Service (OCCS) for children aged below six. The SWD has not kept any information on the numbers of enquiries and applications or the waiting time in relation to OCCS.

**Overcharging of Fares by Franchised Bus Companies**

11. **MR WONG KWOK-HING** (in Chinese): *President, it has been reported that in recent years, quite a number of franchised bus passengers have found that they were not given bus-bus interchange fare concessions when they interchanged for franchised buses of other routes using Octopus cards, resulting in their being overcharged. They have to lodge complaints with the franchised bus companies (bus companies) on their own initiative and go through complicated procedures before they can recover the overcharged fares. In this connection, will the Government inform this Council:*

- (1) *in each of the past five years, of (i) the total number of complaints received by the authorities and bus companies about overcharging of fares by bus companies (with a breakdown by bus company concerned and cause for overcharging), (ii) the respective total amounts of fares claimed by the complainants and refunded to them, and (iii) the longest and the shortest time taken by the bus companies concerned from commencement of an investigation into a complaint to a refund of the fares overcharged;*
- (2) *whether, in the past five years, the authorities issued any warning to and imposed any fine on bus companies under the Public Bus Services Ordinance (Cap. 230) for overcharging of fares; if they did, of the number of warnings issued and the total amount of fines imposed each year, broken down by bus company;*
- (3) *whether it knows if the bus companies currently have required their bus drivers to take the initiative to report incidents of overcharging of fares; if they have, of the number of reports received by the bus companies in the past five years; whether the bus companies are required under the existing legislation to take the initiative to contact the affected passengers and refund them the overcharged fares; if not, by what means such passengers are required to prove that they have been overcharged in order to get refunded the overcharged fares; and*
- (4) *as I have learned that bus drivers currently need to set up bus-bus interchange fare concessions by manually adjusting the Octopus processors during the journey, which may result in overcharging of fares due to human errors, and that the procedures for passengers to*

*recover the overcharged fares are too complicated (e.g. passengers have to get the relevant transaction records as proof from the Octopus Company Limited (OCL) for a fee), whether the authorities will demand the bus companies to review their refund procedures and ask OCL to waive the aforesaid fees; whether the authorities will demand the bus companies to improve the existing ways for setting up bus-bus interchange fare concessions so as to avoid overcharging of fares due to human errors?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, at present, about 3.9 million passenger trips are made on franchised buses every day. Ninety percent of them involve payment of fares by Octopus cards. To ensure the proper operation of the fare payment system, the Transport Department (TD) requires the franchised bus operators to arrange system checks and maintenance from time to time, and submit quarterly reports to the TD on overcharging of fares. Reported items include the number of complaints, causes of overcharging, amount of refunds, and so on. After reviewing the reports, the TD may require the operators to take appropriate follow-up actions where necessary.

My consolidated reply to the various parts of Mr WONG Kwok-hing's question is as follows:

In the past five years, the TD and the operators received on average about 30 and 7 000 complaints respectively about overcharging of fares each year. This corresponds to an average of about six complaints per million transactions involving payment of fares by Octopus cards. About 30% of the complaints did not involve overcharging of fares, as the passengers either mistook routes without bus-bus interchange fare concessions for routes with such concessions, or failed to interchange for the specified bus routes within the specified period. As for those overcharging cases, the annual total amount of refunds to passengers by each operator ranged from an average of around \$400 to \$19,000 in the past five years. Currently, the Octopus processors on franchised buses are operated manually by bus captains. The major causes of overcharging of fares are bus captains' failure to adjust the processors correctly, loading of incorrect data to the processors, and malfunctioning of the processors. Details of the complaints in the past five years are at Annex.

The operators have all along been taking active measures (such as reminding bus captains to adjust the Octopus processors correctly through training courses, staff publications and notices) to prevent similar situation. The TD has also written to the operators from time to time requesting them to tackle the issue seriously and take appropriate preventive measures. Having regard to the situation of overcharging, the amount involved, and the operators' proactive attitude in dealing with the situation, there is so far no need for the TD to issue any warning to or impose any fine on any operators. The department, however, will continue to monitor the situation.

For a passenger who suspects an overcharging of fares and lodges a complaint, he/she only needs to provide his/her Octopus card number and bus journey information (such as the bus routes concerned, and the approximate date and time of the journey) to the operator concerned. The Octopus card transaction record is not required. Upon receiving a complaint and all necessary information, an operator can usually complete its investigation in about a week's time. For substantiated cases, the operator will contact the passenger concerned as soon as possible to arrange a refund. The refund can usually be made within three weeks in the way preferred by the passenger (for example, through mailing of cheque to the passenger, making a deposit into the passenger's bank account, or arranging for collection of a cash refund at a customer service centre in person).

All operators require their bus captains to report overcharging cases for prompt follow-up actions. However, as the operators cannot ascertain the identity of individual passengers from the Octopus card transaction records alone, they are unable to proactively contact affected passengers. At present, one operator, upon discovery of overcharging of fares, would put up notices at the bus stops concerned to inform passengers the refund arrangement. The TD and all operators will explore how best to disseminate refund information to the passengers.

Owing to the substantial number of bus-bus interchange combinations and fare concessions, manually operated payment system does give rise to occasional human errors. The TD and the operators are further exploring the causes and commonalities of the overcharging cases to see how best to avoid human errors. To completely prevent human errors, the most effective solution may be to adopt a payment system which can detect the location of a bus and automatically adjust the fare accordingly. However, the use of such a system would concern more

complex issues such as whether the technology is mature and making a capital investment. The operators have already started to look into this and the TD will keep in view the progress closely.

## Annex

Complaints about overcharging of fares by franchised bus operators  
from 2010 to 2014

(Since the operators introduced more bus-bus interchange combinations and fare concessions in 2013 and 2014, the number of complaints about overcharging has increased correspondingly.)

1. Kowloon Motor Bus Company (1933) Limited

<i>Year</i>	<i>Total number of passenger trips involving payment of fares by Octopus cards (Millions)</i>	<i>Cases not involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	<i>Cases involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	
			<i>Caused by Human Factors</i>	<i>Caused by Equipment Failure</i>
2010	798	1 167 (1.46)	1 527 (1.91)	0 (0)
2011	797	1 058 (1.33)	1 816 (2.28)	0 (0)
2012	811	1 025 (1.26)	2 154 (2.66)	0 (0)
2013	833	1 466 (1.76)	3 939 (4.73)	0 (0)
2014	841	1 857 (2.21)	5 440 (6.47)	2 (0 <sup>*</sup> )

Notes:

# Figures are rounded to two decimal places.

\* The number of overcharging cases per million transactions involving payment of fares by Octopus cards is smaller than 0.01.

2. Citybus Limited (including two franchises, namely the Franchise for Hong Kong Island and Cross-Harbour Bus Network and the Franchise for the Airport and North Lantau Bus Network)

Year	Total number of passenger trips involving payment of fares by Octopus cards (Millions)	Cases not involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards <sup>#</sup> )	Cases involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards <sup>#</sup> )	
			Caused by Human Factors	Caused by Equipment Failure
2010	185	738 (3.98)	613 (3.31)	7 (0.04)
2011	194	705 (3.63)	655 (3.37)	18 (0.09)
2012	202	797 (3.94)	828 (4.10)	8 (0.04)
2013	209	911 (4.35)	1 032 (4.93)	8 (0.04)
2014	212	772 (3.64)	1 140 (5.38)	9 (0.04)

Note:

# Figures are rounded to two decimal places.

3. New World First Bus Services Limited

Year	Total number of passenger trips involving payment of fares by Octopus cards (Millions)	Cases not involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards <sup>#</sup> )	Cases involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards <sup>#</sup> )	
			Caused by Human Factors	Caused by Equipment Failure
2010	154	111 (0.72)	493 (3.21)	0 (0)



<i>Year</i>	<i>Total number of passenger trips involving payment of fares by Octopus cards (Millions)</i>	<i>Cases not involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	<i>Cases involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	
			<i>Caused by Human Factors</i>	<i>Caused by Equipment Failure</i>
2011	157	114 (0.73)	540 (3.44)	1 (0.01)
2012	161	120 (0.74)	608 (3.77)	0 (0)
2013	165	142 (0.86)	704 (4.27)	0 (0)
2014	161	143 (0.89)	884 (5.50)	0 (0)

Note:

# Figures are rounded to two decimal places.

#### 4. Long Win Bus Company Limited

<i>Year</i>	<i>Total number of passenger trips involving payment of fares by Octopus cards (Millions)</i>	<i>Cases not involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	<i>Cases involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	
			<i>Caused by Human Factors</i>	<i>Caused by Equipment Failure</i>
2010	26	158 (6.10)	106 (4.09)	0 (0)
2011	27	87 (3.25)	94 (3.51)	0 (0)
2012	28	53 (1.91)	71 (2.55)	0 (0)
2013	30	49 (1.65)	139 (4.68)	0 (0)

<i>Year</i>	<i>Total number of passenger trips involving payment of fares by Octopus cards (Millions)</i>	<i>Cases not involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	<i>Cases involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	
			<i>Caused by Human Factors</i>	<i>Caused by Equipment Failure</i>
2014	31	66 (2.11)	148 (4.72)	0 (0)

Note:

# Figures are rounded to two decimal places.

#### 5. New Lantao Bus Company (1973) Limited

<i>Year</i>	<i>Total number of passenger trips involving payment of fares by Octopus cards (Millions)</i>	<i>Cases not involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	<i>Cases involving Overcharging (Ratio of overcharging cases per million transactions involving payment of fares by Octopus cards<sup>#</sup>)</i>	
			<i>Caused by Human Factors</i>	<i>Caused by Equipment Failure</i>
2010	15	9 (0.61)	14 (0.95)	0 (0)
2011	16	6 (0.37)	15 (0.93)	0 (0)
2012	17	14 (0.81)	16 (0.93)	2 (0.12)
2013	18	9 (0.49)	18 (0.99)	2 (0.11)
2014	20	5 (0.25)	6 (0.30)	4 (0.20)

Note:

# Figures are rounded to two decimal places.

## **Requirements for Primary School Teachers to be Promoted to Principals and Pay Levels of the Two Types of Personnel**

12. **MR IP KIN-YUEN** (in Chinese): *President, some members of the education sector have pointed out that at present, the pay levels for principals and graduate teachers in government and aided primary schools are lower than those for their counterparts in government and aided secondary schools. For instance, while a primary school principal's pay points are Points 35 to 41 on the Master Pay Scale (the same applies below), those for a secondary school principal are Points 40 to 49; the starting pay points for a Headmaster/Headmistress I and a Headmaster/Headmistress II of primary schools (Points 38 and 35 respectively) are at roughly the same level as the starting pay point (Point 34) for a Senior Graduate Master/Mistress of secondary schools. Furthermore, the maximum pay point for an Assistant Primary School Master/Mistress (APSM) is Point 29, but that for a Graduate Master/Mistress of secondary schools is Point 33. On the other hand, the requirements for promotion of a primary school teacher to a principal are stricter than those for promotion of a secondary school teacher to a principal. For instance, a primary school teacher is required to have one year's acting appointment before being substantively promoted to a primary school principal. However, there is no such a requirement for secondary schools. These members of the education sector consider that the authorities should raise the pay levels for principals and APSMs in primary schools, and review the requirements for promotion of primary school teachers to principals. In this connection, will the Government inform this Council:*

- (1) *of the reasons why graduate teachers in government and aided primary schools are paid less than their counterparts in secondary schools; whether the authorities conducted any review last year to examine if such differences had constituted an unfair situation; if they did, of the details; if not, the reasons for that;*
- (2) *whether the authorities will review the pay levels for primary school principals and APSMs in the coming year; if they will, of the details, work schedule and estimated additional expenditure to be incurred; if not, the reasons for that;*
- (3) *of the differences and similarities between the current requirements for promotion of primary school teachers to principals and those for their counterparts in secondary schools, as well as the reasons for*

*such differences; whether the authorities conducted any review last year to examine if such differences had constituted an unfair situation; if they did, of the details; if not, the reasons for that; and*

- (4) *whether the authorities will review the requirements for promotion of primary school teachers to principals in the coming year; if they will, of the details and work schedule; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Chinese): President,

- (1) and (2)

The grades and ranks of primary and secondary school teachers are determined with due regard to various factors, such as entry requirements, academic qualifications, length of service and duties. Since the curriculums, modes of teaching and learning, and student support and development needs of primary and secondary schools are different, the work nature, responsibilities and grade structures of principals and teachers of the two types of schools are not the same. Hence, it is not appropriate to make a direct comparison of their pay levels.

When considering whether the pay levels of individual teaching grades/ranks should be adjusted, apart from taking into account objective factors such as entry requirements, academic qualifications and length of service, the Education Bureau also considers other relevant factors, such as the implication for other civil service grades/ranks with similar qualification requirements, recruitment situation of relevant grades/ranks, the overall financial position of the Government and its affordability. The Education Bureau has to balance the demands and concerns of various stakeholders prudently and make good use of resources in formulating and implementing practicable education policies as appropriate. Having considered the current situation, the Government has no plan to review the pay levels of primary school principals and Assistant Primary School Master/Mistress at this stage.

(3) and (4)

Currently, aspiring principal candidates of public sector primary and secondary schools must have a degree from a local university or equivalent qualifications, possess teacher training qualifications and attain the Certification for Principalship. Given the difference between primary and secondary schools in terms of their curriculums and operation, such as the difference in the complexity of the public examination system which their students have to go through, the variety of curriculum arrangement and the attention to students' diverse needs for their exit pathways, it is not appropriate to make a direct comparison of the work nature and duties of primary and secondary school teachers. Moreover, various teaching grades have undergone different development processes. Hence, the current requirements on qualifications and length of service for promotion of primary and secondary school teachers to principals are specific to the varying circumstances of individual grades.

Over the past few years, the Government has responded actively to the demands of the sector and implemented a number of measures to enhance the remuneration of primary school principals and teachers. These measures include establishing the deputy head rank, creating senior teacher posts of English, enhancing the ratio of graduate teacher posts, providing permanent teaching posts in place of the Specialized Teaching Support Grant, and converting the Primary School Curriculum Leader post to a permanent one. The current teaching grade structure, which is determined after a number of factors have been considered and balanced, is operating smoothly with due regard to the development features of various ranks. The Education Bureau has no plan to review the requirements for promotion of primary school teachers to principals at this stage.

### **Vocational Education**

13. **MR KWOK WAI-KEUNG** (in Chinese): *President, with regard to the development of vocational education in Hong Kong, will the Government inform this Council:*

- (1) *how the total public expenditure on the area of vocational education and its percentage in the total expenditure on the area of education in each of the past five years compare with the relevant figures for the area of formal education;*
- (2) *of the amount of each expenditure item under the area of vocational education and its percentage in the total expenditure on this area, in each of the past five years; and*
- (3) *whether it has any plan to comprehensively review the existing policy on and implementation of vocational education (including whether it is necessary to increase the allocation of funding and other resources, so as to perfect and promote various related programmes); if it does, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Chinese): President, vocational education plays a pivotal role in providing flexible and diversified study pathways for secondary school leavers and in-service personnel as well as nurturing the requisite human capital in support of the development of Hong Kong. In the 2014 Policy Address, the Chief Executive emphasized the importance of vocational education and announced a series of measures to support its development. My reply to the various parts of the question is as follows.

- (1) The Vocational Training Council (VTC) is a statutory body established under the Vocational Training Council Ordinance (Cap. 1130) in Hong Kong. With funding from the Education Bureau and the Labour and Welfare Bureau, the VTC provides vocational education and training courses to about 250 000 students and in-service personnel each year. However, the provision of vocational education is not confined to education offered by the VTC. Some of the programmes offered by a number of other training institutions and local post-secondary education institutions also carry a large proportion of specialized contents covering vocational skills or professional knowledge.

The Government's expenditure on various education areas and their respective percentage shares in the total expenditure of education in each of the past five financial years are set out in Annex 1. Among

others, "Vocational Education" only covers provisions to the VTC and related student financial assistance schemes administered by the Working Family and Student Financial Assistance Agency (WFSFAA).

It should be noted that the expenditure on "Post-secondary Education" covers funding for the University Grants Committee-funded institutions as well as provisions for various support measures for the entire post-secondary sector (including both the publicly-funded and self-financing sectors). As mentioned above, some of the programmes offered by local post-secondary education institutions also carry a large proportion of specialized contents covering vocational skills or professional knowledge.

- (2) The amount of each expenditure item under "Vocational Education" (covering only provisions to the VTC and related student financial assistance schemes administered by the WFSFAA) and their respective percentage shares in the total expenditure on this area in each of the past five financial years are set out in Annex 2.
- (3) The Chief Executive announced in the 2014 Policy Address a number of measures to strengthen vocational education. As one of the measures, the Task Force on Promotion of Vocational Education was set up in June 2014 with a view to mapping out a strategy to promote vocational education and raise public awareness of vocational education and recognition of its value. The Task Force will submit a report to the Secretary for Education by mid-2015. The Government will then consider the recommendations set out in the report for more effective promotion of vocational education in Hong Kong. The implementation of other initiatives is summed up as follows:
  - (i) Pilot Training and Support Scheme: With the approval of the Legislative Council Finance Committee (FC) in July 2014 for a commitment of \$144 million, the VTC has implemented the Pilot Training and Support Scheme, which aims to integrate structured apprenticeship training programmes and clear career progression pathways to attract and retain talents for specific industries with a keen demand for labour. The Scheme will benefit 2 000 students;

- (ii) Industrial Attachment: Starting from the 2014-2015 academic year, the Government has allocated recurrent funding of about \$18 million to the VTC to provide industrial attachment opportunities for about 9 000 students mainly studying Higher Diploma programmes and certain Diploma in Vocational Education programmes each year to enhance students' employability;
- (iii) The VTC has been invited to draw up a strategic development plan for its campuses to foster synergy and provide state-of-the-art facilities pivotal to enhancing the image and quality of vocational education;
- (iv) Study Subsidy Scheme for Designated Professions/Sectors: With the approval of FC in July 2014 for a commitment of some \$960 million, the Government will, starting from the 2015-2016 academic year, subsidize about 1 000 students per cohort to pursue designated full-time locally-accredited self-financing undergraduate programmes in selected disciplines to nurture talents to meet Hong Kong's social and economic needs. The Subsidy Scheme will be implemented on a pilot basis for three cohorts of students, and then subject to a review on its effectiveness; and
- (v) Qualifications Framework (QF) Fund: The QF Fund of \$1 billion was established on 1 September 2014 to provide a steady source of income to support the sustainable development and implementation of QF. The QF Fund will further encourage relevant stakeholders to participate in QF, thereby underpinning the development of vocational education, alongside academic and continuing education.

In addition, starting from the 2014-2015 academic year, a recurrent cash grant of about \$500,000 per annum is provided for each public sector school operating classes at senior secondary levels with a view to strengthening the provision of life planning education and career guidance services. Enhancing the provision of life planning education in secondary schools enables students to have a better understanding of vocational education programmes and related



industries. The Education Bureau will also enhance, reinforce and review the Business-School Partnership Programme in the three years starting from the 2015-2016 school year, and strengthen partnership between business organizations and schools with a view to enriching students' understanding of different trades and preparing them for employment in the future through a variety of activities.

## Annex 1

Total Expenditure on Education by Level  
and the Respective Percentage Share in the Past Five Years

	2010-2011		2011-2012		2012-2013		2013-2014		2014-2015 Revised Estimate	
	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>
	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>
Pre-primary Education	2,429	4.0%	2,639	3.9%	2,825	3.7%	3,222	4.2%	3,486	4.7%
Primary Education	12,451	20.5%	12,662	18.7%	13,439	17.5%	14,403	18.9%	15,456	20.9%
Secondary Education	21,340	35.1%	22,797	33.6%	23,354	30.5%	23,921	31.3%	25,040	33.8%
Special Education	1,554	2.6%	1,676	2.5%	1,914	2.5%	1,869	2.4%	2,066	2.8%
Vocational Education <sup>(1)</sup>	2,567	4.2%	2,624	3.9%	2,835	3.7%	3,131	4.1%	3,396	4.6%
Post-secondary Education	17,399	28.7%	22,268	32.8%	29,776	38.9%	22,331	29.2%	22,019	29.7%
Others	2,978	4.9%	3,225	4.8%	2,457	3.2%	7,517	9.8%	2,649	3.6%
Total	60,719	100%	67,891	100%	76,600	100%	76,392	100%	74,112	100%

Notes:

Figures may not add up to the corresponding totals due to rounding.

- (1) Only covering provisions to the VTC and related student financial assistance schemes administered by the WFSFAA. Each expenditure item under "Vocational Education" is set out at Annex 2.

## Annex 2

**Amount of Each Expenditure Item under the Area of "Vocational Education"  
and the Respective Percentage Share in the Past Five Years**

	<i>2010-2011</i>		<i>2011-2012</i>		<i>2012-2013</i>		<i>2013-2014</i>		<i>2014-2015 Revised Estimate</i>	
	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>	<i>Amount</i>	<i>% of total</i>
	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>	<i>\$ Million</i>	<i>%</i>
General revenue account expenditure <sup>(1)</sup>	2,135	83.2%	2,279	86.9%	2,542	89.7%	2,630	84.0%	2,716	80.0%
<i>Recurrent expenditure</i>	2,087	81.3%	2,239	85.3%	2,477	87.4%	2,566	82.0%	2,660	78.3%
<i>Non-recurrent expenditure and Capital account expenditure</i>	48	1.9%	40	1.5%	65	2.3%	64	2.0%	56	1.6%
Others										
Capital Works Reserve Fund expenditure	253	9.9%	225	8.6%	144	5.1%	119	3.8%	177	5.2%
Loan Fund expenditure <sup>(2)</sup>	179	7.0%	120	4.6%	147	5.2%	381	12.2%	501	14.8%
Total	2,567	100%	2,624	100%	2,835	100%	3,131	100%	3,396	100%

Notes:

Figures may not add up to the corresponding totals due to rounding.

- (1) Only covering recurrent and non-recurrent funding to the VTC and financial assistance to the VTC's students.
- (2) Only covering start-up loans to the VTC and loans offered to the VTC's students pursuing post-secondary programmes.

**Follow-up Actions Taken by Government on a Legislative Council Member Being Refused Entry to Malaysia**

14. **MS EMILY LAU** (in Chinese): *President, on the 29th of last month, when a Member of this Council arrived at Kuala Lumpur of Malaysia intending to attend a seminar on the 4 June Incident and the Umbrella Movement, he was refused entry. In response to media enquiries, the Secretary for Security said that the Hong Kong Government respected and would not intervene with the immigration decisions on foreigners made by other countries and regions according to their laws. In this connection, will the Executive Authorities inform this Council:*

- (1) whether they have enquired with the Malaysian authorities about the reasons and legal basis for refusing entry of the aforesaid Member; if they have, of the details, if not, the reasons for that; and*
- (2) whether they will refuse entry of Malaysian officials to Hong Kong for conducting exchanges or attending seminars to show discontent over the Malaysian Government refusing entry of a Member of this Council?*

**SECRETARY FOR SECURITY** (in Chinese): President, the Special Administrative Region (SAR) Government attaches importance to the legal rights of Hong Kong residents outside Hong Kong, and will provide practical assistance as necessary. According to international practice, immigration authorities around the world will examine and process the entry of foreigners in accordance with their local laws and prevailing circumstances. Furthermore, according to international practice, immigration authorities around the world will not usually comment on the reason and decision of individual case in detail. The SAR Government respects the right of other jurisdictions in exercising immigration control and making decisions in accordance with their laws. We will not, and should not, interfere. The Immigration Department will deal with immigration matters concerning visitors from countries or regions all over the world in accordance with the law and established policies.

## Learning of Chinese Language by Non-Chinese Speaking People and Recognition of Relevant Educational Qualifications

15. **DR KENNETH CHAN** (in Chinese): *President, in June this year, the Education Bureau submitted a paper to the Panel on Education of this Council reporting on the measures to provide enhanced support for non-Chinese speaking (NCS) students in learning the Chinese language. Regarding the issues relating to the learning of the Chinese language by NCS people and recognition of the relevant educational qualifications, will the Government inform this Council:*

- (1) *whether it will consider providing additional funding for kindergartens admitting NCS students to support the NCS students of such kindergartens in learning the Chinese language; if it will, of the details; if not, the reasons for that;*
- (2) *given that the authorities have provided an additional funding ranging from \$0.8 million to \$1.5 million per annum to schools admitting 10 or more NCS students, while schools admitting a smaller number of NCS students (i.e. one to nine) may apply to the authorities for funding on a need basis, of the number of schools admitting NCS students in the 2014-2015 school year and the respective average funding received by them, and set out the relevant figures in the table below; whether the authorities will regularly review the funding policies concerned; if they will, of the details; if not, the reasons for that;*

<i>Number of NCS students</i>	<i>Number of schools</i>	<i>Average funding received</i>
<i>1-3</i>		
<i>4-6</i>		
<i>7-9</i>		
<i>10-12</i>		
<i>...</i>		
<i>91 or more</i>		

- (3) *given that the authorities introduced the Chinese Language Curriculum Second Language Learning Framework (Learning Framework) in the 2014-2015 school year to help NCS students overcome the difficulties of learning Chinese as a second language, whether the authorities will review the actual operation of the*

*Learning Framework and consider, in the light of the review outcomes, if there is a need to implement a separate curriculum for the Chinese language as a second language; if they will conduct such a review, of the specific work plan and timetable; if not, the reasons for that;*

- (4) whether it knows which programmes of the University Grants Committee-funded institutions and other tertiary institutions currently accept "Attained" in the Applied Learning Chinese (for NCS students) (ApL(C)) as an alternative Chinese language qualification for NCS students in meeting the basic admission requirements for the programmes concerned, with a breakdown by name of institution;*
- (5) given that the Standing Committee on Language Education and Research has commissioned local tertiary institutions to design and operate vocational Chinese language courses to provide training for NCS school leavers, and on successful completion of the courses, such NCS people will obtain qualifications recognized as the Qualifications Framework Level 1/Level 2, which will enhance their employability, of the details of the plan, including the contents of the courses, how well such qualifications are recognized by employers and the employment situation of such NCS people; and*
- (6) of the civil service grades currently accepting "Attained" and "Attained with Distinction" in ApL(C) as meeting the Chinese language proficiency requirements for the grades concerned?*

**SECRETARY FOR EDUCATION** (in Chinese): President, the Government is committed to encouraging and supporting the integration of non-Chinese speaking (NCS) students<sup>(1)</sup> into the community, including facilitating their early adaptation to the local education system and mastery of the Chinese language. The 2014 Policy Address announced a series of measures to step up support for ethnic minorities, including enhanced support for NCS students in learning the Chinese language.

(1) For the planning of educational support measures, students whose spoken language at home is not Chinese are broadly categorized as NCS students. In the 2014-2015 school year, there are about 16 900 NCS students (8 700 at primary level and 8 200 at secondary level) attending public sector schools and Direct Subsidy Scheme schools.

Regarding the issues relating to the learning of the Chinese language by NCS students and recognition of the relevant educational qualifications, my reply to the six-part question raised by Dr Kenneth CHAN is as follows:

- (1) The Committee on Free Kindergarten Education (the Committee) has made recommendations on the future development of kindergarten (KG) education. Among others, regarding the support for NCS students in KGs, the Committee recommended the provision of additional assistance for KGs admitting a cluster of NCS students (say eight or more) to enable them to enhance the support for these students. With the additional resources, KGs could provide teachers with professional training and development in the areas of culture, language and learner diversity, and develop effective strategies to help NCS students learn through the Chinese medium, so as to lay a foundation for their study in primary schools. KGs could also deploy the additional resources to enhance communication with parents of NCS students and strengthen homeschool co-operation. The Education Bureau is studying the recommendations of the Committee and further consulting the sector as well as the public before formulation of policies and specific measures as appropriate.
- (2) Starting from the 2014-2015 school year, the Education Bureau has allocated about \$200 million per year to step up the education support for NCS students in learning the Chinese language through, among others, facilitating schools' implementation of the "Chinese Language Curriculum Second Language Learning Framework" (Learning Framework) and creation of an inclusive learning environment in schools. All public sector schools and Direct Subsidy Scheme schools offering local curriculum and admitting 10 or more NCS students are, based on the funding model<sup>(2)</sup> and depending on the number of NCS students admitted, provided with an additional funding ranging from \$0.8 million to \$1.5 million for a

(2) The funding model is as follows:

<i>Number of NCS students</i>	<i>Additional funding (\$ million)</i>
10 to 25	0.80
26 to 50	0.95
51 to 75	1.10
76 to 90	1.25
91 or more	1.50

school year. In the 2014-2015 school year, a total of 173 schools (including 100 primary schools and 73 secondary schools) are provided with the additional funding. The number of the schools concerned by number of NCS students admitted and amount of additional funding provided is tabulated at Annex 1.

For schools admitting a handful (that is, one to nine) of NCS students, their NCS students benefit from an immersed Chinese language environment. Starting from the 2014-2015 school year, these schools also implement the "Learning Framework" having regard to their NCS students' learning performance in Chinese, and may apply for an additional funding of \$50,000 per year<sup>(3)</sup> on a need basis to organize diversified after-school support programmes. In the 2014-2015 school year, a total of 56 schools (including 24 primary schools and 32 secondary schools) have applied with each school concerned having been granted the additional funding of \$50,000.

The Education Bureau has, starting from the 2014-2015 school year, implemented the enhanced measures to further support NCS students' learning of the Chinese language (including the provision of the aforementioned additional funding). While the support measures need time to take root and create a sustainable impact on NCS students, we have no plans at this stage to review the arrangement of the additional funding concerned.

- (3) Developed from the perspective of second language learners, the "Learning Framework" provides teachers with a systematic set of learning targets, learning objectives and expected learning outcomes arranged in "small" steps at different learning stages in accordance with the curriculum. It also serves as a set of benchmarks for student attainment adopting as reference for evaluation of learning effectiveness. Schools could make evidence-based recommendations as to whether individual NCS students may bridge over to the mainstream Chinese Language classes as appropriate and help them make an informed choice as to whether they should choose to take the mainstream Chinese Language examination in the

(3) In working out the total amount of additional funding for each school, reference has been drawn from the time-limited Project of After-school Extended Chinese Learning for NCS Students funded by the Language Fund implemented from the 2010-2011 to 2013-2014 school years.

Hong Kong Diploma of Secondary Education, or the Applied Learning Chinese (for NCS students) (ApL(C)) subject and/or attain other internationally recognized Chinese Language qualifications having regard to their aptitudes and aspirations. Hence, the "Learning Framework" applicable in the learning and teaching of Chinese for NCS students at school is a "learning Chinese as a second language" curriculum. The Education Bureau will continue to develop research-based assessment materials with reference to the "Learning Framework", facilitate assessment for learning and offer support for NCS students in their learning of the Chinese language.

We will review the "Learning Framework" on an ongoing basis and refine the "Learning Framework" in due course having due regard to views and experience in different school contexts. The "Learning Framework" would also be reviewed, as appropriate, at an interval of three years upon completion of each Key Stage (for example, Primary One to Three, Primary Four to Six, Secondary One to Three). First-hand information (including curriculum planning, learning, teaching and assessment, and so on) collected through observation of schools' implementation of the "Learning Framework" and discussion with teachers will be used as the basis for evaluating the effectiveness of the relevant support measures.

- (4) The eight University Grants Committee (UGC)-funded institutions and the vast majority of post-secondary institutions have accepted "Attained" in ApL(C) as an alternative Chinese qualification for NCS students in meeting the basic admission requirements. A list of institutions concerned is at Annex 2.
- (5) The Standing Committee on Language Education and Research (SCOLAR) is going to implement the "Vocational Chinese Language Courses for NCS School Leavers". It has invited post-secondary institutions and education/training organizations to develop and operate Vocational Chinese Language courses pegged at Level 1 or Level 2 of the Qualifications Framework (QF) for NCS school leavers. These courses aim at enhancing NCS school leavers' capability and confidence in reading, writing, listening and speaking in Chinese (especially in reading and writing), helping them obtain qualifications recognized by the Government and different sectors, and enhancing their employability. SCOLAR has



received two proposals and is now following up with the relevant institutions regarding details of the courses. The courses will be submitted to the accreditation authority to seek recognition under the QF. The accreditation process will generally take about half a year. It is expected that the first course will be launched in early 2016.

- (6) The entry requirements (including language proficiency requirements (LPRs)) for appointments to the Civil Service are set according to the job nature and operational requirements of individual grades/ranks. Under the prevailing guidelines, in setting the LPRs, the departments/grades concerned should ensure that the LPRs specified are relevant to and commensurate with the satisfactory performance of the duties of the grades concerned.

Starting from the 2014-2015 school year, the Education Bureau has introduced the new subject of ApL(C) by phases at senior secondary level. The first cohort of NCS students is expected to complete the courses in 2017. In this connection, the Government announced in December 2014 that, for the purpose of appointments to the Civil Service, the results of "Attained" and "Attained with Distinction" in ApL(C) would be accepted as meeting the Chinese LPRs of Level 2 and Level 3 respectively in Chinese Language in the Hong Kong Diploma of Secondary Education Examination.

#### Annex 1

Number of schools admitting 10 or more NCS students  
and provided with additional funding by number of NCS students admitted  
and funding provided in the 2014-2015 school year

<i>Number of NCS students</i>	<i>Additional funding provided for each school (\$ million)</i>	<i>Number of schools</i>
10 to 25	0.80	85
26 to 50	0.95	29
51 to 75	1.10	9
76 to 90	1.25	4
91 or above	1.50	46

Institutions which have accepted "Attained" in ApL(C)  
as an alternative Chinese qualification for NCS students  
in meeting the basic admission requirements

<i>UGC-funded Institutions</i>	
1.	City University of Hong Kong
2.	Hong Kong Baptist University
3.	Lingnan University
4.	The Chinese University of Hong Kong
5.	The Hong Kong Institute of Education
6.	The Hong Kong Polytechnic University
7.	The Hong Kong University of Science and Technology
8.	The University of Hong Kong

<i>Post-secondary institutions</i>	
1.	Caritas Bianchi College of Careers
2.	Caritas Institute of Higher Education
3.	Caritas Institute of Community Education
4.	Centennial College
5.	Chu Hai College of Higher Education
6.	City University of Hong Kong — School of Continuing and Professional Education
7.	City University of Hong Kong — Community College of City University
8.	Hang Seng Management College
9.	The School of Continuing Education of Hong Kong Baptist University
10.	College of International Education of Hong Kong Baptist University
11.	HKCT Institute of Higher Education
12.	HKU SPACE Po Leung Kuk Community College
13.	HKU SPACE Community College
14.	Hong Kong Art School
15.	Hong Kong College of Technology
16.	Hong Kong Institute of Technology
17.	Hong Kong Nang Yan College of Higher Education
18.	Lingnan Institute of Further Education
19.	The Community College at Lingnan University
20.	The Hong Kong Polytechnic University — Hong Kong Community College

<i>Post-secondary institutions</i>
21. School of Continuing and Professional Studies, The Chinese University of Hong Kong
22. Tung Wah College
23. Vocational Training Council
24. Yew Chung Community College
25. YMCA College of Careers

### **Review of Electoral System of Legislative Council Functional Constituencies**

16. **MR PAUL TSE** (in Chinese): *President, it has been reported that when the Chief Secretary for Administration met with several Members of this Council on the fourth of this month, she attempted to persuade them to support the passage of the constitutional reform proposals and undertook that if the constitutional reform proposals were passed by this Council, a study on how to handle the issue of the functional constituency (FC) seats in the Legislative Council (LegCo) might be conducted in the next step. Besides, at an earlier meeting of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2015, several Members of this Council requested the Government to adjust and optimize the composition and electorate of FCs, so as to enhance their representativeness and recognition. A Member even accused the Government of procrastinating all along, and refusing to optimize the electoral system for FC seats in the LegCo, thus rendering FC elections being unable to remedy the inadequacy of a Legislative Council returned solely by geographical constituencies through direct elections and in turn impeding the political development of Hong Kong. In this connection, will the Government inform this Council:*

- (1) *of its plans to handle the issue of FC seats in the LegCo;*
- (2) *apart from making the aforesaid undertaking to the aforesaid Members, whether the Government will make the same undertaking to other Members and set out the scope, direction and timetable of the study concerned; if it will, of the details; if not, the reasons for that;*

- (3) *whether it has studied if an announcement, before the voting on the constitutional reform proposals by this Council, by the authorities that a study would be conducted on the handling of the FC seats in the LegCo would be conducive to the passage of the proposals by this Council; and*
- (4) *whether the Government will continue, under the circumstances of the constitutional reform proposals being negated by this Council, to actively study how to handle the issue of the FC seats in the LegCo within the current term of the Government?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Chinese): President, our reply to the questions raised by Mr TSE regarding the Legislative Council functional constituency (FC) is as follows:

In accordance with Annex 2 to the Basic Law, there are 35 Members of the Legislative Council returned by FCs at present. The delineation of electorate of each FC is specified under the local legislation, namely the Legislative Council Ordinance (Cap. 542).

According to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage adopted by the Standing Committee of the National People's Congress (NPCSC) on 29 December 2007, after the Chief Executive is selected by universal suffrage, the election of the Legislative Council may be implemented by the method of electing all the members by universal suffrage.

On 31 August 2014, the NPCSC adopted the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 (the Decision). According to the Decision, the existing formation method for the Legislative Council as prescribed in Annex 2 to the Basic Law will not be amended; and the formation method of the fifth term Legislative Council will continue to apply to

the sixth term Legislative Council in 2016. In other words, the sixth term Legislative Council in 2016 should continue to consist of 70 members: 35 to be returned by FCs and 35 by geographical constituencies. At the local legislation level, the Hong Kong Special Administrative Region Government has introduced the Electoral Legislation (Miscellaneous Amendments) Bill 2015 into the Legislative Council, making it clear that the existing delineation of the FCs will remain intact and that only necessary technical amendments will be made for the 2016 Legislative Council Election.

### **Body Searches Conducted on Detainees**

17. **MR KENNETH LEUNG** (in Chinese): *President, at its hearing held in November 2008, the United Nations Committee Against Torture (the Committee) expressed concern about the arrangements and approaches adopted by the law enforcement agencies of the Hong Kong Special Administrative Region (SAR) for conducting body searches on detainees. The Committee put forward improvement proposals and urged the law enforcement agencies of the SAR to comply with the relevant provisions of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In this connection, will the Government inform this Council:*

- (1) of the details concerning the use of equipment for conducting body searches on detainees by various law enforcement agencies at present; whether it has plans to study the wider use of equipment to conduct body searches, so as to protect the privacy and dignity of the persons being body-searched; if it does, of the details; if not, the reasons for that;*
- (2) among the body searches involving the removal of underwear conducted by various law enforcement agencies in each of the past five years, of the respective numbers of cases in which drugs, weapons, stolen goods and other articles that may be lawfully seized by law enforcement personnel were found and the numbers of persons involved, with a breakdown by the searching method of the three sub-categories of body searches involving the removal of underwear (i.e. (i) looking into underwear, (ii) partial removal of underwear, and (iii) full removal of underwear);*

- (3) *as I have learnt that at present, the Police have put in place rather comprehensive guidelines and record-keeping methods in respect of conducting body searches on detainees (e.g. detailed categorization of the extents of and justifications for the conduct of body searches), whether the Customs and Excise Department as well as the Immigration Department will follow suit, so as to ensure that detainees will not be subjected to any unnecessary body searches by law enforcement personnel;*
- (4) *whether, in the past five years, the Police, the Customs and Excise Department as well as the Immigration Department studied the use of equipment, in place of the practices involving the removal of clothes and removal of underwear, in conducting body searches on detainees, so as to reduce the intrusion of the privacy of the persons being body-searched; if they did, of the details; if not, the reasons for that; and*
- (5) *whether, in the past five years, the Correctional Services Department examined the effectiveness of using X-ray body scanners in place of manual rectal searches; if it did, of the details; whether the Correctional Services Department has plans to fully implement the use of X-ray body scanners for rectal searches; if it does, of the details?*

**SECRETARY FOR SECURITY** (in Chinese): President, our reply to the various parts of the question is as follows:

(1) to (4)

The Hong Kong Police Force (HKPF), Customs and Excise Department (C&ED) and Immigration Department (ImmD) have formulated procedures and guidelines on the conduct of body searches to safeguard the rights of the persons to be searched and prevent any unnecessary searches. Such procedures and guidelines ensure that officers of law-enforcement agencies (LEAs), in exercising their power of body search under the law, will, in the light of the purposes of the search and the circumstances of individual cases, adopt the principles of "rationality" and "proportionality" in determining the scope of each search.

Body searches target numerous types of articles. As far as metallic articles are concerned, to facilitate the conduct of body searches, the HKPF, C&ED and ImmD have introduced metal detectors to find out whether the persons being searched conceal any potentially hazardous metallic substances or any crime-related metallic exhibits. Officers of LEAs, depending on the circumstances, may need to conduct further search. There is currently no equipment which can fully replace body search by removal of clothing. LEAs would continue to monitor the relevant technological development and, having regard to the actual needs, introduce appropriate equipment to assist in the conduct of body searches. Moreover, LEAs would review their body search procedures from time to time to ensure effective discharge of their statutory functions on the one hand and safeguard the rights of the persons being searched on the other.

Figures of persons searched by the HKPF, C&ED and ImmD involving removal of underwear or other relevant methods in the past five years are at Annex. LEAs do not maintain the other breakdown as requested in part (2) of the question.

The guidelines and record-keeping requirements of individual LEAs for body searches are drawn up on the basis of their respective responsibilities and job nature. Such guidelines and requirements are reviewed from time to time and revised as necessary.

- (5) The Correctional Services Department (CSD) has endeavoured to explore the use of technical equipment to replace manual rectal search in recent years. Since 2012, the CSD has introduced low radiation X-ray body scanners at Lai Chi Kok Reception Centre (LCKRC), Pik Uk Correctional Institution, Lo Wu Correctional Institution and Tai Lam Centre for Women to assist officers in checking whether drugs are concealed inside bodies of newly-admitted persons in custody (PICs). In 2013 and 2014, 33 and 32 of such cases were discovered respectively. The CSD has planned to introduce/purchase additional low radiation X-ray body scanners for Lai King Correctional Institution, Siu Lam Psychiatric Centre and LCKRC. Installation works are expected to be completed in 2016. By then, all institutions receiving newly-admitted PICs will be equipped with such scanners.

## Annex

Figures of persons searched by the HKPF, C&ED and ImmD involving removal of underwear in the past five years

## HKPF

<i>Financial year</i>	<i>Lifting underwear for examination</i>	<i>Partial removal of underwear</i>	<i>Complete removal of clothing</i>
2010-2011	1 659	257	419
2011-2012	1 641	351	253
2012-2013	1 806	364	117
2013-2014	2 171	263	174
2014-2015	1 760	215	135

## C&amp;ED

<i>Year</i>	<i>Complete removal of clothing</i>
2010	2 192
2011	1 579
2012	1 385
2013	1 384
2014	1 309

## ImmD

<i>Year</i>	<i>Lifting underwear for examination/Partial removal of underwear/Complete removal of clothing *</i>
2010	4 043
2011	4 460
2012	4 513
2013	4 952
2014	5 015

Note:

- \* The majority of the figures involved general searches conducted by immigration officers on detainees upon their entering of the immigration detention centres.



**Annual Vehicle Examinations and Dynamometer-based Emission Tests**

18. **MR CHAN HAK-KAN** (in Chinese): *President, under the existing legislation, private cars aged six years or more (calculated from the year of manufacture) and goods vehicles aged one year or more have to undergo and pass an annual vehicle examination at any one of the 22 car testing centres designated by the Transport Department (annual examination) before the licences of such vehicles may be renewed. Moreover, since September 2014, the Environmental Protection Department (EPD) has deployed roadside remote sensing equipment to screen petrol and liquefied petroleum gas vehicles with excessive emissions (roadside remote emission screening). Owners of vehicles found to have excessive emissions will be issued an emission testing notice by EPD, demanding them to send their vehicles to one of the four designated vehicle emission testing centres in the territory within 12 working days for a dynamometer-based emission test (emission test) so as to ensure the problem is rectified, or else the vehicle licences will be cancelled. It is learnt that the current waiting times for vehicles to undergo the annual examination and emission tests are as long as two to three months. In this connection, will the Government inform this Council:*

- (1) whether it knows the respective current average daily numbers of vehicles (i) undergoing the emission test and (ii) waiting for undergoing this test, with a breakdown by vehicle class;*
- (2) of the average monthly number of vehicles in respect of which EPD issued emission testing notices since the launch of the roadside remote emission screening, with a breakdown by vehicle class;*
- (3) whether it knows the respective average numbers of incidents of equipment breakdown in the two types of testing centres in each of the past three years, as well as the details of such incidents;*
- (4) whether it has plans to implement measures for encouraging the two types of testing centres to extend their service hours so as to shorten the waiting times; if it has such plans, of the details;*
- (5) whether it has plans to allocate lands for the provision of additional testing centers of the two types; if it has such plans, of the details; and*

- (6) *given that with effect from the 9th of this month, members of the public can check online the appointment status of the aforesaid 22 designated car testing centres, and after viewing the appointment status, they can directly call the centres with time slots available for booking to make appointments for the annual examination, of the current daily utilization rate of this online platform; of the average waiting time for the annual examination in this month?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, at present, the Transport Department (TD) requires private cars aged six years or more and light goods vehicles aged one year or more not exceeding 1.9 tonnes to pass examinations at the TD's "Designated Car Testing Centres (DCTC)" before their owners apply for renewal of vehicle licence. Such requirements can ascertain the roadworthiness of a vehicle for ensuring road safety.

In addition, to improve roadside air quality, the Environmental Protection Department (EPD) has strengthened the emission control of petrol and liquefied petroleum gas (LPG) vehicles since September 2014. If a vehicle is found to have excessive emission, the EPD will issue an Emission Testing Notice to the vehicle owner concerned. The owner must have the vehicle tested and passed an advanced emission test conducted with the aid of a chassis dynamometer (emission test) at an EPD "Designated Vehicle Emission Testing Centre (DVETC)". If the vehicle fails the emission test, the EPD will inform the TD to cancel its licence.

The above two types of testing centres are privately-run.

Our replies to the questions raised by Mr CHAN Hak-kan are as follows:

- (1) From September 2014 to April 2015, DVETC carried out emission tests for a total of 3 620 vehicle counts. The statistics breakdown by vehicle class is shown as below:

<i>Vehicle Class</i>	<i>Light Goods Vehicle</i>	<i>Private Car</i>	<i>Light Bus</i>	<i>Taxi</i>
Number of vehicle counts tested	25	1 336	230	2 029

During the above period, a daily average of about 21 vehicles underwent the emission test. This figure is far below the maximum daily testing capacity of about 128 vehicles for the existing four DVETCs. Vehicle owners who need to have their vehicles tested for emissions can make direct appointments with the DVETCs. At present, such emission test is not conducted in the TD's DCTCs.

- (2) From September 2014 to April 2015, the EPD issued 3 083 emission testing notices to owners of petrol/LPG vehicles. The monthly statistics by vehicle class is shown as below:

<i>Month</i>	<i>Vehicle Class</i>				
	<i>Light Goods Vehicle</i>	<i>Private Car</i>	<i>Light Bus</i>	<i>Taxi</i>	<i>Total</i>
<b>2014</b>					
September	2	59	25	200	286
October	0	128	17	140	285
November	3	186	19	218	426
December	1	135	16	100	252
<b>2015</b>					
January	0	92	17	103	212
February	2	78	27	192	299
March	2	221	26	409	658
April	3	129	33	500	665

- (3) In the past three years, four incidents took place at the TD's DCTCs that had affected the operation of the centres. Details are as follows:

<i>Year</i>	<i>Number of incidents</i>	<i>Cause of incident</i>
2012	1	Failure of post lift
2013	1	Failure of roller brake tester
2014	2	Failure of suspension tester Failure of exhaust emission testing equipment

Since the operation of the EPD's DVETCs in September 2014, there were four incidents of dynamometer malfunctions that had affected emission testing services.

- (4) Starting from April 2015, the services of some of the TD's DCTCs have been enhanced, including six centres extending their working hours on normal working days; three centres that originally provide services on normal working days and Saturday extending their services to Sunday; and two centres that originally provide services on normal working days extending their services to Saturday.

In addition, the TD has completed the upgrading and connection of the computer appointment system of the 22 DCTCs. The new appointment system has been in service since 9 June 2015. The new system can avoid the occurrence of repeated appointments and unqualified appointments in the past and utilize more effectively the resources of DCTCs so as to shorten the waiting time of vehicle owners.

At present, the number of emission tests carried out at the EPD's four DVETCs is far below their testing capacity. Vehicle owners can arrange emission tests for their vehicles without waiting for an appointment. Some DVETCs have also advised that their emission testing services can be extended to Saturday, Sunday or public holidays if necessary.

- (5) The TD's DCTCs are operated on a commercial basis. The operators have to arrange staffing, equipment and venues, and so on. The TD has already advertised on newspaper inviting interested persons to apply for operating new testing centres. The deadline of the application is 22 June 2015.

The EPD's DVETCs are also operated on a commercial basis. DVETC operators indicate that they will continue to provide emission test services as long as the emission testing fee is increased to a reasonable level. The EPD has been encouraging suitable operators to set up more DVETCs and there is no limit on the number of testing centres.

- (6) Starting from 9 June 2015, the TD has provided a new online checking service on the appointment status at different DCTCs. As at 15 June, the daily average use of the service was about 300. During this period, the average time required for making an appointment for vehicle examination was about six weeks.

### **Prevention of Abuse of Continuing Education Fund by Course Providers**

19. **MR FREDERICK FUNG** (in Chinese): *President, I have recently received complaints about the Continuing Education Fund (the Fund) from some members of the public who suspect that some course providers have deliberately marked up the fees for the courses reimbursable by the Fund (reimbursable courses), giving rise to a situation where persons subsidized by the Fund (subsidized persons) and other persons pay different fees for taking the same course. As each subsidized person may apply for the reimbursement of 80% of the relevant course fees after completing a reimbursable course (subject to a maximum sum of \$10,000), the actual course fee paid by subsidized persons may be significantly reduced, a selling point commonly used by course providers to solicit business. If persons enrolling for a reimbursable courses have not applied for subsidies from the Fund or have already used up the subsidies, course providers will offer them special concessions, e.g. a discount of 40% or more of the originally indicated course fees. These members of the public consider that course providers have allegedly made up various pretext. Course providers can in fact offer such courses at lower fees but they have deliberately marked up the fees. This practice is tantamount to gnawing the subsidies provided by the Government for applicants, causing loss of public money and reducing the opportunities for subsidized persons to take other courses. In this connection, will the Government inform this Council:*

- (1) *of the number and main contents of the complaints about the Fund received by the authorities in the past three years;*
- (2) *whether it has provided course providers with guidelines or imposed regulations on the fee levels of reimbursable courses; if it has, of the details; if not, the reasons for that;*
- (3) *whether it has analyzed and investigated the fee levels of reimbursable courses; if it has, whether it has discovered (i) any*

*deliberate mark-up of the fees for such courses by course providers, and (ii) the charging of different fee levels for the same course by course providers; and*

- (4) *of its measures to curb the practice of course providers of marking up course fees deliberately to snatch the subsidies otherwise available to subsidized persons, so as to safeguard the opportunities for subsidized persons to pursue study and tackle the moral hazard issue arising from the Fund?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to the question raised by Mr Frederick FUNG is as follows:

- (1) In the past three years (that is, from 2012-2013 to 2014-2015), the number of complaints related to course providers received by the Office of the Continuing Education Fund (OCEF) was 16, 10 and nine respectively. These complaints mainly concerned course or service quality, promotional and marketing practices, course fee refund arrangements, and so on.
- (2) The Government has not formulated any guidelines on the fees of reimbursable courses under the Continuing Education Fund (the Fund). Nevertheless, OCEF collects information on the fees of the Fund courses and publishes the information on its website to enhance the transparency of the Fund course fees and facilitate the Fund learners in their selection of courses with reasonable fees.
- (3) According to the current requirements of the Fund, course providers are not allowed to charge the Fund learners and non-the Fund learners different fees for the same the Fund course. In the event of non-compliance, the Government will take corresponding follow-up action against the course providers depending on the seriousness of the case.
- (4) The Government has put in place a set of strict requirements on the publicity and promotional arrangements of course providers. To avoid unnecessary increase in course fees, course providers should neither conduct inappropriate publicity activities nor provide

financial incentives in any form to attract the Fund learners to enrol in the Fund courses. Apportionment of course fees between course providers and CEF applicants is also not allowed.

The Hong Kong Council for Accreditation of Academic and Vocational Qualifications and OCEF conduct inspections on course providers from time to time to ensure that their operation complies with the requirements of the Fund. OCEF will issue a warning to the concerned course provider when non-compliance is detected. If the non-compliance is serious or repetitive, the Government will consider de-registering the concerned course(s) from the list of the Fund courses. In case of suspected criminal offences, OCEF will refer the case to the relevant law-enforcement agencies for follow-up.

### **Alleged Poor Management of Hongkong Post**

20. **DR ELIZABETH QUAT** (in Chinese): *President, some members of the public have relayed to me that in recent years, Hongkong Post (HKP) has incurred losses year after year and its performance has been declining, giving the public the impression that its management is chaotic and poor. It has also been reported that some swindlers have made use of the loopholes in HKP's compensation mechanism for loss of mails by orchestrating cases of mails lost by HKP for making repeated claims for compensation. Although HKP's frontline staff have relayed to the management their suspicions about the cases, the management did not take any action to curb those frauds. In the past five years, the total amount of compensation made by HKP for loss of mails amounted to \$16 million. In this connection, will the Government inform this Council:*

- (1) of the number of cases handled by HKP in each of the past five years involving reported loss of mails by HKP, and the total amount of compensation made;*
- (2) whether HKP has assessed the financial implications on the department of its deployment of resources in the past five years to handle cases of reported loss of mails by the department; if HKP has, of the outcome;*

- (3) *whether HKP currently has in place any mechanism to prevent abuse of the compensation mechanism for loss of mails; if so, of the details; if not, the reasons for that;*
- (4) *whether it has investigated if collusion between the management personnel of HKP and the swindlers, dereliction of duty or improper supervision on the part of the management personnel are involved in their not taking any follow-up action despite receiving reports of suspicious claims for compensation; if it has, of the outcome;*
- (5) *whether HKP stepped up training for frontline staff and staff at the middle level in the past five years so as to enhance their efficiency in handling the relevant matters and their ability to cope with contingencies; if HKP did, of the details; if not, the reasons for that; and*
- (6) *whether it will review the management and mode of operation of HKP; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, compensation will be paid under specified circumstances (for example, confirmed loss of specified types of mail after posting) in accordance with the postal service conditions of the Hongkong Post (HKP). The HKP has put in place a set of vetting procedures for processing mail compensation cases so as to ensure that compensation claims will only be approved if they are fully justified and substantiated by supporting documents. My reply to the six parts of the question is as follows:

- (1) Annual figures on compensation made for mail loss cases in 2010-2014 are set out below:

<i>Year of Posting</i>	<i>Number of Mail Items</i>		<i>Amount of Compensation (HK\$)</i>	
	<i>Local Mail<sup>@</sup></i>	<i>Outbound Mail<sup>*</sup></i>	<i>Local Mail<sup>@</sup></i>	<i>Outbound Mail<sup>*</sup></i>
2010	35	14 509	3,100	3,998,600
2011	17	10 270	2,500	3,102,500



<i>Year of Posting</i>	<i>Number of Mail Items</i>		<i>Amount of Compensation (HK\$)</i>	
	<i>Local Mail<sup>@</sup></i>	<i>Outbound Mail<sup>*</sup></i>	<i>Local Mail<sup>@</sup></i>	<i>Outbound Mail<sup>*</sup></i>
2012	36	13 221	1,300	3,876,900
2013	41	17 588	1,600	4,929,100
2014	37	7 357	1,500	2,095,000

Notes:

@ Refers to local registered mail items and parcels.

\* Refers to outbound registered mail items, parcels and Speedpost items. In over 90% of these compensation cases, the destination postal administrations or mail conveyancing agents were held liable for the loss and hence the compensation, that is, the compensation was not paid by the HKP.

- (2) The HKP handles about 1.2 billion mail items annually, the great majority of which have been processed in a secure manner. Only a very small proportion of mail items were lost and thus required compensation. Furthermore, in over 90% of the compensation cases for outbound mail items, the destination postal administrations and mail conveyancing agents were held liable for the loss and hence the compensation, that is, the compensation was not paid by the HKP. In addition, compensation claims are handled by the same staff normally responsible for answering mail enquiries. Therefore, processing compensation claims has not brought significant financial implications on the HKP.

(3) and (4)

The HKP processes compensation claims in accordance with the regulations stipulated by the Universal Postal Union, and has laid down a set of vetting procedures to ensure that compensation claims will only be approved if they are fully justified and substantiated by supporting documents (including invoice details). For compensation claims involving outbound mail items, the HKP will, depending on the actual circumstance of the case, seek assistance from the destination postal administrations in the course of processing. The HKP staff are required to strictly observe the

relevant internal procedures and vet compensation claims for loss of mail items in a fair and impartial manner. An audit review mechanism has also been put in place for the processing of compensation claims to guard against possible abuse of the compensation mechanism. If there is any instance of negligence of duties, the HKP will deal with the case in accordance with the established internal procedures. If the Department comes across any compensation claim which is suspected to involve unlawful acts, it will refer the case to the law-enforcement agencies for follow-up action. We would not comment on individual cases.

- (5) The HKP attaches great importance to the nurturing of a professional team so that the Department will be able to respond to the ever-changing business environment and maintain service excellence. The HKP runs a Staff Training Centre, which formulates annual training and development plans for managerial and front-line staff to provide them with a wide range of training programmes, including postal training as well as courses for enhancement of their management and supervisory skills as well as personal effectiveness (such as integrity management and problem solving skills, and so on). Apart from classroom training, briefings and experience sharing sessions, and so on, are also organized to help staff have a better grasp of the relevant job knowledge and skills. This will in turn enable them to discharge their duties more effectively, thus meeting customer expectations and the operational needs of the Department.
- (6) Operating as a trading fund, the HKP is given greater flexibility in business operation and resource management. This enables the Department to respond more flexibly to changes in the market and business environment, and provide customers with quality and value-for-money services. The Government does not have any plan to change the mode of operation of the Post Office Trading Fund. In order to achieve the objective of being self-financing, the HKP will continue to make its best endeavours to manage costs, develop new businesses, and review and adjust postage rates and other fees from time to time.

## Provision of Self-service Banking Services

21. **MR WONG KWOK-KIN** (in Chinese): *President, some members of the public have relayed to me that in recent years, quite a number of banks have reduced the number of their branches and instead set up self-service banking centres for providing services to the residents in the communities concerned. However, as some self-service banking centres do not provide comprehensive self-service facilities (i.e. automatic teller machines, cash deposit machines, cheque deposit machines and passbook updating machines), the elderly and people with disabilities (PWDs) who need such services have to travel long distances to bank branches located in other communities, thereby causing inconvenience to them. In this connection, will the Government inform this Council:*

- (1) *whether it knows the current number of self-service banking centres in the territory and, among them, the respective numbers of those which are equipped with all of the four aforesaid self-service facilities and those with only two or less of such facilities; whether it will consider requiring banks to equip each self-service banking centre with all of the four self-service facilities;*
- (2) *given that the self-service facilities operate under either of the two separate major systems of Electronic Teller Card and Joint Electronic Teller Services Limited, which are not compatible to each other, whether the authorities will consider requiring banks to ensure that self-service banking centres operating under both systems are concurrently available in the same community in their planning of the distribution of self-service banking centres;*
- (3) *whether it knows, among the four self-service facilities currently provided in the self-service banking centres in the territory, the respective numbers of such facilities which are suitable for use by PWDs, and the number of them which are equipped with audible navigation and height reduction function (with a breakdown by type of facility); and*
- (4) *whether it has provided banks with relevant guidelines on and standards for setting up self-service banking centres and installation*

*of self-service facilities suitable for use by PWDs; if it has not, whether it will consider formulating such guidelines and standards; whether it has required banks to regularly conduct assessments on the demand for the relevant services; if it has not, of the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, in serving the public, major retail banks in Hong Kong have established a total of 1 178 branches across different districts. With the development of information technology and individual bank's business development strategy, in addition to traditional branches, banks have set up a number of automated teller machines (ATMs) and other types of self-service banking services. As of mid-June 2015, there are about 3 239 ATMs, 620 cash deposit machines, 653 cheque deposit machines, and 1 135 passbook update machines across different districts in Hong Kong.

Some banks set up self-service banking facilities, which are not attached to any bank branch, and where ATMs, cash deposit machines, cheque deposit machines and passbook update machines, and so on, are installed. According to statistics of the Hong Kong Monetary Authority (HKMA), there are currently about 200 self-service banks (SSBs) in Hong Kong. Among them, 143 SSBs provide three or more types of self-service banking services, and 76 of which provide all four types of self-service banking services, and the remaining 57 SSBs provide one or two types of self-service banking services.

Banks are also attending to the special needs of people with disabilities in their facilities. In the aforementioned SSBs, for example, there are 472 ATMs, 134 cash deposit machines, 11 cheque deposit machines and 126 passbook update machines which have special features that facilitate access by people with disabilities. Among these machines, there are one Voice Navigation ATM<sup>(1)</sup>, 17 ATMs and 44 passbook update machines with adjusted height of reach to facilitate access by customers with needs.

The Government and the HKMA understand that the public is concerned about the accessibility of banking services, and have been reminding banks, while

(1) There are another four Voice Navigation ATMs installed in either bank's branches or MTR stations.

operating in accordance with commercial principle, to take into account the needs and suggestions of the public on banking services. The Code of Banking Practice (the Code) issued by the Hong Kong Association of Banks (HKAB) provides that banks should provide assistance to customers with disabilities. In particular, banks are encouraged to install specialized machines or software and provide supporting facilities to enable relevant customers to access banking services. The Code requires banks to provide suitable training to front-line staff, and follow the relevant guidelines issued by the HKAB. For example, the design of ATMs should meet the requirements for facilitating access by people with disabilities. The HKMA understands that the banking industry has implemented a number of measures to facilitate access to banking services by people with disabilities. For instance, protruding symbols are displayed at card slots, cash dispensers and customer receipt slots of ATMs to facilitate their access by customers with visual impairment. Some ATMs also have voice notification for card insertion and cash dispensation. Besides, some banks also provide tactile guide paths to facilitate customers with visual impairment to locate the suitable ATMs.

Currently, among the 3 239 ATMs in Hong Kong, there are 1 913 ATMs using the JETCO network and 1 326 ATMs operated by the HSBC/Hang Seng Bank network, and the ATMs of these two network systems are widely distributed across the territory. Apart from bank branches and ATMs, the banking industry has also adopted measures to facilitate the accessibility of cash withdrawal by the public. For example, the public using ATM cards or credit cards with ATM functions of both ATM networks can use the "EPS EasyCash" service<sup>(2)</sup> to withdraw cash at over 2 500 retail outlets of merchants (including large supermarkets and convenience stores).

The Government and the HKMA will continue to urge the industry to formulate and implement more measures to facilitate accessibility of banking services by the public, and closely liaise with the industry and relevant parties to actively discuss and explore how banking services may be enhanced to accommodate the needs of the public.

(2) "EPS EasyCash" service: Customers can withdraw cash at over 2 500 retail outlets of merchants upon purchase with EPS. The cash withdrawal amount can be in multiples of HK\$100, at a maximum of HK\$500.

## Navigation Aids

22. **MR STEVEN HO** (in Chinese): *President, recently, some fishermen have relayed to me that a number of navigation aids (e.g. lighted buoys and beacons) assisting in the safe navigation of vessels are defective. For instance, in Sai Kung waters, no light signals are emitted from at least five beacons located respectively at Yeung Chau, outside Tsam Chuk Wan, Lo Fu Tiu Pai, Lo Chi Pai and Mong Chau Tsai at present. These fishermen have pointed out that the authorities' failure to expeditiously repair the damaged navigation aids will increase the risk of accidents when vessels navigate at night or in poor visibility conditions. In this connection, will the Government inform this Council:*

- (1) of the respective numbers of lighted buoys and beacons in Hong Kong waters in the past three years and, among such lighted buoys and beacons, the respective numbers of those which worked properly and those in need of repair (with a breakdown by waters area);*
- (2) of the current procedures and the time taken in general for repairing navigation aids; the respective numbers of lighted buoys and beacons waiting to be repaired at present, and when the repair of such navigation aids is anticipated to be completed;*
- (3) of the current staff establishment of the Aids to Navigation and Mooring Unit which is responsible for inspecting and repairing navigation aids; and*
- (4) whether it will review the current mechanism for inspecting and repairing navigation aids; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the five aids to navigation (AtoN) in the Sai Kung waters as mentioned by Mr Steven HO were established without light signals in the 1980s to mark the submerged rocks and shoals in the vicinity of the respective five locations. At that time, no light signals were installed on these five AtoN due to the marine traffic conditions at that area and technical constraints. Given the technological advancement in solar-powered light signals for the AtoN in recent years, the Marine Department (MD) has planned to install light signals at these five AtoN in 2016. Our replies to other questions raised by Mr Steven HO are in seriatim as follows:

(1) and (2)

The AtoN<sup>(1)</sup> in the Hong Kong waters can be classified into floating AtoN<sup>(2)</sup> and fixed AtoN<sup>(3)</sup>. Figures on the AtoN established in the waters inside and outside the Victoria Harbour in the past three years are as follows:

<i>Year</i>	<i>Outside Victoria Harbour</i>		<i>Inside Victoria Harbour</i>		<i>Total</i>
	<i>Fixed AtoN</i>	<i>Floating AtoN</i>	<i>Fixed AtoN</i>	<i>Floating AtoN</i>	
2012	323	90	99	27	539
2013	323	90	99	30	542
2014	323	93	99	31	546

As for the inspection and repair of the AtoN, current arrangements made by the Aids to Navigation and Mooring Unit (ANMU) of the MD are as follows:

- (i) all floating AtoN — annual replacement;
- (ii) major fixed AtoN (such as lighthouses and fairway marks<sup>(4)</sup>) — bimonthly inspection; and
- (iii) non-major fixed AtoN (such as non-fairway marks and pier head lights) — inspection once every three to four months.

After receiving reports of defective or damaged AtoN, the ANMU will arrange for their inspection. If repair cannot be completed immediately, temporary measures such as putting up temporary light signals will be taken. The Vessel Traffic Centre of the MD will also broadcast navigational safety notices to remind vessel operators of the relevant situation. According to the maintenance records of the MD, repairs of damaged AtoN were normally completed within

- (1) The AtoN generally refer to all marks established to facilitate navigation, position fixing and for indication of obstructions.
- (2) Floating AtoN refer to navigational marks installed on buoys.
- (3) Fixed AtoN refer to navigational marks installed on fixed structures (such as on top of shoals, submerged rocks or land).
- (4) Fairway marks refer to AtoN which mark fairway.

48 hours upon receipt of such reports. The number of damaged AtoN and the average time required for their repairs in the past three years and in the first five months in 2015 are set out in the following table:

<i>Year</i>	<i>Number of Damaged AtoN</i>	<i>Average Time for Repair</i>
2012	32	39.6 hrs
2013	21	34.9 hrs
2014	43	28.3 hrs
2015 (for the first five months)	11	26.7 hrs

As at 18 June 2015, no AtoN in the Hong Kong waters are pending repair. The MD has been maintaining its performance objectives of the availability and reliability/continuity of the AtoN in the Hong Kong waters at 99%.

- (3) The ANMU of the MD is responsible for the installation, maintenance and repair of the AtoN and mooring. There are a total of 29 staff members, including one Superintendent of Aids to Navigation, two Assistant Superintendents of Aids to Navigation and one Senior Assistant Shipping Master who are responsible for leading the ANMU to perform its work. Besides, there are two Assistant Electrical Inspectors, two Foremen, eight Senior Artisans and eight Artisans responsible for the repair and maintenance of electrical installation and light fittings of the AtoN. In addition, there are three Marine Inspectors I responsible for monitoring the maintenance of buoy structure (for example, to remove rust and oyster shells, to paint and to replace components, and so on) by contractors. There are also one Assistant Clerical Officer and one Clerical Assistant in the ANMU.
- (4) Information on the maintenance of the AtoN in the Hong Kong waters has already been set out in Part (2) of this reply. Based on the two performance objectives of the MD on the availability and reliability/continuity of the AtoN, the MD will examine the current arrangements for the inspection and repair of the AtoN from time to time to see if they are appropriate or in need of improvement with a view to maintaining normal operation of the AtoN.



**BILLS****First Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: First Reading.

**SECURITIES AND FUTURES (AMENDMENT) BILL 2015****INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2015**

**CLERK** (in Cantonese): Securities and Futures (Amendment) Bill 2015  
Inland Revenue (Amendment) (No. 3) Bill 2015.

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

**Second Reading of Bills**

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

**SECURITIES AND FUTURES (AMENDMENT) BILL 2015**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move the Second Reading of the Securities and Futures (Amendment) Bill 2015 (the Bill).

The main purpose of the Bill is to amend the Securities and Futures Ordinance (the Ordinance), so as to enable the Securities and Futures Commission (SFC) to provide supervisory assistance to regulators outside Hong Kong.

While the SFC may obtain information for its own supervisory purposes under the Ordinance, there are currently no provisions under the Ordinance that explicitly enable the SFC to exercise its supervisory powers to obtain information for the purposes of assisting regulators outside Hong Kong in non-enforcement related matters.

Global supervisory co-operation between international regulators is essential to maintaining global financial stability. This is particularly the case in Hong Kong, where many Hong Kong licensed corporations are part of international financial groups whose activities outside Hong Kong may have significant effect on Hong Kong licensed corporations and the overall financial stability of Hong Kong. Despite the fact that global enforcement co-operation fares well, remarkable efforts still need to be made to step up international regulatory co-operation, which has become the main focus of international regulators following the financial crisis.

For this reason, we propose to amend the Ordinance to enable the SFC to provide a narrow form of supervisory assistance to regulators outside Hong Kong upon request. This will allow the SFC to engage these regulators to enter into more reciprocal supervisory co-operation arrangements in order to enhance its monitoring of financial stability.

In formulating the legislative proposal, we are mindful of providing supervisory assistance in return for the assistance of other regulators while guarding against obtaining excessive information and disclosing or using information without adequate safeguards. In this connection, we propose that the SFC will only provide assistance under specified conditions, including the condition that the information requested to be obtained must be in relation to the regulated activities supervised by the SFC, and must be related to:

- a licensed corporation that is regulated by the SFC and the regulator outside Hong Kong; or
- a related corporation of a Hong Kong licensed corporation where the related corporation is regulated by the regulator outside Hong Kong.

In order to prevent frivolous requests and avoid abuses, the SFC will only provide assistance after the requesting regulator has made a written statement, which must confirm that the regulator:

- has not been and will not be able to obtain the information by any other reasonable means; and
- when the information has not been obtained, has failed to fully ascertain: (1) whether the relevant corporation constitutes a risk to

the financial stability of the jurisdiction of the regulator; or  
(2) whether the relevant corporation complies with the legal or regulatory requirements that the regulator administers.

Under the Bill, the existing safeguards relating to the provision of assistance to the regulator outside Hong Kong will still be applicable, which include the SFC being satisfied that providing assistance is in the public interest.

The Bill further introduces additional safeguards regarding the new powers, requiring further written undertakings from the regulator outside Hong Kong to the SFC to the effect that (1) it will use the information obtained from the SFC because of the request for assistance solely for the matters concerned and will not use the information in any proceedings; (2) it will treat the information as confidential and will not disclose it to any other person without the consent of the SFC.

The Bill does not alter existing positions regarding legal professional privilege, privilege against self-incrimination or personal data privacy.

At the same time, the Bill will refine certain provisions in the Ordinance, so as to reflect the change of circumstances since the Ordinance came into effect in 2003, and facilitate the administration of such provisions in a more clear-cut manner.

President, the SFC has consulted the public on the key legislative proposals, and most of the respondents agree to the relevant proposals. I hope that Members will support the Bill, so as to implement the proposals as early as possible. This will not only reinforce Hong Kong's role as an international financial centre, but also help maintain Hong Kong's financial stability and bring about a positive impact on the further development of Hong Kong's financial services industry.

President, I so submit.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Securities and Futures (Amendment) Bill 2015 be read the Second time.

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

### **INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2015**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I move the Second Reading of the Inland Revenue (Amendment) (No. 3) Bill 2015 (the Bill).

The Bill seeks to amend the Inland Revenue Ordinance to enhance the existing tax appeal mechanism and improve the efficiency and effectiveness of the Board of Review (Inland Revenue Ordinance) (the Board). The Board is a statutory body constituted under the Inland Revenue Ordinance to hear and determine tax appeals lodged by taxpayers. The proposals put forth in the Bill cover the following four areas.

First, allow an appeal against the decision of the Board on a question of law to go direct to the Court. Currently, such an appeal has to be lodged under the case stated procedure, which is not only time-consuming and costly, but also affects the capacity of the Board to hear other appeals. Therefore, the Bill proposes to allow an appeal against the decision of the Board on a question of law to go direct to the Court of First Instance (CFI) or the Court of Appeal by abolishing the present case stated procedure under the Board, so that a taxpayer or the Commissioner of Inland Revenue is allowed to apply to the CFI for leave to appeal. If the CFI grants leave to appeal, it will hear and determine the substantive issue of the appeal. In addition, the Bill keeps the existing "leapfrog arrangement" whereby an appeal can be brought to the Court of Appeal direct, except that the requirement for case stated will be replaced by that for leave to appeal. For clarity purpose, we have set out in the Bill the arrangements for the CFI and the Court of Appeal to determine applications for leave to appeal. We have consulted the Judiciary on this, and its comments and suggestions in relation to the court procedures have been incorporated in the Bill.

Second, empower the Board to issue directions and sanction non-compliance with such directions. Currently, from time to time, there are late submissions of documents and information for the Board's hearings, leading to the deferral or unnecessary lengthening of the hearings. For this reason, with reference to the approach commonly adopted by other statutory appeal boards, we propose to empower the person presiding at the hearing of an appeal to give

directions on the provision of documents and information for the hearing, and to refuse to admit any documents and information as evidence in the hearing of an appeal if they are not produced in compliance with the directions given. In order to safeguard a party's right to a fair hearing, the Bill also prescribes a mechanism for the party in default to apply to the presiding person for relief from sanction.

Third, provide relevant persons with due privileges and immunities in dealing with or taking part in the Board's hearings. Currently, unlike in the case of other statutory appeal boards, the Inland Revenue Ordinance does not provide for such an arrangement for the Board. In line with the arrangement of other statutory appeal boards, we propose to provide privileges and immunities to the Chairman, Deputy Chairmen and other members of the Board, as well as persons appearing before the Board, so as to better safeguard the operation of the Board and the rights of the parties to an appeal.

Fourth, strengthen the deterrent effect against frivolous appeals. At present, the Board has the power to order the appellant to pay costs. However, the current ceiling of costs has not been adjusted since 1993 and has lost its deterrent effect. For this reason, we propose to raise the ceiling of costs of the Board from \$5,000 to \$25,000. I must stress that we will only raise the ceiling of costs, while the maximum amount of costs will be reserved for cases of abuse of the appeal procedure. The hearing panel of the Board will continue to exercise careful discretion in ordering the payment of costs taking into account the merits of individual cases. Raising the costs ceiling will not discourage those appellants with genuine and reasonable grounds from lodging their appeals.

President, the various proposals in the Bill are conducive to enhancing the existing tax appeal mechanism. The proposals are supported by the Board and the Judiciary. I hope that Honourable Members will support the Bill, so that the proposals can be implemented as early as possible.

I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) (No. 3) Bill 2015 be read the Second time.

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

**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two proposed resolutions under the Interpretation and General Clauses Ordinance in relation to the extension of the period for amending subsidiary legislation.

First motion: To extend the period for amending the Foreign Lawyers Practice (Amendment) Rules 2015, the Solicitors' Practice (Amendment) Rules 2015 and the Limited Liability Partnerships (Top-up Insurance) Rules, which were laid on the Table of this Council on 3 June 2015.

I now call upon Mr Dennis KWOK to speak and move the motion.

**PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR DENNIS KWOK:** President, in my capacity as the Chairman of the Subcommittee on Foreign Lawyers Practice (Amendment) Rules 2015, Solicitors' Practice (Amendment) Rules 2015 and Limited Liability Partnerships (Top-up Insurance) Rules gazetted on 29 May 2015, I move the motion standing in my name on the agenda.

As the Subcommittee is still in the process of scrutinizing the subsidiary legislation, members agreed that I should move a motion to extend the scrutiny period of these pieces of subsidiary legislation to the first meeting of the next Session.

With these remarks, I urge Members to support the motion. Thank you, President.

**Mr Dennis KWOK moved the following motion:**

"RESOLVED that in relation to the —

- (a) Foreign Lawyers Practice (Amendment) Rules 2015, published in the Gazette as Legal Notice No. 101 of 2015;

- (b) Solicitors' Practice (Amendment) Rules 2015, published in the Gazette as Legal Notice No. 102 of 2015; and
- (c) Limited Liability Partnerships (Top-up Insurance) Rules, published in the Gazette as Legal Notice No. 103 of 2015,

and laid on the table of the Legislative Council on 3 June 2015, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the first sitting (within the meaning of section 34(6) of that Ordinance) of the next session of the Legislative Council."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion: To extend the period for amending three regulations relating to the control regime for the import of eggs, which were laid on the Table of this Council on 10 June 2015.

I now call upon Mr Andrew LEUNG to speak and move the motion.

**PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE  
INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR ANDREW LEUNG** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. At the House Committee meeting of 12 June 2015, Members decided to form a subcommittee to study the three pieces of subsidiary legislation as set out in the motion.

Members also agreed that I shall, in my capacity as Chairman of the House Committee, move a motion to extend the scrutiny period for the three pieces of subsidiary legislation to the first sitting of the next session of the Legislative Council, so as to allow sufficient time for the Subcommittee's scrutiny.

I urge Members to support the motion.

**Mr Andrew LEUNG moved the following motion:**

"RESOLVED that in relation to the —

- (a) Import and Export (General) (Amendment) Regulation 2015, published in the Gazette as Legal Notice No. 105 of 2015;
- (b) Imported Game, Meat and Poultry (Amendment) Regulation 2015, published in the Gazette as Legal Notice No. 106 of 2015; and



- (c) Food Business (Amendment) Regulation 2015, published in the Gazette as Legal Notice No. 107 of 2015,

and laid on the table of the Legislative Council on 10 June 2015, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the first sitting (within the meaning of section 34(6) of that Ordinance) of the next session of the Legislative Council."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr Andrew LEUNG will move a motion under Rule 49E(2) of the Rules of Procedure to take note of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (Commencement) Notice 2015, which was included in Report No. 23/14-15 of the House Committee laid on the Table of this Council.

According to the relevant debating procedure, I will first call upon Mr Andrew LEUNG to speak and move the motion, and then call upon the chairman of the subcommittee formed to scrutinize the relevant item of subsidiary legislation, Mr CHUNG Kwok-pan, to speak, to be followed by other Members. Each Member (including the mover of the motion) may only speak once and may speak for up to 15 minutes. Finally, I will call upon the public officer to speak. The debate will come to a close after the public officer has spoken, and the motion will not be put to vote.

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

I now call upon Mr Andrew LEUNG to speak and move the motion.

### **MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE**

**MR ANDREW LEUNG** (in Cantonese): President, in my capacity as Chairman of the House Committee, I move the motion, as printed on the Agenda, under Rule 49E(2) of the Rules of Procedure, so that Members can debate on the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (Commencement) Notice 2015 included in Report No. 23/14-15 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments.

President, I so submit.

### **Mr Andrew LEUNG moved the following motion:**

"That this Council takes note of Report No. 23/14-15 of the House Committee laid on the Table of the Council on 17 June 2015 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(11)	Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (Commencement) Notice 2015 (L.N. 98/2015)."

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

**MR CHUNG KWOK-PAN** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (Commencement) Notice 2015, I now report on the results of the deliberations made by the Subcommittee. The Subcommittee has held one meeting with the Administration to study the relevant matters, and has completed its scrutiny work.

The purpose of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (Commencement) Notice 2015 (Commencement Notice) is to appoint 1 August 2015 as the day on which certain provisions of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 come into operation. The matters covered by such provisions mainly include: (1) allowing early withdrawal of accrued benefits of Mandatory Provident Fund (MPF) schemes on the ground of "terminal illness"; (2) clarifying terms pertaining to making early withdrawal of accrued benefits; (3) simplifying the process for withdrawal of benefits on the ground of "total incapacity"; and (4) reducing the compliance burden on trustees and employers by simplifying operational processes and communication.

The Subcommittee has no objection to the Commencement Notice. The Subcommittee hopes to promote the reduction of MPF fees by reducing the compliance burden on trustees and employers. Members also note that a scheme member who has made early withdrawal of MPF accrued benefits on the ground of terminal illness but has subsequently recovered and re-entered the MPF system upon taking up employment again will not be held legally liable. A scheme member will however be held legally liable for intentionally making a false statement in this regard.

Members are very much concerned about the publicity campaigns of the authorities on the relevant provisions and new arrangements, and they have made a number of suggestions. Members advise the Government and the Mandatory Provident Fund Schemes Authority (MPFA) to, in collaboration with the relevant parties, conduct extensive publicity campaigns through various channels, so as to ensure that the general public, especially MPF scheme members and employers, are fully aware of the new provisions and the relevant arrangements. As regards the new arrangements regarding early withdrawal of MPF accrued benefits on the ground of terminal illness, some members advise that one version of publicity leaflets should be tailor made for grass-roots people and presented in simple language with no legal terms, and efforts should be made to enable medical practitioners and medical social workers to familiarize themselves with such arrangements, so that they can proactively assist diagnosed scheme members.

The Administration and the MPFA have undertaken to launch targeted publicity and educational activities for the purpose of briefing Chinese and Western medicine practitioners, patient groups, social workers, insurance agents and MPF intermediaries on the new arrangements for early withdrawal of MPF accrued benefits, and at the request of the Subcommittee, to present printed publicity leaflets to members for their perusal.

The Subcommittee will not propose any amendment to the Commencement Notice.

President, the proposal on early withdrawal of MPF benefits is worthy of our support, because terminally ill patients need a lot of money in the final stages of life to pay medical bills and even to take care of their after-death arrangements. The purpose of MPF is to protect people's post-retirement life, but terminally ill patients probably have no chance to enjoy their post-retirement life, so early withdrawal of MPF benefits can absolutely help them make proper arrangements for their future. Though terminally ill patients are certified by medical practitioners that they may probably pass away within the next 12 months, given the advancement of medical technologies nowadays, they may receive new treatment and can thus fully recover within the next 12 months. As such, I hope that the relevant parties would not be too stringent on approving the applications of terminally ill patients or imposing restrictions on their applications.

As for promotion, I hope that the medical sector will hold more publicity activities, so as to inform or remind terminally ill patients that they can, upon learning their conditions, apply for early withdrawal of MPF accrued benefits.

A case in point is that healthcare personnel will take the initiative to ask patients who have just consulted the doctor whether they have taken out any medical insurance and, if so, provide them with application forms. For terminally ill patients who are not familiar with the provisions of the law, such act will assist them in getting their MPF benefits at an earlier date.

President, I so submit.

**MS CYD HO** (in Cantonese): I am the member whom Mr CHUNG Kwok-pan mentioned when he read out the report in his capacity as Chairman of the Subcommittee. This subsidiary legislation, which only seeks to announce the commencement date of the provisions allowing early withdrawal of Mandatory Provident Fund (MPF) accrued benefits, is not controversial at all because the relevant provisions have been passed under another piece of legislation some time ago. The subsidiary legislation under discussion only relates to the commencement date.

I nonetheless insisted that a subcommittee should be formed for deliberation so that we can enquire the Government at the subcommittee meeting how it would promote the new arrangement to wage earners. As I am aware, the Government would only publish leaflets, which is a very bad approach. I am worried that the Government will use some difficult legal terms to explain English style Chinese, which are beyond the understanding of grass-roots wage earners. The term "mentally incapacitated person", for example, is not only incomprehensible to blue-collar workers or wage earners of low education level, but is also beyond the comprehension of Hong Kong people at large when they first heard about it. A similar term "total incapacity", meaning losing the ability to work, is also found in this subsidiary legislation. Yet, all these terms can actually be expressed in layman terms. We have therefore proposed at the Subcommittee meeting that the Government should not only inform wage earners with higher education standard of their rights, but should also inform the massive grass-roots workers by issuing leaflets with pictorial rather than textual messages.

As this notice is concerned with the commencement date of a new initiative affecting Hong Kong's large working population, it is most appropriate for the Government to broadcast Announcements in the Public Interest (API) on television. However, in the past few months, we have instead seen on television APIs on "2017 Make it happen", "Your vote. Gotta have it!" or "Pocket it first!" The Government has used all the air time for APIs to broadcast a proposal that

has yet to become a policy; yet APIs on livelihood-related messages that affect the general public are rarely seen. Given that the constitutional reform was brought to a close and the Government has vowed to focus on people's livelihood, I therefore hope that the Government will broadcast information on the relevant provisions through APIs during prime television time, so as to get the message across the territory.

Apart from electronic or printed publicity materials, many stakeholders actually have contacts with MPF contributors. Assuming that a MPF contributor suffers from terminal illness, I hope that the Government will, through extensive and proactive publicity, inform him of the new arrangement through people who may have contact with patients suffering from terminal illnesses, such as Chinese and Western medicine practitioners, people working in the public healthcare sector, medical social workers of the Hospital Authority or practitioners of the insurance industry, and so on. When a patient has learnt that his life expectancy has been reduced to six or 12 months, he and his family would then be occupied by different matters and might forget that a sum of MPF accrued benefits is available for early withdrawal to enable him to live better in the final stage of his life. Therefore, publicity is of paramount importance.

President, last of all, I have to speak out for the injustice done to wage earners. It is too harsh to stipulate that a wage earner can only make early withdrawal of the MPF accrued benefits if he is certified by medical practitioners that his life expectancy has been reduced to only 12 months. Employers, on the other hand, are allowed to offset MPF contributions against severance payment. Worse still, an employer may withdraw MPF accrued benefits when his business closed down, even if the closure is due to poor management, and use the benefits to offset severance payment. Thus, in comparison, there is an absolute disparity of power. As amendments have been made by the Government to allow contributors to make early withdrawal of their MPF contributions to tide over the difficult time, we therefore request to put on record that the Government should maintain the objective of retirement protection and abolish the offsetting arrangement. This is because so long as the offsetting mechanism is still in place, the contributions made by wage earners year after year would not offer any retirement protection after several offsettings. Therefore, the Secretary must categorically revise the relevant legislation as early as possible.

Thank you, President.

**MR TANG KA-PIU** (in Cantonese): This has, of course, become a policy and The Hong Kong Federation of Trade Unions supports the amendments to the principal Ordinance. The Commencement Notice under discussion involves the preparatory work before the full implementation, including publicity, promotion, education or administrative support.

But what is the actual situation? In fact, apart from terminal illness that reduces life expectancy to 12 months, the legislation has provided for other medical grounds for early withdrawal of Mandatory Provident Fund (MPF) benefits, such as total incapacity. However, many workers or even trade unions told us that doctors of public hospitals are often reluctant to issue medical certificates, even if they are not required to predict the employees' life expectancy. As a result, employees are forced to patronize private doctors out of their own pocket to get medical reports, based on which employees will lobby Government doctors to issue medical certificates for them. How can the relevant proposal be implemented in the future? I hope the Secretary will clearly explain the policy to healthcare facilities, including the Hospital Authority (HA) and its social workers, and conduct comprehensive briefing and communication on the judgment regarding a person's life expectancy being reduced to 12 months and "total incapacity", so that doctors can make judgment at ease.

As for the second issue, it is hoped that the Government would, during the promotion and briefing process, clearly state that doctors are not criminally liable for their judgments. I also hope the authorities would, when launching publicity and education activities, clearly explain that if a wage earner survives beyond 12 months and has a life expectancy of 13 months because of self-determination and medication, or even recovers and resumes work with a brand new MPF account, the doctor and the wage earner would not be held criminally liable. If a wage earner really suffers from terminal illness, his prime concern is certainly the early withdrawal of MPF benefits, so that the money will not become estate and one has to go through complicated procedures for claiming the estate. His next consideration is that he may spend \$200,000 to \$300,000 of his MPF benefits to pay for the exorbitant expenses of medical equipment or drugs, regardless of whether he can recover. However, his family members may wonder whether the patient will be held criminally liable if he withdraws his MPF benefits under oath for drug payment and eventually recovers. I therefore eagerly hope that the authorities would elucidate this point.

The Subcommittee has nonetheless come to a view that no criminal liability should be held, but I still hope that the Government will clearly explain this point to healthcare facilities, the HA and trade unions in its publicity and public education programmes. I think this is the reason for wage earners to make early withdrawal of their MPF benefits, though certainly a very unfortunate one.

Last of all, in this Commencement Notice, apart from specifying this ground for early withdrawal of MPF benefits, which is the focal point, a basket of amendments are also proposed to reduce the administrative fees of the MPF System. I wish to reiterate that by the end of 2015 and before 2016, the administrative cost of the MPF System is projected to exceed \$10 billion. No matter how the Government is going to address the trivial issues, this is the thorniest problem. Although the scope of today's discussion is very narrow, confining to the commencement date, I do hope that the Secretary will, in response to the increasing MPF administrative fee — I mean the actual figure — tell us the solution, strategy and timetable to resolve the problem.

Here, I would like to reiterate that this welfare measure has put wage earners in a dilemma as they are not convinced that the MPF System is conducive to their retirement. I hope Secretary Prof K C CHAN can change such thinking and, *inter alia*, seek to abolish the MPF offsetting arrangement.

I so submit.

**MR IP KWOK-HIM** (in Cantonese): President, first of all, I would like to declare interest. I am the non-executive director of the Management Board of the Mandatory Provident Fund Schemes Authority (MPFA). The Democratic Alliance for the Betterment and Progress of Hong Kong supports the Commencement Notice to state that the relevant provisions will come into operation on 1 August this year.

On 21 January this year, the Mandatory Provident Fund Schemes (Amendment) Ordinance (the Ordinance) was smoothly passed in the Legislative Council. This is an important amendment since the launching of the MPF System nearly 15 years ago, which allows employees to withdraw their MPF benefits by instalments upon retirement, or the early withdrawal of their benefits if they suffer from a terminal illness that reduces their remaining life expectancy to less than 12 months. After the amendment, scheme members can have



greater flexibility in withdrawing their accrued benefits. The proposal as contained in the Ordinance, which allows the early withdrawal of MPF accrued benefits by employees suffering from a terminal illness that reduces their remaining life expectancy to less than 12 month, is the outcome of consultation with members of the public and healthcare professionals, whereby clear and objective definitions have been provided to enhance operational efficiency.

Since the implementation of the MPF System, the high fees and complexity of choice have all along been criticized by wage-earning scheme members. Since the Government and the MPFA are duty-bound to constantly review and improve the operation of the MPF System, the MPFA has, upon the implementation of the partial portability of MPF accrued benefits, urged the trustees to consolidate MPF schemes and funds that were smaller in scale or less cost-efficient. There are currently over 400 funds available in the market, but more than 90 had already ceased operation. The MPFA hopes that the number can be further reduced.

Furthermore, the MPFA encourages scheme members holding multiple accounts to consolidate their personal accounts to achieve better economies of scale, thereby reducing the fees. Also, the MPFA is expected to introduce a core fund as the default fund of all MPF schemes in 2016, so as to ensure that scheme members can choose to invest in a fund which is subject to fee control and meets the strategic requirement for long-term retirement investment; healthy competition among other funds can also be fostered, thereby lowering the fees. The MPFA is liaising with the industry on the relevant details.

With these remarks, I support the motion to endorse the relevant Notice. Thank you, President.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, as a number of colleagues have just said, the principal ordinance and major policy concerned have already been discussed earlier and thus do not fall within the scope of today's discussion.

The present subsidiary legislation is mainly concerned with the commencement date and our concern can be divided into two parts. Firstly, can workers be genuinely benefited after the enactment of the legislation, and secondly, how can workers get genuine benefit. These are our two major concerns.

On the first part, we will mainly discuss the publicity work of the Government. As stated by many colleagues, our gravest concern is how to get the message across to workers and their families. At the Subcommittee meeting, we have advised the relevant government officials to step up their efforts towards healthcare personnel, so that they can have more direct contacts with workers who are sick and tell them that they can apply immediately. As advised by government officials, the training and education of healthcare personnel would be enhanced. We do hope that the Government can genuinely make such efforts, so that the policy will not exist in name only and cannot help workers. This is the last thing that we would wish to see.

Furthermore, as a Member has mentioned earlier, we are gravely worried that doctors are unwilling to certify that the life expectancy of a worker has been reduced to one year. This is the greatest and most dubious issue. As pointed out by a Member just now, as evident from previous work injury cases, doctors are often reluctant to issue medical certificates. Even if the patients have become incapacitated, doctors are still reluctant to issue medical certificates, and we have no right to force doctors to do so. In many cases, workers are not hopeful about their recovery from serious illness and request for doctor's certification. If the doctor thinks otherwise, there is no appeal mechanism because the Government holds that only doctors, as professionals, are capable of making the judgment. Unlike other cases where appeal is allowed, there is no appeal mechanism to handle such cases. So, what can be done in this circumstance? This is the issue that we are gravely worried and as a Member has just said, we hope that doctors can be less rigid in this regard.

For workers suffering from cancer, disregarding the stage, early treatment is of paramount importance. We hope the patient can recover but not die. Although this policy provides that only patients who are expected to die within one year can make early withdrawal of their MPF benefits, this is absolutely not the attitude that we should have, nor is this our objective. We wish to see the recovery of patients. If a patient suffers from cancer, which is the most undesirable illness according to our understanding, he should be given every opportunity to receive treatment and this is why the policy should be lenient but not stringent. If he really dies a few months later, his MPF benefits would serve no other purpose except easing the burden of funeral expenses of his family.

In other countries, workers will receive pensions or a lump sum in their twilight years for early treatment of illnesses to reduce their sufferings or lengthen their life expectancy. This is our wish and objective. I hope that the

Government can make more efforts to clearly explain the policy objective to the healthcare personnel, so that they can adopt a more lenient attitude towards workers and enable them to make early withdrawal of the money when necessary. This is our wish.

On the other hand, we also hope that the Government would, when launching publicity and education programmes, tell workers that they should not, for fear of disclosing their personal problems to their families, refrain from applying for early withdrawal of their MPF benefits, thereby the opportunity will be wasted. Extensive promotion by the Government is desirable. Workers are entitled to have their MPF benefits, and the money can be used for treatment to some extent, or else they will not have the chance to use it. I hope the Government will carry out publicity and education from a more positive perspective, so as to avoid conveying the message that workers who apply for early withdrawal of the money is tantamount to telling others that they are dying, thereby creating undesirable labelling effect. Although it is likely that workers who apply for early withdrawal of the money may pass away within one year, we still wish to convey a message that they may recover, otherwise workers may be pessimistic, thinking that the early withdrawal of the money implies their death in a year. How can they face their families? After all, this is not something pleasant. I hope the Government will pay more attention to this and proactively address this issue.

We do not agree with this arrangement in principle because workers can only withdraw the money after they suffer from terminal illness. Workers and their families would be desperate, as the money will more likely be spent on the funeral instead of on treatment. We therefore opine that the policy itself is deficient, and the correct approach is to allow workers to make early withdrawal of the money for medical treatment after they are diagnosed of suffering from serious illness, or else the early withdrawal of money would only make them feel more pessimistic and desperate, knowing that they would die soon. If making early withdrawal of the money implies that the person is dying, what is so good about it?

This is not a positive message and we hope to convey positive rather than negative messages to society. I do not know if this is an unprecedented or rare practice. By allowing workers to make early withdrawal of his MPF benefits, it is tantamount to telling others that the workers concerned are dying. I just cannot see any good in that. Apart from alleviating the financial burden of the

patients' families in making after-death arrangements, I fail to see any positive effect at all. Thus, I hope that the Government will expeditiously review this policy and allow workers who are ill to make early withdrawal when such a need arises. Early treatment is precisely the positive message that we must get across, and negative message should be avoided.

Furthermore, we think there are still many areas of the MPF System that improvement can be made, including the offsetting arrangement. And, apart from medical grounds, can education or home purchase be considered as the ground for early withdrawal? All these warrant consideration and I hope that a review will be expeditiously conducted shortly after this policy is implemented.

President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to speak.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I would like to first thank Mr CHUNG Kwok-pan, Chairman of the Subcommittee on Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (Commencement) Notice 2015 (Commencement Notice) and its various members for their scrutiny work.

The Legislative Council passed the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (the Amendment Ordinance) on 21 January this year. The Amendment Ordinance aims at improving the procedures to allow Mandatory Provident Fund (MPF) scheme members to withdraw accrued benefits more flexibly, and reducing trustees' compliance burden to provide greater scope for the reduction of MPF fees. Some provisions of the Amendment Ordinance were already brought into operation on 30 January this year when it was gazetted.

The Commencement Notice appoints 1 August 2015 as the commencement date, so as to bring into operation 28 provisions of the Amendment Ordinance, including setting "terminal illness" as a reason for application by scheme members for early withdrawal of accrued benefits, and removing overlapping or unnecessary compliance documents such as the Notice of Acceptance and Membership Certificate. The subcommittee expressed its support for the Commencement Notice.

I know that members were primarily concerned about the preparatory and publicity work prior to the implementation of the provisions concerned. Apart from liaising with trustees for preparing the relevant guidelines and forms and updating computer systems, the Mandatory Provident Fund Schemes Authority (MPFA) has also got in touch with Chinese and western medicine groups, and invited members of various District Councils to co-organize district activities. It will hold MPF seminars for small and medium-sized enterprises to brief them on the new arrangements under the Amendment Ordinance. In addition, in July this year, the MPFA will launch targeted publicity and educational activities, including providing the relevant information on its website, issuing press releases, contributing articles to various newspapers and magazines, and distributing publicity leaflets to Chinese and western medicine practitioners, patient groups, as well as people offering assistance to terminally ill patients such as social workers, MPF intermediaries and insurance agents.

We understand that simple and straightforward publicity leaflets will assist scheme members to better understand the arrangements for obtaining accrued benefits in the future. To this end, the MPFA is printing two versions of leaflets to be distributed to medical professionals and scheme members respectively. At the request of the Subcommittee, the MPFA will submit printed publicity leaflets to the Subcommittee for reference.

President, I so submit.

**PRESIDENT** (in Cantonese): End of debate. In accordance with Rule 49E(9) of the Rules of Procedure, I will not put any question on the motion.

**PRESIDENT** (in Cantonese): Debates on motions with no legislative effect. The first motion debate: the motion debate on "Report on the Visit of the Delegation of the Legislative Council to Finland, Norway and Denmark".

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

I now call upon Ms Emily LAU to speak and move the motion.

## **REPORT ON THE VISIT OF THE DELEGATION OF THE LEGISLATIVE COUNCIL TO FINLAND, NORWAY AND DENMARK**

**MS EMILY LAU** (in Cantonese): President, I am sorry, (*Ms LAU has a hoarse voice*) I will try my best, if you cannot hear me clearly; I would ask the Deputy Chairman to take over.

President, in my capacity as Chairman of the Parliamentary Liaison Subcommittee (the Subcommittee) — the Secretary must be delighted to find that Ms Emily LAU has lost her voice, right? — I move that the motion, as printed on the Agenda, be passed.

President, last September, a delegation comprising 10 Legislative Council Members visited three countries in Northern Europe. Why did the Subcommittee recommend a visit to Northern European countries? While each of these countries has a smaller population than Hong Kong, they implement a unicameral system like Hong Kong, that is, they do not have an upper house and a lower house, and Members are elected by proportional representation. A number of political parties formed a government coalition. The Subcommittee believes that these examples provide useful reference for Legislative Council Members in Hong Kong. President, I am the Leader of the delegation and Mr CHUNG Kwok-pan is the Deputy Leader; other members include Ms Cyd HO, Mr IP Kwok-him, Mr Paul TSE, Mr Charles Peter MOK, Miss Alice MAK, Dr Helena WONG, Mr IP Kin-yuen and Mr James TO.

We are very grateful to the Eduskunta, the Storting, the Folketing, the Finnish Ministry for Foreign Affairs and the Consul-General of Finland in Hong Kong for their extensive work to facilitate a smooth visit. We are also grateful to the Secretariat, including the Research Office and other Secretariat staff for their assistance in arranging our meetings with various parties.

President, the major objective of the visit is to strengthen mutual understanding between Hong Kong and these three countries, and to inform them of the latest developments in Hong Kong. We also wanted to visit Sweden but

as Sweden was having a general election at that time, it was considered inappropriate to pay a visit. We also want to learn from the experience of these countries and find out what is worth learning. I believe many colleagues, government officials or members of the public have read this report, and some may question why a debate is held nine months after the visit. I would like to work more closely with the Secretariat in the future so that reports can be promptly completed after the delegations' return to Hong Kong, so as to share our experience with Honourable colleagues.

President, we are also very grateful to the Parliaments and Governments of the three countries. We met with the President, Vice-Speaker, Chairs of committees, Members of Parliaments, their parliamentary staff, government officials, academics and representatives of business associations. As I have said, we are very much concerned about the operation of the multi-party political systems in these countries. I believe some Honourable colleagues will speak on women's participation in politics later. In these countries, women make up almost half of the members of parliament and the number of women in parliaments is really amazing.

President, you may be interested to know that these countries also have the Presidium, comprising the President, Vice-Speakers and Chairs of important standing committees. The Presidium is responsible for planning and administering the business of the parliaments. For example, it may limit the duration of debates and allocate speaking time. President, I think you are very capable and I believe you can have better communication with various political parties. Some countries we visited in the past have similar practices but I think there are problems because some people — may not be the President — may never want to share powers and responsibilities with Members.

President, I would like to briefly discuss the situation in Norway. Norway has a population of 5.1 million; there are 169 Members and eight political parties in the Storting; the ruling coalition comprises three political parties, and women account for about 40% of the Members. Norway has a terrific Presidium led by the President. The President ranked second in Norway while the King of Norway ranked first. In comparison, regarding the HKSAR Precedence List published in June this year, the Chief Executive ranked first, the Chief Justice of the Court of Appeal ranked second, the former Chief Executives ranked third, the Chief Secretary for Administration ranked fourth, the Financial Secretary ranked

fifth, the Secretary for Justice ranked sixth while the President of the Legislative Council ranked seventh. This is detestable! How can the President representing the Legislative Council be ranked seventh? How can people from the executive authorities have higher precedence? Has things gone wrong? The Legislative Council has not been highly regarded. I really hope the authorities would conduct a review in order to reflect the co-operation between the executive authorities and the legislature. It is really ridiculous for the President of the Legislative Council to be ranked seventh!

President, as I said earlier, the Presidium may limit the duration of debates and allocate speaking time. After it has made a decision, it will tell various political parties if the debate time is one hour or one hour 30 minutes, and ask them to arrange for party members to speak. The political parties have reached a consensus and individual Members will not be making their own arguments. I think this approach is worth learning from.

The most important point is that all officials who wish to speak can only speak for less than one hour. Another very interesting point is that these parliaments will elect 37 representatives immediately after the general elections, including the representatives of various parties, and each Member can at least join one standing committee, unlike the practice in Hong Kong where 50 members are allowed to join a committee. These are the practices of mature parliaments such as the United Kingdom Parliament, how can the parties be allowed to join several committees? How can a meeting be attended by 60 Members? This is really a big joke!

President, I would like to talk about Finland. Dr Helena WONG also visited Finland and she knows that 42% of the Members are women although Sweden is the country in the world with the largest number of women in parliament. We did not have the opportunity to visit Sweden this time. In Finland, there are 200 Members and 10 political parties in the Eduskunta, and the Presidium comprising the President, two Vice-Speakers and Chairs of 16 standing committees discuss the administering of business of the parliament. This is a mature parliament that is worth learning from. We hope Hong Kong would learn from the practices of these countries. A very interesting point is that the Eduskunta has the Committee for the Future with many young members who advise the Eduskunta on the way forward. This is a very good practice.



Lastly, we visited Denmark. Denmark has a population of 5.6 million and it is a constitutional monarchy. President, just like the other two countries, Denmark implements a unicameral system, with 179 members elected by proportional representation. There are nine political parties and there is also the Presidium comprising the President and four Vice-Speakers. There are 26 standing committees, and each committee has 29 members. The political parties discuss and determine who will join the Presidium.

President, each committee has 29 members, 15 of which are from the ruling party and 14 from the opposition party. Members are free to join the committees. At present, 10 committees are chaired by opposition Members. Folketing Members told us that a certain party may be the ruling party today but it has to step down a few years later and another party will then become the ruling party. Therefore, no extreme approach will be taken and the current approach is acceptable to all. If a certain party impedes another party, it will be in trouble when another party becomes the ruling party.

Nevertheless, Hong Kong has gone into a blind alley. All of us sitting on this side and Members sitting on the other side will never become Members in power. President, as the representatives of the Legislative Council, how can we play our role of monitoring the Government on behalf of the public? I hope other Members, whether they had joined the visit or not, can present their views to the authorities. Over the years, we have proposed that the powers and responsibilities of Members should be shared but the authorities have regarded all of us as rubber stamps. President, the situation gets out of hand sometimes. We hope Hong Kong can learn something from the eight-day visit.

I so submit.

**Ms Emily LAU moved the following motion: (Translation)**

"That this Council notes the Report on the Visit of the Delegation of the Legislative Council to Finland, Norway and Denmark from 14 to 21 September 2014."

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the delegation of the Legislative Council visited Finland, Norway and Denmark last September, and prepared a report on the findings and observations of the visit. The report covers issues in different areas and I would like to listen to the speeches of other Members before responding.

Thank you, President.

**MR CHUNG KWOK-PAN** (in Cantonese): President, Ms Emily LAU who has just spoken is the Leader of the delegation to the three countries in Northern Europe and I am the Deputy Leader.

Ms Emily LAU mentioned earlier the parliamentary systems and structures of the three countries; as the only delegation member having a business background, I would like to talk about the economic development or industrial development of these three countries.

The first country we visited is Finland. In fact, we can learn from many things in Finland, especially in respect of innovation and technology industries. Two world-renowned organizations in Finland are very successful; one of them is Nokia, the mobile phone maker, and the other is the developer of the Angry Birds games. Of course, this has nothing to do with what made Members angry. Before these two organizations became successful, they received funding from the Tekes, the Finnish Funding Agency for Innovation, and the country provided loans or unconditional and non-repayable financial support.

The two organizations became self-reliant through successful business development and have become world famous large enterprises, with innovation and technology investment accounting for 3.6% of the Gross Domestic Product (GDP). However, the innovation and technology investment in Hong Kong only accounts for 0.7% of the GDP. For 17 years since the Innovation and Technology Commission established the Innovation and Technology Fund in 1997, investment of more than \$7 billion was made but no successful industry has been developed. As the SAR Government proposed to set up the Innovation and Technology Bureau, we should make changes and come up with new ideas. Although some small and median enterprises (SMEs) in Hong Kong have excellent concepts, they have to go through complicated procedures to get loans. In contrast, for enterprises in Finland, they need not repay the loans. So, I hope Hong Kong can learn from Finland.

The second country we visited is Norway. Norway is relatively wealthy among the few Northern European countries. It has the world's largest sovereign fund and \$7 trillion fiscal reserves, as contrasted to Hong Kong's \$3 trillion fiscal reserves placed with the Exchange Fund. With revenue from the North Sea oil fields and coupled with proactive investments, Finland has attained an average investment rate of 5.7% in the past three years. When compared with the 1.4% investment return rate of the Hong Kong Monetary Authority this year, Finland is really more proactive in making investments. Hong Kong had only attained an investment return rate of 2.7% over the past three years while Finland's aggressive investment strategies has bring in \$7 trillion fiscal reserves. Finland has 60% investment in shares, 35% investment in fixed interest securities and 5% investment in real estate, generating a very high overall return.

As we all know, Northern European countries provide a lot of social welfare. As Finland has \$7 trillion reserves, calculated on the basis of an average return of 5% per year, its annual return is more than \$300 billion, almost sufficient to meet the annual expenditure of the whole country. If Hong Kong's investment return is not only 1.4% but 3%, calculated on the basis of \$3 trillion fiscal reserves placed with the Exchange Fund, the annual return will be \$90 billion. In that case, the annual return can be used to meet our expenditures on healthcare, social welfare and so on. This practice is worth learning from.

The last country we visited is Denmark. Creative industries are the most notable in Denmark, and many SMEs are benefited. Denmark also provides low-interest loans, education, business training and even sales platforms. At present, many creative talents in Hong Kong are well capable, what they lack is a sales platform. In particular, the high rentals in Hong Kong deprive young people with abilities and creativity of development opportunities.

Lastly, I would like to talk about the political systems of these countries mentioned by Ms Emily LAU. Ms Emily LAU has just said that these countries have multi-party coalition governments. Since the SAR Government is an executive-led government without the votes of the public, there are operational difficulties. Under the multi-party systems, these countries respect the positions and views of every political party and grouping. When we asked if they would filibuster, they in turn asked us why they had to resort to filibustering when they could talk things over. At present, the dilemma of the SAR Government is that

we cannot talk things over. Thus, I hope the Secretary would hear my remarks. If we want a smooth implementation of government policies, we must respect one another and talk things over.

Thank you, President. I so submit.

**MR IP KIN-YUEN** (in Cantonese): We have two motion debates today. One of them relates to Northern Europe, and the other concerns "one country, two systems". I would like to try to link these two motion debates together. To begin with, I will now deliver the "first episode", which is about the issue of "one country, two systems" in Northern Europe.

During this visit, we saw a lot of things. For me, one big attraction is that in Northern Europe, there are two countries which have established a system of autonomy, namely Finland and Denmark. Before and after the visit, I did try to pay more attention to this aspect. Upon completion of the whole study visit, I stayed in Denmark for another two or three days, during which I mainly observed the relationship between the Danish Government and Greenland, and had some exchanges with the relevant departments, including Greenland's Representation in Copenhagen. Here, I wish to specifically refer to paragraph 6.15 of the report, which touches on the relationship between Finland and Aland. This speech of mine is mainly derived from that paragraph.

I will talk about two regions, one of which is Aland in Finland, and the other is Greenland in Denmark. In Finland, I had the opportunity to talk face to face alone with the Member of the Finnish Parliament elected from Aland. In Denmark, as I mentioned just now, with the assistance of the Danish Ministry of Foreign Affairs, I met with the Ministry's officials in charge of Arctic affairs and the person in charge of the Greenland Committee. I would like to express my gratitude to them, as well as our colleagues of the Legislative Council Secretariat.

In my view, the situations of these two regions are worthy of our reference when we discuss Hong Kong's "one country, two systems" and "high degree of autonomy". As time is limited, I have to speak faster. Aland is characterized by its small geographical area with a small population, accounting for only 0.5% of the total area and population of Finland. Given the close proximity of Aland to Sweden, all the 30 000 Alanders basically speak Swedish. As far as Alanders are concerned, they consider themselves more Swedish than Finnish. However,

history is full of accidents. In 1809, after being defeated, Sweden ceded Finland and Åland to Russia. Since then, Swedish-speaking Ålanders have been part of the Finnish population, and their destinies have been intertwined.

After the First World War, when Finland gained independence, Åland held a referendum to decide where it should belong. The vast majority of Ålanders opted for reunion with Sweden rather than remaining as part of Finland, but Finland disagreed and was only willing to grant Åland an autonomous status. The issue was referred to the League of Nations for settlement, and the outcome was that Åland could merely become an autonomous region of Finland. As one can well imagine, under such circumstances, the relationship between Åland and mainland Finland was very tense; Ålanders simply did not want Åland to be part of Finland. This is history.

On the constitutional front, Åland has its own basic law, that is, the Act on the Autonomy of Åland passed by the Finnish Parliament in 1920. The Act is equivalent in status to the Constitution, and the procedure for amending the former is the same as that for amending the latter. According to the latest amendment to the Act, Finland has sovereignty over Åland, but Åland has its own parliament and government, and can decide its internal affairs such as matters relating to education, healthcare, the economy and policing; whereas foreign affairs, most areas of civil and criminal law, the court system, customs and state taxation fall within the jurisdiction of the State, which deals with them centrally. From the sound of it, everyone will agree that such arrangements are very similar to the system in Hong Kong. Åland even has its own flag. Its official language is Swedish instead of Finnish, and it is a requirement that the Finnish President must affirm the laws adopted by the Parliament of Åland unless they affect Finland's national security. As we can see, there are many similarities between these arrangements and the situation in Hong Kong.

When talking with me, Åland's representative in the Finnish Parliament pointed out that there had been great tension between Åland and Finland all along. Åland had even taken legal action against the central government, and obtained favourable rulings from the Court. Nonetheless, during their 90 years of history, the relationship between the two sides has gradually improved. I think it is worthwhile for us to draw reference from this, and there are two points that also deserve our attention. First, they have a guarantee system. Åland has a seat in the Finnish Parliament, and more importantly, when the Finnish President decides whether the laws of Åland affect national security, he cannot

make the decision all by himself but has to take account of the opinion of the Aland Delegation, which consists of two groups of members. Half of the members of the Aland Delegation are appointed by the Finnish Government and the other half are elected by the Parliament of Aland; that is, both sides are engaged in the discussion. Under this guarantee system, the autonomy of Aland is certainly respected and guaranteed by the Finns.

In addition, they have experienced a lot together. Over the past 90 years in history, more and more Alanders have identified themselves with Finnish rule. This is because Finland has taken a positive attitude towards them in governance; the two sides stuck together through thick and thin during the Second World War; and certain practices of Finland have won the recognition of Alanders. So, their history was not all plain sailing. There were both conflicts and reconciliations between them.

As to the history of Greenland, I am unable to go into details here. I just wish to summarize the aspects of these two places that are worthy of reference in four points: first, history is a course of development, and so is autonomy; second, their objective condition is the interdependence of the two places; third, they have common experiences, and the residents' sense of identity has changed through exchanges; and fourth, the success of "one country, two systems" can only be ensured by the presence of communication and respect, mechanisms for resolving disputes and conflicts, and the participation of both sides in the systems.

**MS CYD HO** (in Cantonese): President, first of all, I would like to supplement a piece of information mentioned by Mr IP Kin-yuen in his speech. In fact, Aland has a population of only 28 000, which roughly accounts for a mere 0.5% of the 5.1 million population of the entire country. Despite their small number, the people of Aland have managed to get along with others in the rest of the country, where everyone respects the constitutional system. In my view, this is worthy of reference by Hong Kong and the Central Government in Beijing.

President, Northern Europe is renowned for its social democracy with left-wing leanings. Yet, as a matter of fact, in every country or place, left-wing and right-wing ideologies are bound to co-exist on the economic and cultural fronts; and in most countries, the relationship between the two ideologies is like a pendulum. In times of economic prosperity, the right-wing "small government, big market" policy may get more support, but in times of economic recession,

left-wingers can move further forward in advocating more social services and welfare benefits. Nonetheless, if welfare benefits are dished out excessively, right-wing political parties are likely to regain dominance.

In democratic countries, this pendulum operates non-stop, and the most important point is that whether this pendulum swings to the left or to the right, it is a free choice made by the people having regard to the prevailing social and economic conditions. This is different from the situation in Hong Kong. I do not understand why the Basic Law stipulates that capitalism must be retained. Most countries will not write specific "isms" into their constitutions, the provisions of which are mainly to protect private property rights, and to provide for certain legal protection in cases of acquisition of private property by the government. But then, Hong Kong is a twisted society; the drafting of the article on capitalism, as opposed to communism, in the Basic Law was perhaps based on the belief that as long as capitalism was written into it, we would be able to resist communism. Today, however, when there is a need for our society, economy and culture to swing from the previous "non-interventionism" and "small government" policies to left-wing social democracy, this article has turned out to be a major constraint that holds us back.

President, just now Ms Emily LAU spoke with great difficulty about the composition of the parliaments of several countries. I wish to provide some additional information here. The Finnish Parliament has 200 seats involving 10 political parties, each with one to 44 seats. The Norwegian Parliament has 169 seats involving eight political parties, each with one to 55 seats. The Danish Parliament has 179 seats involving 10 political parties, each with one to 47 seats. We can see that no single party has a majority of seats. The largest proportion of seats occupied by one single party is less than one third, that is, the 55 seats occupied by one party in the Norwegian Parliament, and this largest party is the Labour Party there — I am very glad about this. That said, even the Labour Party there failed to secure a majority of seats. So what did it do? It formed a coalition with green parties, that is, the Red-Green Coalition, or "when the red meets the green", so to speak. By the way, in the party emblem of our Labour Party in Hong Kong, there is actually a green leaf, which signifies that our policy on environmental protection is also very sound. The new left-wing ideology is about the pursuit of social democracy and the quest for climate justice. In terms of environmental protection, they consider that everyone is a victim and thus all of them have to take responsibility on an equal footing. How many seats does the Red-Green Coalition occupy in the Parliament? The answer is 87 seats, barely more than half of the 169 seats. Prior to the election, the two sides

formed this coalition because their policies were most similar. Eventually, this coalition won a majority of seats in the election and became the ruling party. However, things are different for the parliaments of the other two countries: the largest party in the Finnish Parliament only won 44 seats out of 200, whereas the largest party in the Danish Parliament only won 47 seats out of 179. What did they do? They entered into negotiations after the elections. Of course, it was impossible for the Labour Party to negotiate with the Conservative Party. The Labour Party could only negotiate with the Centre Party, the Socialist Left Party and the Green Party. After negotiations, parties with similar views could form a coalition. Someone may ask, "What if they fail to come to terms?" They had to come to terms even if they failed to do so at first. This is because during negotiations, they would make a lot of compromises and concessions, and they would promise that the policies proposed by small parties would surely be included in the legislative agenda within the upcoming parliamentary term. They would form a ruling coalition in these ways.

These are things that Hong Kong is unable to learn. Why are we unable to learn these things? It is because the executive authorities, though having the power to legislate, are not accountable despite the power they have. They only need the political parties in the Legislative Council to be their cheerleaders. Directly-elected Members of the Legislative Council are accountable to the public but they have no power. In other words, the power of the vote in the people's hands is very limited. This is vastly different from the multiparty system adopted in the aforesaid countries, where all the leftist, centrist and rightist parties must be accountable to the public, and so they must negotiate to form a ruling coalition and will definitely avoid a lose-lose situation even if they disagree with one another. What should Hong Kong do? As I mentioned a few times in the past, we should, first, take a step forward for democracy in the legislature. That is, we should ask the Government to make as much effort as it did in the past 20 months to launch a publicity campaign which is equally sensible, reasonable and lawful to persuade the public into accepting that all traditional functional constituency (FC) seats should be changed to District Council FC seats, so that they can be returned through indirect elections at the very least. It all depends on whether the Government is willing to take this step, which is outside the framework of the 31 August Decision but totally within the scope of local legislation, in promoting democracy. I also call on FC Members to relinquish their privilege, so that Hong Kong can go one step further in the development of democracy.



**DR HELENA WONG** (in Cantonese): President, I have the honour to take part in the parliamentary visit to Northern Europe. I would like to focus my speech on two points in particular, namely, women's participation in politics and family friendly policies in Northern Europe.

Northern Europe is famous for attaching great importance to gender equality and equal rights of the genders and encouraging women to take up decision-making roles in politics. Women's participation rates in politics in the three countries we visited are remarkable and they top international rankings. In terms of parliamentary seats, the percentage of parliamentary seats taken up by women is 42.5% in Finland, 39.6% in Norway and 38% in Denmark. President, are you aware that among the 70 Members of the Legislative Council of Hong Kong, only 11 are women and the percentage of seats taken up by women barely exceeds 15%? That is really a disgrace. On the other hand, why are the percentages in Northern Europe as high as 30% to 40%? Hong Kong has progressed from having no directly elected seats in the Legislative Council to having some directly elected seats, and the level of democracy in Hong Kong has been increasing despite at a turtle's pace, but why is it that women's participation rate in politics has never increased in Hong Kong? After the last constitutional reform, 10 more seats were added in the Legislative Council, but women's participation rate in politics has dropped instead. Among the 35 seats in the functional constituencies, only two have been taken up by women. Are functional constituencies unfavourable to women's participation in politics? I very much hope that functional constituencies can be abolished sooner.

What measures have these Nordic countries adopted to enable women to play an equally important political role as men? They have put in place two measures. First, they established a gender quota system as early as the 80s. For example, in Finland, a law was enacted in 1987 which provided that governmental consultative councils, committees and other decision-making bodies should try to achieve equal representation of the genders as far as possible. This law was amended in 1995 (that is, 20 years ago). Instead of trying to achieve the aim "as far as possible", the law clearly provides that representation should be "at least 40% of one sex". In other words, in consultative councils, important decision-making bodies and the legislature, the participation rate of each sex should be at least 40% and that applies to both men and women. People in Finland do not want their legislature or any committee to be dominated by either sex.

After the adoption of this practice in Finland, the ratio of women taking up decision-making positions has increased sharply from about 25% in the 80s to 48% (almost 50%) in 1996 after the law was amended. If you open any one door to a meeting room where people are discussing national affairs or other important policies of the city, you will surely find that about half of the members are men and the other half women. This is an excellent practice. Denmark and Norway have similarly adopted a gender quota system. In Denmark, the Socialist People's Party introduced a gender quota system in the early 70s. It is clearly provided that representatives from both genders can run for elections, and candidates on the election lists should at least be 40% of one sex, so as to avoid dominance by any one sex.

Apart from a gender quota system, these countries have adopted another measure. Members would know that the three Nordic countries have adopted the proportional representation system for parliamentary elections. In Hong Kong, a proportional representation system is also adopted for direct elections, but there is no affirmative action to encourage the participation of women. However, under the proportional representation system in Northern Europe, these countries very often follow a principle of alternation in listing the candidates, or what is called a "zipper system" in this report. In listing candidates, if a male candidate is listed as the first candidate, a female candidate has to be listed as the second candidate, followed by male and female candidates alternately. Similarly, if a female candidate is listed as the first candidate, a male candidate will be listed as the second candidate. This will ensure that the parliamentary seats will not be dominated by one sex. Such a mechanism will help to achieve gender equality in election results, enhance women's participation in parliament and avoid dominance of the parliament by one sex. Unfortunately, in Hong Kong, we have only focused our deliberations on direct or indirect elections and genuine or fake universal suffrage over the years, and have never discussed electoral systems and methods which would encourage women's participation. Although the Secretary for Constitutional and Mainland Affairs would not restart the "Five-step Process", I hope that he would conduct studies on mechanisms which would increase women's participation.

How can women's participation in politics help the development of a country? We have noted that women have apparently contributed in promoting family friendly policies. For example, provision of public childcare services and provision of extended period of maternity leave, paternity leave or parental leave

to be taken by either the father or the mother. As there are no restrictions for such leave to be taken in one go within a certain period before or after childbirth, flexible arrangements can be made and parents can take a long period of leave to look after the family. We have noted that women are highly sensitive to the different needs of both genders, the needs of women and those of the family. There are also a sufficient number of women representatives in parliament to strive for such needs. Therefore, President, it is worthy for us to draw reference from the experience of Northern Europe.

**MR CHARLES PETER MOK** (in Cantonese): President, I also joined the visit of the Legislative Council to the three Nordic countries last year. We visited places of interest which helped us understand the development of these countries in different areas, including innovation and technology, education, environmental protection, public finance management, and so on. In addition, we gained an understanding of the structures of their legislatures and the history of their democratic development.

The Legislative Council has repeatedly discussed the subject of innovation and technology this year. In communicating with people in this sector, I have received a very important message that the promotion of innovation and technology requires a clear blueprint, specific strategies and objectives. In this way, resources allocated for providing support will be well utilized to generate real results instead of putting up a show.

Some time ago, I came to know some young information technology practitioners owing to the constitutional reform. They have visions, passion and talents. In the never-ending debates on innovation and technology, I had constantly asked myself what kind of support, including policies, culture and ancillary facilities, should be provided to create more favourable conditions and a better environment for our young information technology practitioners of the next generation, so that once they come up with a fascinating idea, they do not have to go to the Silicon Valley or the Mainland to find investors to give full play to their talents. We should focus on exploring the way forward for the development of innovation and technology in Hong Kong. We should consider how to develop an environment, a culture and a policy which will facilitate innovation so as to nurture and retain information technology talents in Hong Kong and even to attract foreign investors, companies and talents to settle in Hong Kong.

During the visit to Northern Europe, we have noted that Finland is one of the most innovative countries in the world with top rankings in the World Economic Forum's Global Competitiveness Reports. Investment in research and development in Finland accounts for about 3.8% of its gross domestic product, which is one of the top three rankings in the world. Finland has utilized its advantages in research and development, a good education system, a pool of talents and special supportive measures for promoting innovation and technology. Its innovative capacity is so remarkable that it wins high regards worldwide. That is the result of the efforts of the Government in formulating strategies and providing support and of large enterprises in investing in the industries. These factors have made Finland another major technology hub apart from the Silicon Valley.

We visited Tekes, the Finnish Funding Agency for Innovation, and received briefing on the outcome of its work in supporting innovation and technology development in 2013. The support programmes run by Tekes have helped local and overseas start-ups to develop. One very important factor leading to its success is that these start-ups work closely and transfer knowledge with the tertiary institutions and research and development centres in exporting their innovative ideas to the industries to create value.

In 2013, Tekes invested €577 million in research and development. Its total annual funding is almost equivalent to the funding used by the Innovation and Technology Fund in Hong Kong for 10 to 20 years, that is, about HK\$5 billion. Although the Hong Kong Government injected funding last year, the amount applied was almost the same as that 10 years ago. After reading the information, I learnt that among the €500 million invested by Tekes, one-fifth was used for supporting young start-up enterprises in the form of equity investment and subsidies. The Finnish Government not only regards innovation as a driving force of economic development, but also attaches importance to helping small and medium enterprises to develop and become successful, raising the productivity of society and allowing universities and research and development institutions to lead the industry in innovation activities.

In fact, many organizations in Hong Kong are involved in innovation and technology and they have obtained a considerable amount of funding. We have the Innovation and Technology Fund, the Cyberport and the Hong Kong Science Park. At present, an increasing number of business organizations, universities and programmes run by community organizations have participated in promoting

innovation and technology, but how much money will be injected into technology development and how many people will commit themselves in the industry? Has the Government assessed the effectiveness in this respect?

Furthermore, Tekes and Finnvera (an organization owned by the State of Finland which performs a role similar to a venture capital fund provider) jointly run a project called Vigo. Since 2009, they have established 10 accelerator funds, nine of which are technology-related, to provide more coaches and funding to help enterprises in the first two years to develop from the conceptual stage to obtain first-round capital from international investors.

In fact, Invest Hong Kong and the Innovation and Technology Commission of the Hong Kong Government have also put in place similar policies, but no comprehensive strategy has been formulated. With the institutions doing their work separately, the advantages of Hong Kong cannot be enhanced. At present, government departments, universities and research and development organizations are doing different work on their own and the Government is only willing to undertake work which is safe and sound. Money has been spent, but since the Government does not want to take risks and has only been using old methods and following the same old routine, no significant results have been achieved.

I raise this observation because the SAR Government has been strenuously promoting the proposal of establishing the Innovation and Technology Bureau, (which I support), but so far, it has only appointed the Advisor to the Chief Executive on Innovation and Technology and allowed a group of people to join the Steering Committee on Innovation and Technology and I have not noticed any results yet. I tried to find a chapter on "innovation and technology" in the Chief Executive's Report on the Work of the Current-term Government published recently but there is none. In promoting economic development and innovation and technology development in Hong Kong in the future, if the Government lacks a comprehensive strategy, it will have to lower its head and feel its way across the river by touching the stones in the river bed.

President, as far as systems of democracy are concerned, these Nordic countries have adopted unicameral legislatures and coalition governments formed by parliamentary alliances. The parliaments of these countries can have wider visions and would not focus merely on the work of one term of government or the

work of the legislature for one term or one session. Different political parties can set aside political disputes in everyday life and co-operate with one another for the future development of their country.

Therefore, we have noted that the Centre Party won in the election of the Finnish Parliament, Eduskunta, in May. It is hard to imagine that this kind of democratic political system which attaches importance to negotiation will ever emerge in Hong Kong. If such a system existed in Hong Kong, Mr Ronny TONG did not have to resign and the centrist camp would have a bright future. But eventually, we must have a fair and just political system, a system of genuine universal suffrage, a willingness to share powers and responsibilities and tolerance of the views of the minority instead of trying to force these people to compromise and marginalize them. We must learn from the political systems and mindset of mature democracies if we want our social and economic development to sustain. Thank you, President.

**MISS ALICE MAK** (in Cantonese): President, first of all, I would like to thank Ms Emily LAU and Mr CHUNG Kwok-pan who are respectively the Leader and Deputy Leader of the delegation, and I would also like to thank staff of the Legislative Council Secretariat for it is not easy at all to organize such visits, and a lot of work has to be done before and after the visit.

After our visit to the parliaments of the selected countries, we learnt more about their systems and I was particularly impressed by the participation of women in politics in these countries. In the three selected countries, more than one third of the representatives elected to the parliament were women. Women account for at least 40% of the members on the local municipal boards and other sub-national institutions in Finland. In addition, voluntary gender quotas introduced by the political parties of Denmark and Norway in 1970 achieve higher numbers of women in parliaments. Denmark even permits women accession to the throne, and women are given equal rights. The introduction of voluntary gender quotas undoubtedly encourages more women to become parliament members and ensures that women are elected to speak up for women. I really appreciate this policy because the proportion of men and women in parliament will be more balanced and more women will have the opportunity to participate in politics, have political discussions and formulate policies. The result of the pursuit of gender equality in these three countries is well evident by the number of women participating in politics.

In regard to gender equality, these three Nordic countries actively develop family friendly policies to alleviate the conflicts between motherhood and work life. They have measures such as long paid parental leave period and public child care. For example, Norway offers paid parental leave for one year and various benefits. The Government invests substantial resources in family friendly policies because these policies have positive effects on women's participation in the labour market. Women have become much more economically independent of men, they also have equal status in the labour market, the gender wage gap is reduced and the fertility rates increased. In my view, family friendly policies can benefit women and maintain women's competitiveness in the workplace, so that women do not need to choose between family and career, and they can be devoted to family and career. Furthermore, family friendly policies enable women to continue working after giving birth. This helps strengthen the labour force, reduces the loss of female professionals in various trades and sectors, and encourages working women to give birth. Women today are more independent than those in the past, this policy not only benefits working women but also various trades and sectors. This policy is worth learning.

I remember that, during the visit, I asked local Members about the difficulties encountered in promoting these benefits and family friendly policies, and they found my question really strange. They think we all understand that the ultimate goal of promoting family friendly policies is to maintain high fertility rates, reduce the problems arising from an ageing population and increase women workers. Therefore, they believe it is simply a matter of course for the countries to introduce such benefits and policies. In Hong Kong, we have encountered a lot of difficulties in implementing family friendly policies. I hope Honourable colleagues can broaden their horizons, and find out the benefits attained by countries from the implementation of these policies. I believe that the implementation of family friendly policies in Hong Kong would be beneficial to Hong Kong as a whole.

Besides visiting the parliaments, we also observed people's livelihood in these Nordic countries, and the development of creative industries in these countries are also worthy of our attention. Just now, many Honourable colleagues talked about how these countries supported innovation and technology and industrial development; I will not repeat what they said. In a supermarket in Finland, I saw a machine that looked like a washing machine. Honourable colleagues, please look at this picture in my hand, a woman holding a plastic bag

containing a number of plastic bottles and cans came to the supermarket. She put these plastic bottles and cans into the hole in the middle of the machine, and the machine would scan the bar codes, measure the size of those empty size bottles or cans, and then issue a receipt, setting out the values of the recovered empty bottles or cans. This lady received more than €4, that is, about HK\$40, for the recovery of a bag of empty bottles. When she paid for her purchase at the supermarket, she could present the receipt and the relevant amount would be deducted from her bill.

This plastic bottle recovery machine is managed by a dedicated body comprising representatives of beverage producers and retailers. We noticed that the Government of Helsinki Finland has been actively promoting environmental protection policy for many years. In addition to instilling environmental protection knowledge in the general public, it also formulates the relevant environmental protection policies and legislation. Most important of all, it will provide financial incentives or strengthen supervision to enhance local environmental protection. As we can see, with such a convenient machine, people readily collect and classify waste, and this machine is also conducive to the implementation of waste reduction at source. But in Hong Kong, even if we have collected waste, we do not know where we can dispose them for recovery. The machine I have just described is convenient for public use and it also provides financial incentives. I hope that when the SAR Government implements environmental protection policies — we have talked about waste reduction at source for many years but it seems that there is little effect — it can do so from the perspective of users and consider how it can make things more convenient for the public, so that they would accept the relevant concepts. They will be willing to co-operate if they find that the practical implementation is convenient and easy.

To sum up, I think we can learn from these Nordic countries in respect of women's participation in politics, family friendly policies, environmental protection and people's livelihood, support for the creative industries, and so on. Thank you, President.

**DR KENNETH CHAN** (in Cantonese): The Legislative Council delegation visited three Nordic countries this time, namely Finland, Norway and Denmark. President, I teach European studies and some related subjects at the university. Although I did not join the delegation, I have read the report carefully. I am not



going to repeat the observations of the delegation or the points described in depth in the report. I just want to provide some additional information, hoping to draw on collective wisdom.

In the past two to three decades, several issues concerning Europe or Nordic countries are worth pondering. The first issue is the challenge of globalization. Many countries, especially European countries — there are 28 member states of the European Union — are very often worried about the challenge of globalization. With the free flow of capital around the world, if the labour welfare of some countries is too favourable and social security too generous, capital will naturally flow to places with less favourable labour welfare and social security. The loss of capital would be a disaster, exerting pressure on a country's taxation and working population. However, these Nordic countries have maintained excellent social security systems and labour welfare policies, though some so-called left-wing or right-wing political parties may express concerns from time to time during election. Basically, all these countries seem to be unaffected. In spite of the challenges of globalization, these Nordic countries still adhere to the people-oriented spirit; in other words, they will not exploit their citizens and wage earners because of the challenges of globalization. Moreover, they will not deprive their citizens and wage earners of the existing protection for the sake of complying with the survival of the fittest rule. Moreover, they will not advocate a race to the bottom, trying to be inferior in terms of labour welfare, in an attempt to attract foreign capital. These countries convey a message to the world that their labour, in terms of quality, education, training, standard and performance is the best in the world, and the country will keep on putting in resources for support. This has become the edges of these countries, which easily attracts foreign investors who appreciate the education standard of the nationals or the welfare systems, and who are willing to continue to invest in these countries.

Some Honourable colleagues have also mentioned the development of innovation and technology or creative industries in these countries, which has precisely reflected their vision, as well as their understanding that competing for lower prices does not work, they also need to compete in terms of quality and competence. In fact, this selling point has opened up a new road for these small Nordic countries. Hong Kong often emphasizes that it is a small and open economy; what can we learn from these countries?

Concerning this visit, I am particularly interested in the Committee for the Future in Finland. Finland is situated at the most northern part of Europe and some issues of its concern cannot be well understood by Hong Kong which is situated in the sub-tropical area. For example, people in Finland are very concerned about having a hole in the ozone layer. This is a global warming issue but they are particularly affected. Therefore, in respect of issues such as global warming, carbon emission, waste reduction and energy saving, Finland or Nordic countries often take the lead to promote discussions in the community and the world. They are not only concerned about the future but also about the way of life and living habits of today. So, they will explore how they can, in meeting their demands as well as the demands of people in other parts of the world, look forward to the future to attain sustainable development. I think the subjects discussed by the Committee for the Future in Finland are very forward-looking. If we also have the same perspective, what should we do to attain sustainable development? This issue should be considered by these Nordic countries like Finland as well as other countries in the world.

President, you also mentioned in a recent interview the situation in 2047 and beyond, should the next-term Legislative Council consider setting up a "2047 committee" to consider issues related to the future? Can we pool collective wisdom and make some forward-looking suggestions in 2015 — there are more than 30 years to go before 2047. Can the Legislative Council set up a "2047 committee", to consider the future and the situation of Hong Kong under "one country, two systems" 50 years later?

The report mentioned little about the relations between these countries and the European Union (EU). Apart from Norway we had visited, most European countries have joined the EU. Norway had seriously considered joining the European Community (EC) and the EU, but as this issue is highly controversial, Norway resorted to a direct democratic approach and conducted a referendum to determine whether the country should join the EC and the EU at a later stage. Evidently, a referendum is not a populist, irrational or crazy arrangement. If handled properly, it can be conducted with prudent thinking, enabling a place or country to find a way out and strike a balance. In fact, Norway has already found a way out. As it has not joined the EU, it does not need to make payments or pay taxes like other EU Member States, but it can enjoy the benefits brought about by economic and market adjustments and free flow of people resulted from the integration of European countries. With its national interests in mind, and

giving due consideration to people's mental well-being, it has brilliantly made use of the surrounding environment for the development of the country and its people.

I cited these examples for reference in our discussion of European issues. As the saying goes "stones from other hills may serve to polish the jade of this one". Hong Kong as a world-class city should draw reference from and give thought to these practices.

Thank you, President. I so submit.

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

(No Member indicated a wish to speak)

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I would like to speak in response to the section on the political system as stated in the report on the visit of the Legislative Council delegation to Finland, Norway and Denmark, as well on the views expressed by Members with regard to the participation in politics.

As stated in the section on Conclusions in Chapter 6 of the Report, the experience of the three countries in constitutional development, including the development of an electoral system and a unicameral system with a coalition government formed by parliamentary alliances can serve as reference for Hong Kong as it embarks on its own constitutional reform.

First, I would like to say that, as stated in the Report, the experience of the three countries may not be directly relevant or readily transferable to the Hong Kong Special Administrative Region (SAR) because of the different political background and situation.

The constitutional basis of the SAR's political system is the Constitution of the People's Republic of China (Constitution) and the Basic Law. The National People's Congress made the decision to set up the SAR in accordance with Article 31 and Article 62(13) of the Constitution and the Basic Law provides for

the system to be implemented in the SAR. The development of Hong Kong's political system involves the relations between the Central Authorities and the SAR, and it must be carried out within the framework of the Basic Law.

China is a unitary state and the SAR is a local administrative region under the unitary state. The SAR exercises powers authorized by the Central Authorities and the SAR does not have the so-called "residual powers". The Central Authorities have the constitutional powers and responsibilities to develop the political system of the SAR. Therefore, the power arrangements between the Finland Government and Aland as mentioned in the Report cannot be directly compared to "one country, two systems" as implemented in Hong Kong.

However, the spirit of mutual respect and peaceful co-existence observed during the visit, as mentioned by Members just now, should really be promoted in Hong Kong at this very moment.

About consensus politics, the delegation is of the view that "the consensual nature of the decision making process of the Nordic countries is a worthwhile model for Hong Kong to study. This is a consensual and compromising model". The delegation considers that "this kind of politics based on compromise is exactly what is lacking in Hong Kong in the relationship between the Executive Council and the Legislative Council".

In the debates on the Motion of Thanks in recent years, the Chief Secretary for Administration talked about the importance of the relationship between the executive authorities and the legislature. I would like to reiterate that the SAR Government recognized that the relationship between the executive authorities and the legislature is an important part of governance.

Political and public policy issues are often controversial. In all democratic societies, the governing team will make every effort to explain the Government's proposals to the legislature, actively striving for the support of Members. The legislature will reflect its position to the Government through rational debates and voting.

To improve the relationship between the executive authorities and the legislature, efforts of both sides are required. Of course, the executive authorities are willing to seriously consider how they can have more active and more open communications with Legislative Council Members. Nevertheless,

Legislative Council Members must also recognize the need to improve the relationship between the executive authorities and the legislature and give a positive response. Even though the executive authorities and the legislature have different functions and roles, we have a common goal of working hard for the well-being of the public.

Concerning the participation of women in politics, some Members mentioned the measures taken in Finland, Norway and Denmark to increase women's political participation. The SAR Government will ensure that all public elections are conducted in an open, fair and honest manner in accordance with the law. Article 26 of the Basic Law provides that permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law. The legal provisions on voter registration and the qualifications of candidates in elections do not contain any gender-related differences.

To show that the Government attaches importance to women's rights, the Chief Executive announced in his policy address this year a number of policies and measures relating to women. In particular, he has accepted the recommendations of the Women's Commission that, starting from 1 April this year, the appointment rate of women to government advisory and statutory bodies should be raised to 35%; and all bureaux and departments should be required to apply gender mainstreaming to formulating major government policies and initiatives.

President, as regards Members' views on other areas, including innovation and technology, environmental protection and recycling, as well as sustainable development, we will forward their views to the relevant Policy Bureaux for reference. I thank Members again for the views they presented to the Government.

I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): Ms Emily LAU, you may now reply and you still have three minutes five seconds.

**MS EMILY LAU** (in Cantonese): President, a number of Members visited these countries and a report was prepared afterwards. Members and the authorities are obviously not interested. We will debate the report on the visit to Germany at the next meeting.

When there are things that we can learn from other countries, how come the Secretary said that the relevant practices are not feasible within the framework of the Basic Law? President, which provision of the Basic Law states that a coalition government cannot be formed? Which provision specifies that we cannot have the relevant discussion? I think this is really bad! President, Members have are now as docile lambs, and they do not conduct debates or discussions. President, how can Hong Kong be called a world city?

We are delighted to pay a visit to these countries but nobody is interested in what we had learnt after we came back, and the Secretary has just said that those practices are not applicable. If so, the Democratic Alliance for the Betterment and Progress of Hong Kong or other Members should have pointed that we should not waste money to visit these countries. The German Government invited us to visit Germany and the Secretary may say that the practices of Germany are not applicable to us at next week's meeting. What should be done as we are now stuck in a dead end? All of us want to find a way out.

We should learn from the systems that have been implemented in other civilized places for many years, and we need not pay a price as they had once done so. Mr CHUNG Kwok-pan mentioned innovation and technology and I agree with him. President, I have asked the Governments of these countries whether the provision of funding would lead to collusion between the government and the business sector. What kind of systems have they adopted? We should make reference to and learn from the practices of other countries, but the Secretary said that there was not much to learn from. We have really wasted the efforts made by the Legislative Council and many people.

I think there are many things worth learning such as the Presidium. Powers and responsibilities should be shared by the President and other Members, and the President should not be the one who makes all the decisions. Though the President sometimes consults us, I think ... President, I will not be disappointed because I have no expectations. I just think that this approach is really bad. Members can say that the Report is not well written and there is

room for improvement but many Members are indifferent. Dr Kenneth CHAN has spoken but some Members who joined the delegation have not spoken. How can Hong Kong be developed? I think this is really detestable!

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Emily LAU be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion with no legislative effect. The motion debate on "Implementation and continuance of 'one country, two systems'".

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

I now call upon Mr Dennis KWOK to speak and move the motion.

## **IMPLEMENTATION AND CONTINUANCE OF "ONE COUNTRY, TWO SYSTEMS"**

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

President, the timing of political actions is of great significance. The outcome of Members walking out of the Chamber *en masse* last week attested the paramount importance of the timing of political events. Fortunately, owing to various reasons, the debate on my motion was postponed to a week after the vetoing of the constitutional reform package. I consider this the perfect timing for discussing such an important subject because after the voting on the constitutional reform package, many people of insight have begun to ponder upon the continuance of "one country, two systems".

The reason why I ponder upon this subject following the constitutional reform is, of course, not as some have suggested, that is, the passage of the package or otherwise is a litmus test of "one country, two systems". On the contrary, the fact that Hong Kong can choose not to accept the constitutional reform package or the decision made by the Standing Committee of the National People's Congress on 31 August rightly demonstrates that Hong Kong people have the right and freedom to say "no" under "one country, two systems".

My reflection on "one country, two systems" arising from the constitutional reform was attributed to the remarks made by the Central Authorities during the constitutional reform process and the White Paper on the Practice of the "One Country, Two Systems" Policy which candidly states the Central Authorities' interpretation of and their attitude towards "one country, two systems". However, are the Central Authorities' views on "one country, two systems" the same as those understood by most Hong Kong people? Do those views conform to the concept and original intent of "one country, two systems" proposed by Mr DENG Xiaoping? Hence, regardless of the endorsement or otherwise of the constitutional reform package, I wish to take this opportunity of a debate to arouse Hong Kong people's thinking on the way forward of "one country, two systems".

Since the Basic Law is the substantive law governing and manifesting "one country, two systems", we should start from the Basic Law to learn about the original intent and effect of "one country, two systems". Chapter I of the Basic Law (the General Principles) stipulates the fundamental principles of "one country, two systems". Articles 1 to 3 provide that after the reunification, one country, two systems shall be put in place in Hong Kong where "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" prevail. Articles 4 to 8 state that Hong Kong residents' rights and freedoms are safeguarded by law, and the previous capitalist system, way of life and the common law system in Hong Kong shall remain unchanged for 50 years. These provisions also reflect the



original intent of "one country, two systems", which is to prevent the socialist system practised in the Mainland from impacting Hong Kong after the return of its sovereignty to China, to safeguard the core values and various civil liberties and rights of Hong Kong people, and to protect Hong Kong's systems such as the common law system and judicial independence.

In this connection, Article 22(1) of the Basic Law also includes the provision that "No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law." The Basic Law has not been revised since its promulgation and Mr DENG Xiaoping's words have become an inalterable historic fact. However, is the policy of "one country, two systems" implemented today consistent with the principles stipulated in the Basic Law? Is it consistent with the original intent of the Basic Law and the principles advocated by Mr DENG Xiaoping with regard to the Basic Law and "one country, two systems"?

I believe that many Hong Kong people have seen the increasing interference in Hong Kong's internal affairs by the Central Authorities after the reunification. From the Chief Executive to the pro-establishment political parties and political figures, they are all taking proactive actions to fawn on the Central Authorities. As the indices of our freedom of speech and freedom of the press continue to drop, and political figures have voluntarily be held accountable to the Liaison Office of the Central People's Government in Hong Kong, we can well understand why the confidence of Hong Kong people has fallen from the peak right after the reunification to the bottom now. Hence, we have to look at the issue of timing again.

At a time when the implementation of "one country, two systems" continues to deviate from the proper course after the reunification and when Hong Kong people's confidence level continues to drop, is this the wrong time to propose a review of the implementation and continuance of "one country, two systems"? My answer is that this is the worst of times and it is also the best of times. This may be the worst of times to talk about supporting "one country, two systems". But as there are still 30-odd years before 2047, I consider this the best of times to put forward a solution. In order to implement "one country, two systems", we must seize this opportunity and the remaining time to make an attempt to get back on the right track.

President, over two years ago, former Chief Justice Andrew LI and Johannes CHAN, former Dean of the Faculty of Law, the University of Hong Kong, raised the question about the arrangement of "one country, two systems" after 2047. Of course, the legal sector is especially sensitive to this issue. I, as the representative of the legal sector, completely respect the rule of law and the legal system. Hence, if there is a fundamental problem concerning a system, I think we should not first think of destroying or replacing the system; instead we should think of protecting and improving it. If the system can still function, we must think of how to sustain and improve it. Hence, if there are problems with "one country, two systems" today, what we should do is to rectify the mistakes and protect the policy, rather than destroy it or even discard it.

Before and right after the reunification, Hong Kong people had rather high confidence in "one country, two systems" and the Basic Law, which proved that "one country, two systems" and the Basic Law, especially its provisions, do not have serious problem. The problem lies with the interpretation and implementation. How did the Central Authorities and Hong Kong people reach an agreement on the implementation of "one country, two systems" that was acceptable to all? More than 30 years ago, the Central Government widely invited various parties in the community, be they leftists, centrists or rightists, to engage in studying the implementation of "one country, two systems" in Hong Kong, and in drafting the Basic Law. They ultimately drew up a set of principles regarding "one country, two systems" and the Basic Law that won the trust of Hong Kong people and they were willing to accept the reunification.

I believe that in the post-constitutional reform era, there is a greater need to raise this approach again for the public to ponder over. We cannot turn "one country, two systems" into a state policy to be followed by both sides just because one side has greater power. Only when both sides have fostered a consensus can "one country, two systems" be implemented and achieve the best result. Most importantly, when we discuss the way forward for "one country, two systems", the Central Authorities should adopt the original intent of "one country, two systems", which was accepted by Hong Kong people, as a basis to foster consensus and a platform for constructive discussion on how to implement and continue the policy of "one country, two systems".

President, in the midst of disputes about the constitutional reform, many people had put forward many ideas about "one country, two systems" and the future development of Hong Kong. Having studied at length the various views

and suggestions, I, with my limited vision and wisdom, find that there is only one feasible way forward, and that is, to continue and safeguard the policy of "one country, two systems", as well as to restore its original intent. Even though this is not an easy track, it is the most feasible way forward for Hong Kong. Today, I propose this motion in the hope of inspiring the community's discussion on the implementation and continuance of "one country, two systems".

Thank you, President.

**Mr Dennis KWOK moved the following motion: (Translation)**

"That this Council requests the SAR Government to earnestly invite the Central Government to implement and continue the state policy of 'one country, two systems' in Hong Kong in accordance with the original intent of 'one country, two systems'."

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

Six Members will move amendments to this motion. The Council will now proceed to a joint debate on the motion and the six amendments.

I will call upon Members who move the amendments to speak in the following order: Mr IP Kin-yuen, Mr IP Kwok-him, Mr LEE Cheuk-yan, Mr Gary FAN, Mr Martin LIAO and Mr WONG Yuk-man; but they may not move the amendments at this stage.

**MR IP KIN-YUEN** (in Cantonese): President, people born on 1 July 1997 will have their 18th birthday a week later on 1 July 2015, which also marks the 18th anniversary of the return of Hong Kong to China. But unfortunately, at this juncture, this Council cannot pass a genuine system of popular election as a birthday gift for those young people turning 18 years old.

As I said in the last debate, as far as Aland in Finland and Greenland in Denmark among the Nordic countries are concerned, their highly autonomous systems which have been operating for over a century are worthy of our reference. I concluded my last speech with four points: first, an autonomous system develops in stages; second, an autonomous system is based on certain

objective conditions, such as the interdependence of two places; third, the national identity of the residents of an autonomous region is often built on certain common experiences or destinies; and fourth, the maintenance of autonomy relies on systemic mechanisms, as well as actual communication and respect, through which problems can be solved and conflicts can be settled.

Let us look at Hong Kong's "one country, two systems". "One country" is to address the issue of sovereignty, while "two systems" is about retaining the status quo for Hong Kong residents. Before the reunification, we used to call it "maintaining Hong Kong residents' previous way of life"; after the reunification, we have rephrased it as "maintaining the core values of Hong Kong". No matter how we call it, we have been yearning for "a high degree of autonomy", which requires a guarantee in our system.

Over the past 18 years, life has not been easy at all for Hong Kong people. A series of political and social incidents have aroused our grave concern as to whether Hong Kong, this city, will gradually lose its core values, and whether Hong Kong's lustre will gradually fade. Before the reunification, Hong Kong people were worried about the future of Hong Kong, and the actual role of "one country, two systems" and the Basic Law was like a stabilizer, ensuring that our way of life and basic human rights would remain unchanged for 50 years after the reunification. As the saying goes, "River water does not intrude into well water." What lies at the heart of "one country, two systems" is a clear line of demarcation between the two jurisdictions separated by a river. The two should respect each other's differences, and at the same time communicate and liaise with each other.

The success of "one country, two systems" hinges on whether we are able to implement the Basic Law and the spirit of "a high degree of autonomy" and "Hong Kong people ruling Hong Kong". The Basic Law states clearly the definition of "a high degree of autonomy", such as stipulating that we enjoy executive, legislative and independent judicial power, including that of final adjudication. Basically, all local affairs other than defence and foreign affairs should be regarded as falling within the scope of "Hong Kong people ruling Hong Kong" and handled by Hong Kong people on their own. There was a time when the Central Government and its Liaison Office in Hong Kong kept a very low profile in that they would not talk about Hong Kong affairs, let alone actually intervening in them. At that time, they trod very carefully to avoid touching this red line.

However, after some time, as we can see, this line of demarcation is gradually disappearing. The Central Authorities' intervention in Hong Kong affairs is increasingly obvious, and the SAR Government's strict compliance with the will of the Central Authorities has manifested itself in various matters. Just last week in this Council, there was an incident in which pro-establishment Members failed to cast their votes because they had to "wait for 'Uncle Fat'". After this incident, some of them went to the Liaison Office at once to apologize or explain, and some Members who had cast an affirmative vote were commended by the Liaison Office over the phone. The Liaison Office played the most important role in this process, but why was it so important? And why was that so undisguised? Is that compatible with the "one country, two systems" that we have been yearning for?

For "one country, two systems" to be successfully implemented, the Central Authorities and the SAR must work together and make a concerted effort, and the key to success is balance and respect. Originally, the Basic Law could bring about such balance and respect; for instance, the Basic Law states clearly that our previous way of life, rights and different kinds of freedom can be protected. Yet we have noticed that things have started to change over a period of time in the past. A case in point is what we have seen in the education sector. That is why I propose an amendment to this motion today.

Educational institutions' autonomy and academic freedom are, as we can see, increasingly under threat. Seeing that our human rights and freedom are on the wane, many members of the public naturally question whether "one country, two systems" has become invalid ahead of time. In recent years, many people have asked, "Is today's Hong Kong the one we used to know?" Hong Kong people are, indeed, gradually losing confidence in "one country, two systems".

In my amendment, I have added some contents relating to educational institutions' autonomy and academic freedom to express the concern of the education sector. In fact, these two elements are already expressly provided for in the Basic Law. Nonetheless, since 2000, given the occurrence of the Robert CHUNG incident, followed by a series of situations in which academic freedom was challenged and educational institutions' autonomy was interfered with in many different ways, we have been very worried. Take, for example, the recent state of affairs. Early this year, the University Grants Committee published the report on the Research Assessment Exercise 2014. While this report was a top-secret document, it was leaked on the eve of its publication with its contents

reported in advance by a pro-China newspaper, which used such contents to query whether Prof Johannes CHAN, former Dean of the Faculty of Law of the University of Hong Kong (HKU), had not been attending to his proper duties, and launched intensive attacks on him. This situation still continues. Yesterday, the HKU Council still could not make a decision on the appointment to the post of Vice-President and Pro-Vice-Chancellor, and it still kept stalling. We are indeed all the more worried by yesterday's voting. Regarding the leak of the report, the series of incidents which have taken place to date, and the use of the issue of Benny TAI's acceptance of donations as a basis for dealing with the appointment of Johannes CHAN, were there political considerations and operations behind all these?

But, hardly has one wave subsided when another rises. It is learnt that SHIU Ka-chun, a lecturer of the Department of Social Work of Hong Kong Baptist University (HKBU) who had participated in Occupy Central with Love and Peace, was recently elected Associate Director of HKBU's Centre for Youth Research and Practice. Yet, being subsequently alleged by his superior that he was too high-profile which would cause damage to the Centre's neutrality or even lead people to think that the Centre was affiliated with certain political parties, SHIU Ka-chun was asked to give up the post of his own accord. Although we are still unable to fully understand all the details, this incident has aroused concern that SHIU Ka-chun's participation in politics has affected his academic appointment. I must stress that personnel appointments in tertiary institutions must be made in accordance with established procedures and principles, and should not be affected by personal participation in politics or any political considerations. Otherwise, this is obviously a form of political suppression and infringement of academic freedom. Time and again, academic freedom has been encroached on, and educational institutions' autonomy has been interfered with. We are all concerned about whether the requirements of Article 137 of the Basic Law will gradually vanish.

Education falls within the ambit of Hong Kong's autonomy. The formulation of policies by our authorities should not be subject to intervention by the Central Authorities. However, early this year, CHEN Zuoer, Chairman of the Chinese Association of Hong Kong and Macao Studies, put forth his "theory of supervision", postulating that the Secretary for Education should be under the supervision of the Central Government at all times, and demanding that the Education Bureau should correctly guide school sponsoring bodies. President, this is actually very worrying. As we all know, according to the provisions of

the Basic Law, the one who is directly accountable to the Central Authorities is the Chief Executive, while Secretaries of Departments and Directors of Bureaux are only accountable to the Chief Executive. Of course, we know that they will also consider the views of the Central Authorities, but as far as the system is concerned, they should not bypass the middle tier in such a way, or else the Central Government can easily turn the Chief Executive into a mere figurehead and directly intervene in our regional affairs. Therefore, on this issue, I think we must strictly abide by the provisions of the Basic Law, and must not arbitrarily amend the contents of the Basic Law.

The White Paper released by the State Council last year is another example. Actually, the issues raised therein are also instances of going beyond the Basic Law (*The buzzer sounded*) ...

**PRESIDENT** (in Cantonese): Mr IP, your speaking time is up.

**MR IP KWOK-HIM** (in Cantonese): President, the amendment proposed by me today mainly seeks to correct the erroneous argument in the original motion, the wording of which suggests that the Central Government has failed to act in accordance with the original intent of "one country, two systems". In my view, this argument is totally inconsistent with the facts.

Since Hong Kong's return to the Motherland, the Central Government has always strictly adhered to the Basic Law. However, quite a number of people who pretend to be ignorant have, wittingly or unwittingly, misled the public into construing the Central Authorities' work to discharge its constitutional duties in accordance with the law as intervention in Hong Kong affairs.

Under the State's Constitution and the Basic Law, the Central Authorities exercise overall jurisdiction over Hong Kong, including that the National People's Congress decided on the establishment of the Hong Kong Special Administrative Region (HKSAR), formulated the Basic Law, and has the power of amendment to the Basic Law. In addition, the Standing Committee of the National People's Congress (NPCSC) may interpret the provisions of the Basic Law, and has the power of decision on amending the method for selecting the Chief Executive and the method for forming the Legislative Council, the power of supervision over the laws enacted by the Legislative Council, the power of decision on Hong Kong

entering a state of emergency, and even the power of making new authorization for the HKSAR. The Central People's Government has the power to appoint the Chief Executive and principal officials, manage the foreign affairs of the HKSAR in accordance with the law, and issue directives to the Chief Executive.

Simply put, Hong Kong enjoys "a high degree of autonomy" but not full autonomy. When the NPCSC exercised its power to interpret the Basic Law, such as when it made interpretations of the Basic Law regarding, *inter alia*, the right of abode of Hong Kong permanent residents' children born outside Hong Kong and with Chinese nationality, the issue of amending the method for selecting the Chief Executive and the method for forming the Legislative Council, the length of the term of a Chief Executive returned in a by-election, and the principles of state immunity, the NPCSC was just exercising its constitutional power but not intervening in the SAR's affairs, let alone damaging Hong Kong's "high degree of autonomy". We can also see that the Central Authorities have always upheld the state policy of "one country, two systems", allowing the SAR to have "a high degree of autonomy" on the premise that it is in the interests of the country and Hong Kong.

President, apart from correcting the erroneous argument in the original motion, my amendment contains another salient point, which is, requesting the SAR Government to step up publicity of and education on "one country, two systems" and the Basic Law among the public (especially young people) in a correct way.

Hong Kong was once dubbed "a city of protests" by the foreign media; while this is nothing to be proud of, the protests and marches that we saw then were at least conducted in a peaceful and orderly manner. However, in recent years, not only have the scenes of protests become rife with violence in defiance of the law, but some people have also blatantly advocated the idea of "Hong Kong independence", disregarding national sovereignty and security and refusing to acknowledge that Hong Kong is part of China. This undoubtedly warrants concern and calls for vigilance. The demonstrations against the North East New Territories Development Plan, the anti-parallel trading protests and the Occupy movement are all examples of that.

In the demonstrations against the North East New Territories Development Plan, the waving of colonial-era flags was seen from time to time. In each of the so-called "liberation" and "shopping tour" protests, extremists acting under the



banner of anti-parallel trading have also chanted slogans like "Chinese go back to China" and "Rise the nation of Hong Kong" apart from holding aloft colonial-era flags. During the 79-day Occupy movement, the organizers and participants kept using the theme of "Decide our own fate" for propagating various wrong messages, including promoting the ideas of unlawful occupation and rejecting the Central Authorities' overall jurisdiction over Hong Kong.

Recently, the Basic Law has often been misinterpreted and challenged by some people who, because of their discontent with one or two Articles of the Basic Law, demanded amendments to the Basic Law and even burnt it to vent their resentment. I saw some student representatives from four universities burn copies of the Basic Law at an assembly this year. Such acts are extremely undesirable and have an extremely negative impact on the implementation of "one country, two systems" in Hong Kong.

The Basic Law is an important constitutional document for Hong Kong. Only with the Basic Law can we implement such principles and systems as "one country, two systems", "a high degree of autonomy" and "Hong Kong people administering Hong Kong" which Hong Kong people hold extremely dear. To burn the Basic Law is to burn this shield that safeguards Hong Kong's "one country, two systems". As for people from the opposition camp who often claim that they strive for democracy and uphold the rule of law, I did not see any one of them point out the students' wrongful act at that time. Their connivance at the burning of the Basic Law by the students is just like the opposition camp's previous connivance at the violent storming by radicals. This will only cause the students to sink deeper and deeper into the quagmire, and make more and more mistakes.

In the past, the SAR Government's effort to promote the Basic Law was focused on publicizing rights at the expense of education on obligations, and was skewed towards expounding "two systems" at the cost of overlooking the intrinsic meaning of "one country". This has long been criticized by members of various sectors of Hong Kong. I seriously hope that the occurrence of those incidents in recent years can serve as a significant warning to the SAR Government. It must step up publicity of and education on the Basic Law among the public (especially young people) in a correct way, so as to ensure the correct understanding and comprehension of the original intent of "one country, two systems" in Hong Kong.

Mr LEE Cheuk-yan's amendment calls on the SAR Government to strive to safeguard Hong Kong's core values and protect Hong Kong people's basic political, economic, social and cultural rights, and so on. It is perfectly fine to make this call, but the fact that it is made by Mr LEE Cheuk-yan somewhat gives the impression that "a thief is calling on others to catch a thief". The damage caused by the Occupy movement initiated and supported by the opposition camp has seriously undermined Hong Kong's core values, including law-abidingness, the rule of law, as well as economic and social stability. Moreover, Mr LEE Cheuk-yan's amendment ignores the fact that the Central Authorities exercise overall jurisdiction over Hong Kong; his allegation that the Central Authorities intervene in Hong Kong affairs is also inconsistent with the facts. Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) will oppose this amendment.

The drafting of the Basic Law, which took four years and eight months to complete, involved the broad participation of Hong Kong people who actively offered their views. Each article of the Basic Law was drafted after careful deliberations, taking into account the positions of all stakeholders and the opinions from various quarters. Not only can the Basic Law stand the test of time, but it also provides for a mechanism to resolve any unforeseeable problems arising from the constitutional development and social development of Hong Kong. So, we must not lightly contemplate amending the Basic Law for the narrow interests of specific groups or individuals. For this reason, the DAB will also oppose Mr WONG Yuk-man's amendment.

As Mr Martin LIAO's amendment recognizes the past efforts made by the Central Government and the SAR Government to implement "one country, two systems", and this coincides with the view held by the DAB and me, the DAB will support Mr Martin LIAO's amendment. As to the remaining amendments, the DAB will oppose them. Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): President, just now Mr IP Kwok-him said angrily that some students burned copies of the Basic Law at the 4 June candlelight vigil. The Basic Law has been implemented in Hong Kong ... It has been 18 years since the return of Hong Kong's sovereignty to China. Our system is supposed to remain unchanged for 50 years, which means that there are 32 years left and one third of the time has passed. Just now Mr IP Kwok-him

was indignant about students' burning of the Basic Law. However, has anyone ever thought of the reasons why the students took such an action? Where do their resentments come from? Why do they not look squarely at the students' resentments? Not only students or the younger generation feel discontented, but most people in Hong Kong also resent the deterioration of "one country, two systems". They resent that the original intent of "one country, two systems" has been deviated and become "one country domineering", "one country giving orders", "two systems shrinking". The system of Hong Kong is faced with unprecedented threats.

There are two main points in my amendment: first, the Central Government should be held accountable for its incessant interference in the system of Hong Kong. Hong Kong people are worried that "one country, two systems" and the system of Hong Kong would disappear as a result. Second, have Hong Kong people betrayed the system of Hong Kong to curry favour with the Central Authorities? Hence, at this moment in time, I think the whole Hong Kong community has to discuss afresh whether the Central Authorities are incessantly interfering in Hong Kong's affairs and how Hong Kong people should face up to the interference.

Many pro-establishment Members would certainly say that the Central Authorities have always respected the Basic Law and have acted in accordance with the Basic Law; hence there is no point of interference. However, please take a look at two aspects. First, the remarks made the Central Authorities and second, the implementation of the Basic Law by the Central Authorities. Regarding the remarks made, the White Paper published by the Central Authorities has obviously blurred the boundaries of "one country, two systems" and "a high degree of autonomy". What has been written in the White Paper? It states that "The central government exercises overall jurisdiction over the HKSAR". In other words, the concept of "Hong Kong people ruling Hong Kong" has now changed to "Hong Kong people administering Hong Kong", and the Central Government exercises the "overall jurisdiction".

Second, the White Paper also states that "The high degree of autonomy of HKSAR is subject to the level of the central leadership's authorization. There is no such thing called 'residual power'." Hong Kong can only enjoy the powers given by the Central Authorities. The White Paper also states that "The Hong Kong People who govern Hong Kong should above all be patriotic ... all those who administrate Hong Kong, including the Chief Executive, principal officials,

Members of the Executive Council and Legislative Council, judges of the courts at different levels and other judicial personnel, have on their shoulders the responsibility of correctly understanding and implementing the Basic Law, of safeguarding the country's sovereignty, security and development interests".

Being patriotic is the basic political requirement of all those who administrate Hong Kong, even judges are no exception. Being patriotic does not merely mean loving the country. It also includes safeguarding the country's sovereignty, security and development interests. If those administrators are to safeguard the country's sovereignty, security and development interests, who is to safeguard the "two systems"? If judges are also required to safeguard the country, that is, the "one country", may I ask who is to safeguard the "two systems"? President, the White Paper intends to tell us that Hong Kong can only enjoy the powers given by the Central Authorities and we cannot raise any objection. The Central Authorities can take back and give the powers at any time. How do we know when they will take back or give us the power? Some say that the Central Authorities have always acted in accordance with the Basic Law and given the clear provisions of the Basic Law, the Central Authorities should know what to do. This is actually not the fact. In practice, we are very worried whether the Central Authorities would truly act in accordance with the Basic Law.

In the case of the constitutional reform, the Central Authorities had definitely not acted in accordance with the Basic Law. In today's oral question session, LAU Kong-wah tried to blame the pan-democrats for not passing the constitutional reform package, saying that our proposals were beyond the scope of the Basic Law. Yet he did not say the 31 August Decision as well as the "Five-step Process" were beyond the scope of the Basic Law. Does anyone remember what LU Ping said? He said that the selection method of the Chief Executive would be decided by the Legislative Council in the future. But now, instead of a decision to be made by the Legislative Council, the Chief Executive would submit a report, the National People's Congress (NPC) would make a decision, and the Legislative Council would vote on that decision. The sneaky step was the decision made by the NPC. Originally, the NPC could only confirm whether amendments on the constitutional reform should be made, yet it turned out that the NPC would decide on how the amendments should be made. These were all beyond the scope of the Basic Law. The Central Authorities' interference in the constitutional reform could not be more obvious.

Another example is that CHEN Zuoer said the Education Bureau had to be monitored. How would I know what changes will be made to the education policy of Hong Kong in the future and whether our relevant powers would be taken back by the Central Authorities? The White Paper states that the Central Authorities shall decide what power to give to Hong Kong. WANG Guangya declared that serious fighting would take place in Hong Kong, and the Central Authorities would decide which candidate could enter into the stage of "members recommendation" and "committee nomination". If that is not interference, what is it? ZHANG Xiaoming said that "the debt of votes will be repaid by votes", which even involved the election. If that is not interference, what is it? The media in Hong Kong is now dominated by red capital. They all support the Central Authorities and join in the chorus directed by the Central Authorities. The room for press freedom and freedom of assembly in Hong Kong continue to shrink.

In the face of the Central Authorities' interference, if all people of Hong Kong can unite together to stand against it, such interference can be defended. Most pathetically, many people of Hong Kong have betrayed "one country, two systems" and "a high degree of autonomy". Before I point out who have betrayed Hong Kong, let me read aloud Christ PATTEN's Policy Address in 1996. As it was written in English, I will read it aloud in English, "My anxiety is this ... this community's autonomy ... could be given away bit by bit by some people in Hong Kong. We all know ... that over the last couple of years we have seen decisions ... taken in the interests of the whole community lobbied against behind closed doors by those whose personal interests may have been adversely affected. That is damaging to Hong Kong because it draws Chinese officials into matters which should fall squarely within the autonomy of Hong Kong. If we in Hong Kong want our autonomy, then it needs to be defended and asserted by everyone here — by businessmen, politicians, journalists, academics and other community leaders, as well as by public servants."

President, in 1996 Christ PATTEN said that some people of Hong Kong would betray Hong Kong "bit by bit" for their own interests. It is very obvious that the pro-establishment camp has been betraying Hong Kong's interests and such facts can be compiled into a compendium. For instance, they suddenly become yes-men for no reason and support the introduction of the national security law into Hong Kong; they support the proposal to legislate for Article 23 of the Basic Law; and they also support the fake universal suffrage, given to us by the Central Authorities. Worst of all, they have sacrificed the dignity of Hong

Kong people. After they made a fool of themselves and missed the chance to cast a vote, resulting in only having eight votes in support of the constitutional reform package, they immediately went to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (Liaison Office) to offer their humble apologies. Honestly, those pro-establishment Members will have to go to the Liaison Office again this Thursday to attend the "consolation feast". Honestly, if they like to do so, it is their own business but in so doing, they have sacrificed their own dignity as well as Hong Kong people's dignity. It turns out that they, being Legislative Council Members, are not accountable to voters but to the Liaison Office. But they are not the most shameful ones. LEUNG Chun-ying is. The first thing he did after being elected the Chief Executive was to go to the Liaison Office to express his gratitude.

Hence, the problem does not lie with the general public of Hong Kong; it lies with the fact that some people have betrayed Hong Kong's interests for their personal interests. In order to gain more wealth, they toady to the Chinese Communists. It is just that simple. Hong Kong has been betrayed and sacrificed, Hong Kong's "high degree of autonomy" and "one country, two systems" have also been ruined.

Thank you, President.

**MR GARY FAN** (in Cantonese): President, "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" were all solemn promises made by the Beijing Government to Hong Kong people, the British Government and even the world in 1984. At that time, many Hong Kong people were afraid that the previous systems and way of life in Hong Kong would be changed after Beijing resumed the exercise of sovereignty over Hong Kong. The emergence of "one country, two systems" and the Basic Law was intended to embody Hong Kong's localism as recognized by the Beijing Government. It was exactly because of such essential separation between Hong Kong and the Mainland as well as the promise of our previous systems and way of life remaining unchanged for 50 years that the British Government and some Hong Kong people finally accepted the handover of sovereignty.

But during the past 17 years since the handover of sovereignty, the Beijing Government has been challenging the bottom line of Hong Kong in respect of "one country, two systems", and Hong Kong people are increasingly dissatisfied

with the Beijing Government reneging on its promises. In this month, football fans booed the national anthem during the two World Cup qualifying matches played by the Hong Kong national football team. This situation is absolutely worthy for the SAR Government and the Beijing Government to reflect on. Looking back in 2002 when the Chinese national football team qualified for the World Cup finals for the first time, their matches drew the attention of all Hong Kong people. Within a short span of 13 years, Hong Kong people's perception of China has changed for the worse dramatically. Such a change epitomizes the public sentiments of Hong Kong.

The reason is that since the foiled attempt to legislate for Article 23 of the Basic Law in 2003, the Beijing Government has been tightening Hong Kong's autonomy, constantly meddling with the affairs of the SAR Government and trampling "one country, two systems". It even wanted to implement in Hong Kong "one big country, two small systems" or even "one country, one system" politically, legally, economically as well as socially, depriving Hong Kong people of their basic core values such as democracy, freedom and the rule of law. Since the incumbent Chief Executive LEUNG Chun-ying assumed office, the Beijing Government's interference has become even more rampant, so much so that Hong Kong people must rise up in opposition through civil disobedience.

President, the policy direction of "one country, two systems" is embodied in many provisions of the Basic Law. For instance, it is clearly provided under Article 22 of the Basic Law that no department of the Beijing Government and no province, autonomous region, or municipality directly under the Beijing Government may interfere in the affairs which the SAR administers on its own in accordance with the Basic Law. Yet Beijing has crossed this bottom line from time and time. In 2008, CAO Erbao, the head of research department of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (Liaison Office), wrote an article, stating expressly that Hong Kong should have two ruling teams: one belonging to the establishment of the SAR and the other comprising Mainland cadres responsible for Hong Kong affairs, that is, the officials of the Hong Kong and Macao Affairs Office (HKMAO) and the Liaison Office. As we can see, there is now a tendency for the ruling team belonging to the establishment of the SAR to be accountable to the ruling team comprising Mainland cadres responsible for Hong Kong affairs. Who would have thought that LEUNG Chun-ying went to the Liaison Office to express gratitude after being elected as the Chief Executive? After royalist Members of the pro-establishment camp made the blunder of not casting their

votes on the constitutional reform package, they went to the Liaison Office hurriedly to make amends and proffer explanations, with cries and tears. It is evident that in recent years, the Liaison Office's role has changed from that of a liaison agency to an agent implementing Beijing's policies in Hong Kong, meddling directly in all levels of elections in Hong Kong, as well as the governance of the SAR.

In June last year, the State Council in Beijing suddenly promulgated the White Paper on The Practice of the "One Country, Two Systems" Policy in the Hong Kong Special Administrative Region (White Paper) which redefined the meaning of "one country, two systems". In sharp contrast to the established understanding of Hong Kong people, "one country" overrides "two systems". The White Paper has brought into light how the Beijing Government interprets that its final power of constitutional interpretation would override the common law system in Hong Kong, such that Hong Kong may soon change from a society governed by the rule of law before 1997 to a society ruled by law. Borrowing the words of Mr LAM Hang-chi, Beijing is using forceful tactics to ensure that the Chinese Constitution which premises on socialism overrides the common law of Hong Kong, while officials of the SAR including the Secretary for Justice, as well as the Hong Kong deputies to the National People's Congress (NPC) responsible for making interpretations to the Basic Law, must all dance to the tune of the Legislative Affairs Commission of the Standing Committee of the National People's Congress.

Sovereignty is first and foremost in the Mainland's Constitution as all laws are enacted to serve the interest of upholding sovereignty. The laws in "ruling Hong Kong in accordance with laws" are the Beijing Government's commands, rather than the principles of fairness and justice as enshrined in the common law. That is why the Beijing Government, with its final power of interpretation of the Basic Law, can make free interpretations in all sorts of ways. In the first place, the Beijing Government took the initiative to interpret the Basic Law, such that the "Three-step Process" had become the "Five-step Process". Last year, it promulgated the 31 August Decision which set out the framework of constitutional reform in order to tightly control the future of Hong Kong's constitutional development. Before the reunification, LU Ping, former Director of the HKMAO, had already made it clear that the Beijing Government would not interfere with the development of democracy in Hong Kong after 2007 as it was strictly a matter within the scope of Hong Kong's autonomy. Okay, the rules



had clearly been set before the football game started, yet it turns out the size of the goalpost can be changed wilfully after the game started. In that case, how can we say that it is a fair game? Hong Kong people who always observe the rule of law are naturally unconvinced.

President, owing to Beijing's mentality of sovereignty first, the population policy of Hong Kong has been eroded by the One-way Permit (OWP) system. As a matter of fact, during the drafting stage of the Basic Law in the 80s, there were views in society that Hong Kong should have the right to vet and approve OWP applications. There is no specific provision under Article 22(4) of the Basic Law that the right to vet and approve OWP applications must not be vested with the SAR Government. In addition, Hong Kong can decide on the number of persons entering the territory for settlement. Yet with Beijing holding the right of interpretation, even provisions written down in black and white can be distorted to mean that the right of vetting and approval is only vested with the Mainland authorities, and the demands and voices for approval rights are even smeared as discriminatory. In the Mainland, even provincial governments are vested with the right to vet and approve entry applications. But under "one country, two systems", the SAR has been deprived of such a right. The underlying reason is that the Beijing Government wants to clone its colonial strategy of Tibet in Hong Kong through reshuffling Hong Kong's demography so that Hong Kong will return to "one country, one system" both socially and culturally. As Beijing officials are always mindful that Hong Kong people have yet to return to the Mainland in heart and soul, they put on an official air and use threats to intimidate Hong Kong people. Having no luck with intimidation, they then resorted to implementing the brainwashing national education as well as turning local media red. Having no luck with brainwashing, they resorted to colonizing Hong Kong with the human wave tactics. Those are all real events that took place over the past 17 years.

President, on the economic front, Hong Kong has gradually been assimilated into the five-year plans of the Mainland. With an individual chapter dedicated to the Hong Kong and Macao SARs in the National 12th Five-year Plan, the current-term SAR Government went even further to submit its own proposal for the National 13th Five-year Plan to Beijing by making reference to the practice of provincial governments in the Mainland. National five-year plans are about the reallocation of resources in a socialist country. By submitting a proposal for the five-year plan without prior consultation with the

people of Hong Kong, the SAR Government has secretly changed the previous systems of Hong Kong. This is a blatant disrespect for the manifestation of the "two systems".

Noting various actions taken by the Beijing Government to give priority to "one country" over "two systems" politically, economically and socially, the people of Hong Kong are more than furious. After the Umbrella Movement and the veto of the constitutional reform package, the entire younger generation of Hong Kong has lost faith on the SAR Government and the Beijing Government, while the people of Hong Kong have lost their scarcely remaining confidence on "one country, two systems". After 17 years, the Beijing Government's strategy of making Hong Kong people return to the Mainland in heart and soul has failed. With Hong Kong moving onto the post-constitutional reform era, the Beijing Government should revisit its policies in relation to Hong Kong and implement afresh the original intent of "one country, two systems".

The promise that "one country, two systems" shall remain unchanged for 50 years will expire in 2047. Former Chief Justice Andrew LI suggested in 2012 that Hong Kong should settle the future of "one country, two systems" expeditiously, and the process would require our full recognition that "one country" and "two systems" are equally important and inseparable. The Neo Democrats considers that if Hong Kong is to embark on a new journey, the Beijing Government must recognize that "one country" and "two systems" are both interdependent and essential. Beijing must adhere<sup>1</sup> to the original intent of "one country, two systems" and maintain the separation between Hong Kong and the Mainland; strictly abide by Article 22 of the Basic Law and stop interfering in the internal affairs of Hong Kong; strictly abide by the undertaking that the SAR Government will take the lead in constitutional development according to Hong Kong people's own inclination so that they can decide for themselves the future development of democracy in Hong Kong as well as their own fate. Only in this way can Hong Kong society regain peace and tranquillity after dissension.

President, I so submit.

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<sup>1</sup> In the Chinese version, the term is "恪守". Mr Gary FAN pronounced "恪" as "lok3" instead of the correct pronunciation of "kok3".

**PRESIDENT** (in Cantonese): The word "恪" should be pronounced as "kok3".

**MR MARTIN LIAO** (in Cantonese): President, "one country, two systems" is a policy put forward by the Central Authorities to realize the peaceful reunification of China. While the concept was initially formulated to resolve the question of Taiwan, it was first applied to resolve the question of Hong Kong's reunification. In early 1983, the Central Authorities formulated 12 basic policies regarding the question of Hong Kong, including, *inter alia*, to "establish a special administrative region in Hong Kong", the SAR "would enjoy a high degree of autonomy", the SAR "would be vested with legislative and independent judicial power, including that of final adjudication", the SAR Government "would be composed of local inhabitants. The principal officials would be selected by election or through consultations held locally", the SAR "would retain the status of a free port and a separate customs territory", the SAR Government "may itself issue travel documents for entry into and exit from Hong Kong", "the current social and economic systems in Hong Kong would remain unchanged", "freedoms, including those of speech, of the press ... would be ensured" in the SAR. These policies have also been written into the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong signed in 1984 under the provision beginning with these words: "The Government of the People's Republic of China declares that ...".

In 1990, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China was promulgated by the National People's Congress (NPC). The Basic Law is a step forward in the legalization and institutionalization of the "one country, two systems" policy. It is also the sole legal basis for the implementation of "one country, two systems" in Hong Kong. Hence, the entire process was transparent and well-based. All the policies formulated in early 1983 had been fulfilled, and not a single one had been left out. Over the past 18 years since Hong Kong's reunification, the previous capitalist system and way of life in Hong Kong has been maintained in accordance with the Basic Law. That is the sufficient proof of the successful implementation of "one country, two systems".

Surprisingly though, nothing has been mentioned in the original motion about these policies which had been laid down in black and white, and had been fulfilled in full. The original motion has also disregarded the Basic Law which

is a constitutional document to institutionalize "one country, two systems". Instead, the motion makes an indirect proposal that the Legislative Council of the SAR should request the SAR Government to earnestly invite the Central Government to implement and continue the state policy of "one country, two systems" in accordance with its original intent. Seemingly, it gives the impression of utmost dissatisfaction that the Central Government has deviated from the original intent when implementing the "one country, two systems" policy. Not only is this view totally untrue, but it also goes against the personal experience of 7 million Hong Kong people day in day out.

President, to rectify these misconceptions, I have proposed an amendment specifically in order to set the record straight. Apart from highlighting the fact that the Central Authorities and the SAR have been working diligently and vigorously in accordance with the "one country, two systems" policy, my amendment also seeks to convey the clear stance that the Legislative Council supports the two governments to persistently implement "one country, two systems" in Hong Kong.

President, nowadays, many people only interpret "one country, two systems" from a narrow localist or federalist perspective and hence, resulting in many misunderstandings or even giving rise to some ridiculous demands without regard to the state system, the constitutional order and the laws. They may wrongly think that "one country, two systems" is strictly an altruistic proposition for the sole purpose of serving the interest of Hong Kong, or it is a present from the Central Authorities to Hong Kong. Hence, they consider that Hong Kong people should be able to get whatever they want. When things do not go their way, they would throw a tantrum and cry foul.

A case in point is the recent episode in constitutional development. It was the sincere wish of the Central Authorities that Hong Kong's constitutional development can move forward and that the right of universal suffrage provided under Article 45 of the Basic Law can be realized. In this regard, a framework was laid down by the 31 August Decision of the NPC. Yet the pan-democrats insisted that the constitutional reform package formulated on the basis of the NPC's 31 August Decision was fake universal suffrage and the electoral method of "civil nomination", which was unconstitutional, should be adopted. As I have already talked about the rationale in detail last week, I will not repeat here. I

only want to point out that the Basic Law is a solemn national constitutional instrument which should not and will not be changed because of some unconstitutional and subjective ideas. With the non-passage of the constitutional reform package, it would be quite some time before the process can be restarted. The responsibility rests with people who do not respect the Basic Law and "one country, two systems", rather than the Central Authorities.

The original motion claims that the original intent of "one country, two systems" should be acted upon. What is meant by the "original intent"? Does it mean the original intent as you claim or the original intent as I know of?

Under "one country, two systems", Hong Kong's capitalist system and way of life will remain unchanged for 50 years. In practice, it is the Central Authorities' tool to maintain Hong Kong's prosperity and stability. But why is it necessary to maintain Hong Kong's prosperity and stability? The bigger picture lies with serving the overall interest of the country. The state policy of maintaining Hong Kong's prosperity and stability first evolved not in 1997 or 1990, but with the founding of the People's Republic of China. At that time, the People's Liberation Army was ever victorious and could have taken back Hong Kong easily. Yet the People's Liberation Army did not cross the Shenzhen River. Why? The move was not premised on military reasons, but the Central Authorities' strategic decision of "taking full advantage of Hong Kong in the long run" in the light of the actual circumstances. At that time, the Western bloc was imposing a total blockade on the New China, and it could only rely on the Soviet Union, Pakistan and Hong Kong to break the blockade. Through the free port of Hong Kong, China obtained the much-needed foreign supplies and earned about half of its foreign exchange from export trade. The British side also adopted a pragmatic attitude, taking into account its own interests in trading and the colony. In 1950, Britain became the first Western country to recognize the People's Republic of China.

Later on, Hong Kong played a unique and important role as China embarked on its opening up and reform. In the early stages of China's opening up and reform, Hong Kong provided capital, talent and technology which were much needed for the Mainland's development. Hong Kong was also an important platform of the Mainland's foreign trade. At present, during the nation's deepening of reform, Hong Kong is still an excellent platform for Renminbi to go global. It was not until 1997 when the British Government

raised the issue about the treaties that the Central Authorities decided to resume the exercise of sovereignty over Hong Kong by way of "one country, two systems" because the timing was ripe. "One country, two systems" as devised by the Central Authorities is not meant to achieve assimilation, but the continuation of Hong Kong's prosperity and stability through implementing the most suitable policy for Hong Kong. This state policy has remained unchanged since the founding of the nation. One can almost say that the overall interest of the State is not only the basic element giving rise to "one country, two systems", but also the critical consideration in supporting the continuance of the state policy of "one country, two systems".

President, "one country, two systems" is a unique, original and unprecedented system. As envisaged by its creator, Mr DENG Xiaoping, problems would naturally arise when it was put into implementation, but the vitality of "one country, two systems" is well evident. It would be most important for Hong Kong to respect "one country" while striving to uphold the value of "two systems". When stating their demands to the Central Authorities, Hong Kong people must consider whether such demands are in line with the interest of the State and how to address the potential conflicts. The fight for Hong Kong's demands must never undermine the interest of the State. This is a very simple theory, yet some discerning people have failed to see or understand.

Regrettably, constitutional development in Hong Kong has come to a standstill for the time being. More disheartening, though, is that some people are still playing up the political disputes deliberately, just like the amendments suggested by several Members today. In one amendment, the Central Government's jurisdiction over Hong Kong is regarded as "intervention in Hong Kong affairs", while other amendments totally disregard the Central Government's constitutional status in Hong Kong and demand that we should decide on our own a democratic constitutional reform package for Hong Kong, or that a constitutional amendments convention on Hong Kong Affairs be established in order to devise our own constitution. All these suggestions made without regard to "one country" are actually prejudicial to "one country, two systems" as well as the core interests of Hong Kong.

Instead, as we move on to the "post-constitutional reform" era, I call on the community to focus all efforts on improving the economy and people's livelihood, steadfastly defending our core values such as the rule of law, the independence of

the Judiciary and freedom of speech, so as to implement and continue "one country, two systems" through an attitude of respecting "one country" and upholding "two systems".

President, I so submit.

**MR WONG YUK-MAN** (in Cantonese): President, as a believer in Jean-Jacques ROUSSEAU's idea of direct democracy for the people, I proposed "resignation *en masse* of Members returned from five geographical constituencies as a referendum" in 2009 with the aim of returning the right of decision on Hong Kong's constitutional development to the people. At that time, the Communist Party of China (CPC) attacked the "five geographical constituencies referendum" both in speech and in writing, with one of the accusations being "advocacy of Hong Kong independence". On 12 November last year, I moved the motion on "devising the constitution by all people, making a new covenant, and realizing genuine 'Hong Kong people ruling Hong Kong'", and the pro-establishment camp likewise put the label of "Hong Kong independence" on me. Today, the label of "Hong Kong independence" is still used by the propaganda machine controlled by the CPC and the pro-Communist political groups to denounce the ideological trend of localism and the localist camp in an overwhelming manner. In their eyes, any proposition calling for the realization of genuine "Hong Kong people ruling Hong Kong" to allow Hong Kong people autonomy and self-determination is a heresy which must be nipped in the bud.

My amendment reads: "That this Council urges the SAR Government to request the Central Government to implement and continue the state policy of 'one country, two systems' in Hong Kong in accordance with the original intent of 'one country, two systems', and to allow Hong Kong people to exercise their right to self-determination and establish a constitutional amendments convention on Hong Kong Affairs to amend the Basic Law, so as to lay down a direction for constitutional development that meets Hong Kong people's aspirations, and to realize genuine 'Hong Kong people ruling Hong Kong'.". Two and a half years ago, the pan-democrats considered that I was crying for the moon when I floated the idea of "devising the constitution by all people and making a new covenant". Most of them abstained from voting on my motion on "devising the constitution by all people", the salient points of which were as follows:

- (1) a resignation *en masse* by the SAR Government, and a caretaker government to be formed by the Permanent Secretaries in the offices of the three Secretaries of Departments and 12 Directors of Bureaux to maintain the daily operation of the Government;
- (2) calling a constitutional amendments convention on Hong Kong Affairs, whose membership should comprise the 35 directly-elected Members of the original Legislative Council as its backbone, plus scholars and experts in constitutional law and political science;
- (3) determining precisely the scope of Hong Kong's right of autonomy and the definition of defence and foreign affairs;
- (4) enacting a referendum law to give Hong Kong people the right of initiative and referendum of laws;
- (5) enacting a political party law to regulate the operation of political parties, and a political donations law to require political parties to disclose their received political donations; allowing candidates for the office of the Chief Executive to have political party background, and Legislative Council Members to introduce bills relating to government policies without the written consent of the Chief Executive; and
- (6) after the passage of the revised Basic Law by referendum of Hong Kong people, implementing dual universal suffrage for the Chief Executive and the Legislative Council elections with nominations jointly endorsed by citizens, so as to manifest "direct democracy" and realize genuine "Hong Kong people ruling Hong Kong".

I was, of course, branded as a lunatic for making these proposals, but then I said words to the effect that men could not live without ideals, or else they would lack the drive for progress or even lose the meaning of existence.

To recognize a new constitution by referendum is to manifest Hong Kong people's spirit of determination of their own future. Regarding the Sino-British negotiations conducted in the early 80s, the subsequent drafting of the Basic Law,



and the transitional legislature (the Provisional "Garbage" Council<sup>2</sup>, so to speak, established in January 1997), none of them had the people's mandate. On 18 June 2015, the fake constitutional reform package introducing the nominating committee as a screening mechanism for the Chief Executive elections was vetoed in the Legislative Council, wasn't it? Hyped up by the CPC and the SAR Government, the so-called realization of universal suffrage in accordance with the Basic Law has proved to be infeasible for a very simple reason, that is, both the formulation and the implementation of the Basic Law lack a mandate from the people. For 17 years, "one country, two systems" has been a dead letter. The only way to break the present deadlock in constitutional reform is to have the constitution devised by all people and make a new covenant, so as to manifest the people's mandate by referendum and realize genuine "Hong Kong people ruling Hong Kong". Only through this can we achieve lasting peace and stability in Hong Kong.

Undoubtedly, the Basic Law was drafted without the people's mandate. Worse still, on a number of occasions, under the guise of the interpretations and resolutions made by the National People's Congress (NPC), the CPC has in effect amended Annex I and Annex II to the Basic Law regarding the arrangements for modifying the methods for selecting the Chief Executive and for forming the Legislative Council after 2007, hence undermining Hong Kong's autonomy and breaking faith with Hong Kong people. As for the 31 August Decision of the Standing Committee of the National People's Congress last year and the constitutional reform package which has ended up a farce now, Hong Kong people had no say in them at all. When the CPC does not even play by its own rules of the game, how can the public be convinced? In the absence of any substantial amendment to the Basic Law, constitutional crises will continue to emerge and Hong Kong will become ungovernable. Only if the goal of "devising the constitution by all people" is accomplished will "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" have substantive meanings consistent with their original intent that everything falls within the ambit of Hong Kong's autonomy except for defence and foreign affairs.

On 23 June, on *Passion Times*, an online media platform, there was an article titled "Pro-colonial democrats' remarks on 'amending the constitution at leisure'" published under the pseudonym of "SIU Kit". This article hits the nail

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<sup>2</sup> The Cantonese pronunciation of "garbage council" is somewhat similar to that of "legislative council".

on the head in its criticisms of the propositions put forth by some pan-democrats, especially the Civil Human Rights Front (CHRF), on amending the Basic Law. SIU Kit commented that their propositions were as casual as saying "let us have tea at leisure", and could be described as remarks on "amending the constitution at leisure". He also pointed out three major aspects of hollowness of such discourse. In my view, two of them are worth quoting.

First, more weight is given to the topic than to the campaign. The CHRF sees "constitutional amendment" as another topic that can be used for mobilizing the public to participate in the ritualistic 1 July march. Mr LEE Cheuk-yan has even inappropriately regarded "constitutional amendment" as nothing more than a slogan in the quest for universal suffrage. He has forgotten that many years ago, he was one of the founding members of The Frontier, which called for "devising the constitution by all people", and I found it amazing back then. Mr LEUNG Yiu-chung was also one of the founding members. All these people are still alive. If he wishes to give me a response later, I welcome it, but I do not want to respond to him as I have been talking about this for over a decade already.

The issue of constitutional amendment involves the sovereignty and right of administration of Hong Kong. It is matter of life and death. As I have stressed time and again, the premise of "devising the constitution by all people" is to stage an ongoing non-cooperation movement and large-scale protests to make Hong Kong and its comrades face the reality that without a complete changeover, there is no way to govern Hong Kong effectively. What about the city-state theory advanced by Wan CHIN? SIU Kit said, "On the one hand, it nonchalantly states the pros and cons, but on the other hand, it advocates making a valiant stand and holding aloft the banner of reviving Huaxia culture, so as to fight a battle in defence of Hong Kong pragmatically in line with local interests from a culturally superior position." Both of these are much more proactive than some people's current approach of parroting the idea of "devising the constitution by all people".

In the article, there is another contention which is also very meaningful. SIU Kit held that such propositions sought to take advantage of public opinion to avoid passing judgment. According to the CHRF, amending the Basic Law can create a sense of participation among the public. Didn't the "five geographical constituencies referendum" proposed by me a few years back engender a sense of participation? It was simply dragged down by them. It was a genuine election,

right? Raising the slogan of amending the Basic Law, they are asking people to participate; but what is there for people to participate in? President, it entails commitment, sacrifice, contribution, and even the possibility of imprisonment.

From the perspective of the local young people in Hong Kong today, the aforesaid propositions (including mine) are rather conservative. Today, I sorted through some old information and found several big files. One of them contains the editorials written by me in *Express News* at the time of the constitutional reform in the 90s, while the other files consist of my articles on the negotiations on the future of Hong Kong written in the 80s, as well as some articles published in the period during which the Basic Law was being drafted in the mid-80s. It is really disheartening to read my past articles, which seem to be saying, "I told you so." As it transpires, nothing has changed, and neither have I. The whole set-up remains unchanged.

By the standards of today's young people, the propositions mentioned just now are rather conservative for them. As I stated in the early 80s of the last century, the guarantee of "no change for 50 years" cannot be trusted. Actually, the proposal of "devising the constitution by all people" is already a compromise which gives the CPC an honourable way out by allowing it to maintain nominal sovereignty over Hong Kong, where the five-star flag can continue to fly in the breeze as before, and to maintain a token garrison in Hong Kong. Except for defence and foreign affairs, which are narrowly defined, everything falls within the scope of autonomy. This is clearly provided for in the Basic Law, right?

If the CPC persists with its intransigence in implementing its high-handed colonial policy in Hong Kong, it is bound to provoke strong resistance. The mainstay of our future courageous protests will be the new generation of Hong Kong — one whole generation rather than the moribund, so-called democrats including me sitting in this Chamber today. When the CPC's governance crisis deteriorates into a popular revolt, coupled with the continuance of its high-handed treatment of Hong Kong, it will lose Hong Kong in the end.

Just now I listened to many Members' speeches, in which they invariably mentioned the Central Authorities. This reminds me of the farce that occurred a few days ago when all of them walked out and snivelled. What were they afraid of? What made them snivel? They were just afraid of the Central Authorities, which they must refer to in their speeches. Even Mrs Regina IP, who wants to

stand in the Chief Executive election, cried as if she was a timid woman. Being such a strong woman, why did she cry? This is laughable. They were so afraid that they might have wet their pants.

Lastly, President, as I subscribe to the fundamental spirit of Mr Dennis KWOK's original motion and the amendments proposed by Mr IP Kin-yuen, Mr LEE Cheuk-yan and Mr Gary FAN, I will vote for them. Mr IP Kwok-him's amendment flagrantly advocates brainwashing Hong Kong people, especially young people; Mr Martin LIAO's amendment proposes supporting the Central Government and the SAR Government to implement and continue the state policy of "one country, two systems" in Hong Kong in accordance with the principle of "one country, two systems". However, he may have forgotten that on 10 June 2014, the State Council issued the White Paper on The Practice of the "One Country, Two Systems" Policy in the Hong Kong Special Administrative Region, which bluntly states that the Central Authorities exercise overall jurisdiction over the Hong Kong Special Administrative Region; "how much the Central Authorities give you is how much you get (*in Putonghua*)". In view of this, I will oppose these amendments. I so submit.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the People's Republic of China is a unitary, multi-ethnic state. Under the unitary state structure, all administrative regions are established by the Central People's Government according to the needs, and are local administrative regions.

Article 31 of the Constitution of the People's Republic of China (the Constitution) stipulates that "[t]he state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of specific conditions". Article 62 of the Constitution provides for the functions and powers of the National People's Congress, including those "[t]o decide on the establishment of special administrative regions and the systems to be instituted there" as stated in clause 13.

The Preamble of the Basic Law clearly provides that "[u]pholding national unity and territorial integrity, maintaining the prosperity and stability of Hong Kong, and taking account of its history and realities, the People's Republic of China has decided that upon China's resumption of the exercise of sovereignty

over Hong Kong, a Hong Kong Special Administrative Region will be established in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, and that under the principle of 'one country, two systems', the socialist system and policies will not be practised in Hong Kong." The Preamble of the Basic Law also provides that "[i]n accordance with the Constitution of the People's Republic of China, the National People's Congress hereby enacts the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, prescribing the systems to be practised in the Hong Kong Special Administrative Region, in order to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong."

For these reasons, the systems to be implemented in the administrative regions are prescribed by the Constitution and by national laws, and all powers exercised by local administrative regions are derived by way of authorization by the Central Authorities, which is distinctly different from the system of federal states under which local governments hand over certain powers to the federal government and retain "residual powers". The Basic Law provides that the Hong Kong Special Administrative Region (HKSAR) comes directly under the Central People's Government, with no intermediate layers in between.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

Given the abovementioned constitutional status of the HKSAR, the Central Authorities have the constitutional powers and responsibilities to determine the systems to be implemented in the HKSAR, including the model of political structure of the HKSAR. The role of the Central Authorities in this regard is reflected in the enactment and implementation of, and amendments to the Basic Law. Mr Dennis KWOK's original motion "requests the SAR Government to earnestly invite the Central Government to implement and continue the state policy of 'one country, two systems' in Hong Kong in accordance with the original intent of 'one country, two systems'". I must solemnly point out that the design of the political structure of the HKSAR relates to the exercise of sovereignty by the State over Hong Kong, as well as the consistent implementation of "one country, two systems" and other fundamental policies of the Central Authorities towards Hong Kong. The HKSAR does not have any constitutional powers and responsibilities to unilaterally alter the system established by the Central Authorities. Furthermore, the original motion also

implies that Mr KWOK lacks confidence in the Central Government's adherence to the policy of "one country, two systems". His sceptical attitude is totally uncalled for and incompatible with the reality. Similarly, Mr Gary FAN has erred, particularly in the description of the concept of "one country, two systems" in his amendment.

In fact, since the establishment of the HKSAR, the Central Authorities have been acting in strict accordance with the fundamental principles and policies of "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy", as well as the provisions of the Basic Law to support the Chief Executive and the HKSAR Government in administering Hong Kong in accordance with the law. Similarly, the HKSAR Government has also been administering Hong Kong in strict accordance with the Basic Law and the principle of "one country, two systems" in accordance with the law.

The amendment proposed by Mr Martin LIAO reflects the objective fact that the Central Government and the HKSAR Government have implemented and will continue to implement the Basic Law in accordance with the principle of "one country, two systems". Article 1 of the Basic Law stipulates that "The Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China". Article 2 of the Basic Law provides that "The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law". Chapter II of the Basic Law stipulates the relationship between the Central Authorities and the HKSAR, including the powers directly exercised by the Central Authorities in accordance with the Basic Law, as well as the powers delegated by the National People's Congress to the HKSAR to exercise "a high degree of autonomy" in accordance with the provisions of the Basic Law. Since the reunification, the Central Government and the SAR Government have adhered strictly to the "one country, two systems" principle and acted in accordance with the provisions of the Basic Law.

Mr WONG Yuk-man's amendment proposes to amend the Basic Law. I have to stress that as a constitutional document of the HKSAR, the Basic Law is the cornerstone of persistently implementing the policies of "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy", thereby safeguarding the long-term prosperity and stability of Hong

Kong. The drafting of the Basic Law took about five years, and the process was highly democratic and open. The Basic Law is a constitutional document which has been enacted after a long process in which the views of various sectors of the Hong Kong community had been fully considered and taken into consideration. In addition, the fact that judicial independence of the HKSAR has been fully respected won high recognition by independent overseas assessment agencies as well as the international business community. Individuals have to abide by and respect the Basic Law, regardless of their political views. Demanding to amend the Basic Law arbitrarily is unreasonable and definitely impracticable. Furthermore, Article 159 of the Basic Law clearly stipulates that the power of amendment of the Basic Law shall be vested in the National People's Congress. In proposing to establish a constitutional amendments convention on Hong Kong Affairs to amend the Basic Law, Mr WONG Yuk-man has completely ignored the constitutional status of the Basic Law. It is neither fair nor lawful. Therefore, the HKSAR Government solemnly opposes Mr WONG Yuk-man's amendment.

Under the protection of the Basic Law and with the support of our country, the HKSAR has all along enjoyed the dual advantages of "one country, two systems". Unlike other provincial cities in the Mainland, the Central People's Government has authorized the HKSAR to conduct relevant external affairs on its own. The HKSAR may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields. For example, at present, Hong Kong has signed bilateral air services agreements with 64 countries to buttress its status as an international hub of air transport. In addition, we have signed Comprehensive Double Taxation Agreements with 32 countries which would provide more incentives for local and overseas investors to make mutual investment. Furthermore, since the reunification, Hong Kong has signed mutual visa-free entry agreements with 42 countries, and over 150 countries and regions have unilaterally granted holders of the SAR passports visa-free entry or provided them with visa-on-arrival arrangements.

According to the Basic Law, the Hong Kong Special Administrative Region shall be a separate customs territory. It may, using the name "Hong Kong, China", participate in relevant international organizations and international trade agreements (including preferential trade arrangements), such as the General

Agreement on Tariffs and Trade (which became the World Trade Organization) and arrangements regarding international trade in textiles. Besides, the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) has further enhanced development opportunities on the Mainland for entrepreneurs of Hong Kong. All these examples show that under the protection of the Basic Law, Hong Kong has enjoyed the dual advantages of "one country, two systems", and maintained and reinforced its status as an international metropolitan city and a hub in finance, trade and shipping.

Apart from maintaining the long-term prosperity and stability of Hong Kong, the Basic Law also protects and upholds core values such as freedom, human rights, democracy, rule of law and clean governance. Chapters III, V and VI of the Basic Law protect the fundamental rights of Hong Kong residents in various areas, including economy, education, science, culture, sports, religion, labour and social services. According to the Basic Law, Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; freedom of communication, of movement, of religious belief and of marriage; as well as the right and freedom to form and join trade unions, and to strike.

Mr LEE Cheuk-yan's amendment "urges the SAR Government to be courageous to refuse the Beijing authorities' intervention in Hong Kong affairs, to firmly uphold the autonomy of the SAR governance, and to strive to safeguard Hong Kong's core values and protect Hong Kong people's basic political, economic, social and cultural rights, etc." I must reiterate that the fundamental rights and duties of the residents of Hong Kong are fully protected under the Basic Law, the Central Government and the SAR Government have all along adhered strictly to the Basic Law in administering the affairs of the HKSAR. Therefore, the allegations contained in Mr LEE Cheuk-yan's amendment are incorrect and are flatly rejected by the SAR Government.

The SAR Government has all along safeguarded academic freedom and educational institutions' autonomy in compliance with Articles 136 and 137 of the Basic Law. Therefore, Mr IP Kin-yuen's allegation that the SAR Government has been severely challenged in safeguarding academic freedom and educational institutions' autonomy is also unfounded.

Mr IP Kwok-him's amendment proposes to "step up publicity of and education on 'one country, two systems' and the Basic Law among the public (especially young people)". We agree that publicity and promotion are very



important in implementing the Basic Law. In fact, the SAR Government has organized various kinds of Basic Law promotional activities to step up the publicity of the contents of the Basic Law among the public, so that they will have a more comprehensive and correct understanding of "one country, two systems" and the Basic Law. We will continue to do a good job in this respect.

Deputy President, as I said earlier, since the establishment of the HKSAR, the Central Government and the SAR Government have been acting in strict accordance with the fundamental principles and policies of "one country, two systems", "Hong Kong people administering Hong Kong people" and "a high degree of autonomy" as well as the provisions of the Basic Law in administering the affairs of Hong Kong. Mr Dennis KWOK's original motion, the views contained in the amendments of Mr Gary FAN, Mr IP Kin-yuen and Mr LEE Cheuk-yan and the proposition in Mr WONG Yuk-man's amendment to allow "Hong Kong people to exercise their right to self-determination and establish a constitutional amendments convention on Hong Kong Affairs" have ignored the historical background and the legal basis of the Basic Law, as well as the fact that the HKSAR is "an inalienable part of the People's Republic of China"; and have deliberately disregarded the fact that the Basic Law has brought prosperity and stability to the HKSAR in many respects over the years. Therefore, the SAR Government solemnly opposes Mr Dennis KWOK's original motion and the amendments of Mr IP Kin-yuen, Mr LEE Cheuk-yan, Mr Gary FAN and Mr WONG Yuk-man and urges Honourable Members to oppose these amendments too.

Deputy President, I so submit.

**MR SIN CHUNG-KAI** (in Cantonese): Deputy President, I speak in support of Mr Dennis KWOK's original motion and the amendments of Mr IP Kin-yuen and Mr LEE Cheuk-yan, oppose the amendments of Mr IP Kwok-him and Mr Martin LIAO, and will abstain from voting on Mr Gary FAN's amendment.

The original motion is very simple, it "requests the SAR Government to earnestly invite the Central Government to implement and continue the state policy of 'one country, two systems' in Hong Kong in accordance with the original intent of 'one country, two systems'." These few sentences clearly showed that, as suggested in the original motion, there is a deviation in the

implementation of the "one country, two systems" policy by the Central Authorities. Deputy President, I would like to explain the reasons for this deviation and why we support the original motion.

The Central Government issued the White Paper on "one country, two systems" in June 2014. And, in this White Paper with dozens of pages, a couple of sentences have greatly shocked Hong Kong people, such as "The central authorities perform overall jurisdiction and constitutional duties as prescribed in the Constitution of the People's Republic of China and in the Basic Law of the HKSAR, and exercise effective administration over the HKSAR."

Throughout the process from drafting the Sino-British Joint Declaration and the Basic Law to their implementation, great importance has been attached to the principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". As stated by the Secretary earlier, Chapter II of the Basic Law has even governed the relationship between the Central Government and the HKSAR. Members may look at Article 22 in Chapter II, which reads "No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law." I am not going to highlight other provisions. This is precisely where the huge gap lies.

The fact is, before and after Hong Kong's reunification, the Central Government has time and again interfered in Hong Kong's affairs. Undoubtedly, Beijing was deeply shocked by the marches in 2003 and 2004, as well as the discussion to implement Article 23 of the Basic Law. Before the publication of the Green Paper on Constitutional Development, there was the saying of the so-called "two governing teams". Later, in the White Paper on "one country, two systems" published in seven languages, there was no mention of Article 22 of the Basic Law anymore, which provides that no department of the Central Government should interfere in the affairs of the HKSAR. As we can see, examples of interference are plenty and the most concrete one is the Central Government's interference in two local elections, namely the elections of the District Council and the Legislative Council, not to mention the election of the Chief Executive, who is almost appointed, as I have previously mentioned on different occasions.

The original motion seeks to request the SAR Government to invite the Central Government to implement and continue the state policy of "one country, two systems" in Hong Kong in accordance with the original intent of "one country, two systems", in the hope that the Central Government will reduce its interference in Hong Kong and respect the principle of "one country, two systems". As a matter of fact, we fully respect the responsibility of the Central Government in defence and foreign affairs as provided in the Basic Law. However, with respect to autonomy, the Central Government should respect the HKSAR by all means, paying particular attention to Article 22 of the Basic Law.

I am going to explain why we oppose two of the amendments, especially the one proposed by Mr Martin LIAO. We oppose Mr Martin LIAO's amendment mainly because we consider the current situation undesirable, thus correction and rectification must be made to reduce the interference of the Central Government in the internal affairs of Hong Kong, especially the interference that comes from certain offices set up by the Central Government in Hong Kong. As a number of colleagues have said, the Liaison Office of the Central People's Government would ring up Legislative Council Members and instruct them how to vote, which is an example of interference.

Regarding Mr WONG Yuk-man's amendment, we will abstain from voting because as some colleagues have said, we respect the Basic Law and agree to the "one country, two systems" principle. The Democratic Party has all along been supportive of the "one country, two systems" principle, both before and after the reunification, or in particular before the reunification. Given that the Democratic Party is dissatisfied with the Basic Law in respect of the provisions on the constitutional system, we will consider supporting and promoting any attempt to amend the relevant provisions. We do not support Mr WONG Yuk-man's amendment because he proposed to establish a constitutional amendments convention on Hong Kong affairs. If the objective of this convention is to discuss how the Basic Law can be amended, we do agree to discuss any amendment relating to the constitutional system to realize genuine "Hong Kong people ruling Hong Kong" and implement genuine universal suffrage, but after listening to Mr WONG Yuk-man's elaboration, we found that the objective has certainly gone beyond that scope.

As for Mr Gary FAN's amendment, I also need to explain why we will abstain from voting. The major reason is to uphold the provision of Article 7 of Annex I to the Basic Law, which clearly states that the selection of the Chief

Executive must comply with the "Three-step" requirement, which was subsequently changed to a "Five-step Process" by the Standing Committee of the National People's Congress (NPCSC). Article 7 of Annex I to the Basic Law prescribes that the selection of the Chief Executive must be approved by the NPCSC. Therefore, according to Annex I to the Basic Law, we cannot decide on the pace of development of our democratic political system unless an amendment is made to Annex I. The question of how the Basic Law should be amended has an even greater scope. According to Article 159 of the Basic Law, amendments to the Basic Law must be made with the endorsement of two thirds of all the Members of the Legislative Council, two thirds of the deputies of the SAR to the National People's Congress (NPC) and the Chief Executive, and approved by the NPC (*The buzzer sounded*) ...

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**MR ALBERT HO** (in Cantonese): Deputy President, the State resumed its sovereignty over Hong Kong in 1997 and decided to implement "one country, two systems", so that the capitalist system and way of life in Hong Kong should remain unchanged for 50 years. Meanwhile, a number of important arrangements had also been put in place: firstly, conferring "a high degree of autonomy" on the Hong Kong Special Administrative Region (HKSAR) to administrate its internal affairs; secondly, allowing the Central Government to retain its power on defence, foreign affairs and other affairs as prescribed in the Basic Law, which include the power to amend and interpret the Basic Law, as well as the power vested under Annexes I and II to be exercised during the constitutional development and the appointment of the Chief Executive and principal officials. Moreover, the Central Authorities have to exercise the rights as stipulated in Chapter II of the Basic Law on the relationships between the Central Authorities and the HKSAR.

The abovementioned constitutional arrangements are premised on certain basic policies and principles. Firstly, the authorization system designed under the Basic Law should allow the HKSAR to fully exercise its judicial, legislative and administrative powers, and by maintaining system integrity, the capitalist system and way of life in Hong Kong should remain unchanged. To ensure this, the Basic Law clearly provides that the Central Government should not interfere in SAR's internal affairs. Article 22 clearly states that "No department of the Central People's Government and no province, autonomous region, or

municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own ...". Taking an overview of the Basic Law, the so-called "affairs ... administers on its own" fall within the ambit of "a high degree of autonomy" and are therefore Hong Kong's internal affairs.

Secondly, constitutional development is governed by other guiding principles. Both Articles 45 and 68 of the Basic Law stipulate the development of universal suffrage for the elections of the Chief Executive and all Legislative Council Members; the implementation of which is even specifically allowed in 2007 and 2008 at the earliest.

The third basic policy and guiding principle is that the human rights to be safeguarded are based on a number of principles laid down in different international conventions. Therefore, Article 39 of the Basic Law has specifically included international labour conventions, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Deputy President, this is the original intent. When the principle of "one country, two systems" was introduced 18 years ago, people had very high hopes that the Central Government would solemnly and sincerely implement the abovementioned constitutional arrangements and basic principles. Unfortunately, during the 18 years after the reunification, the Central Government has time and again violated its undertakings and undermined the various constitutional arrangements. The situation has become particularly serious in the past few years, and there are numerous examples of the Central Government directly interfering in Hong Kong's internal affairs or permitting such kind of interference. Officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administration Region (Liaison Office) would constantly ring up Members of the Legislative Council alone and affect their voting preference. The most obvious example is the investigations on LEUNG Chun-ying's tender incident back then and the recent incident concerning the issuance of television licence. Some Members even openly admitted to have received calls from the Liaison Office, or being asked to go to the Liaison Office to give an account. The involvement of the Liaison Office was even more obvious in the Chief Executive election, and this is precisely why LEUNG Chun-ying went to the Liaison Office to thank for the votes immediately after he was elected.

Worse still, officials of the Liaison Office have brazenly and openly interfered in the administration of Hong Kong in recent years. For example, HAO Tiechuan criticized the public opinion poll conducted by the University of Hong Kong; CAO Erbao declared that there were two governing teams overseeing Hong Kong; CHEN Zuoer — he is certainly not an official, but I believe he probably received orders from the Central Government back then — directly supervised the work of officials of the Education Bureau; and lastly ZHANG Rongshun, he clearly stated that the Central Government has "overall jurisdiction" over Hong Kong according to the White Paper on "one country, two systems". What happened during the constitutional development needs no explanation. The Central Government had, through interpretation of the Basic Law, decided to regulate Hong Kong's constitutional reform in a way that was more or less equivalent to the enactment of law in the second step of the "Five-step Process". This had almost completely deprived the Legislative Council of an opportunity to debate on the matter, and forced Hong Kong people to accept the 31 August Decision whereby our genuine right to vote was stripped.

Therefore, Deputy President, in order to resume the original intent, the following four objectives must be achieved: firstly, the National People's Congress must exercise self-restraint and cannot abuse the power to interpret the Basic Law; secondly, the Central Government must respect Hong Kong's "high degree of autonomy" and refrain from interfering in Hong Kong's internal affairs; thirdly, the Central Government must implement the international conventions and (*The buzzer sounded*) ... restart the public consultation on constitutional development to implement genuine universal suffrage.

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up, please sit down.

**MR RONNY TONG** (in Cantonese): Deputy President, I strongly support the motion on "Implementation and continuance of 'one country, two systems'" moved by Mr Dennis KWOK of the Civic Party at this moment. According to the original arrangement, this motion was scheduled for debate before the constitutional reform package was put to vote. However, owing to the filibustering of the Budget debate, this motion debate was subsequently postponed to be conducted after the voting of the constitutional reform package. I have no idea how the voting result would be affected if this motion was

discussed before the deliberation of the constitutional reform package, but Members might at least have a better understanding of the major principles of "one country, two systems". There are queries if the discussion of this motion after the voting down of the constitutional reform package is tantamount to "mobilizing the troops after the robbers had fled". Deputy President, I absolutely disagree with this saying. The failure of the constitutional reform is actually attributable to the huge gap between people in Beijing and Hong Kong on the understanding and expectation of "one country, two systems" and the Basic Law. For this reason, the gap on the conditions and methods for universal suffrage as prescribed in Article 45 of the Basic Law is unbridgeable.

Deputy President, we must face this problem squarely. Otherwise, even if the "Five-step Process" is reactivated tomorrow, people still maintain their current views and the different expectations of the Basic Law and "one country, two systems" will still exist. I believe the result of reactivating the "Five-step Process" will be the same, bringing Hong Kong's constitutional development to a standstill.

We must understand that the essence of "one country, two systems" is a compromise for reunification. Very simply, why is "one country, two systems" instead of "one country, one system" implemented in Hong Kong after the reunification? I think this point is worth pondering over. The Basic Law is a constitutional instrument, and I believe many scholars who are well-versed in international constitutions would agree that constitution is a covenant made between a nation and its people. Judging from this perspective, the Basic Law is a covenant to implement "one country, two systems". In other words, the two parties are bound by this covenant and should not act against it. So long as they agree to this, they cannot say, "I can breach the covenant but not you." But if they follow this line of thought on addressing various issues, particularly on handling the constitutional reform, a consensus can never be reached. Therefore, we must ask ourselves whether the Basic Law had been breached during the discussion of the constitutional reform.

Another issue that I would like to talk about is that some people recently declared that the Basic Law is useless and therefore should be torn, burnt and even rewritten. Some of their justifications are pretty interesting, arguing that the Basic Law is irrelevant to them as it was enacted before they were born, and should therefore be rewritten. Deputy President, I find such an attitude very questionable. As a matter of fact, many local laws were enacted before we were

born, and perhaps the President had not been involved as well. But does that mean we need not give recognition to these laws? I believe the answer is obviously in the negative. Therefore, before amending any law, we must first find out the reason for making the amendment. If the law is considered unjust, then the issue of justice shall be very controversial. Let me cite an example. In civil proceedings, lawsuits for assault must be filed within three years. Yet, sometimes as the victims are not aware of their injuries, they thus fail to file a lawsuit within three years, and no compensation will be awarded. Is this a case of injustice? However, judging from another angle, the law enables the defendants to handle their legal liabilities. It would be unfair to the defendants if a victim is allowed to claim compensation three years, five years or even 10-odd years after the incident. Therefore, before accusing any legislation of being unjust, we must consider from both sides.

Regarding the second point, some said that the Basic Law is unjust; may I ask which provision is considered unjust. Chapters I, II and III of the Basic Law have not only ensured that Hong Kong can develop under "two systems", but have also protected our human rights, judicial independence and freedom of speech, which I do think cannot be ignored. Even for Article 45 of the Basic Law, I do not see any injustice at all because I had once put forward a constitutional reform package that complied with Article 45 and was considered acceptable by international experts in constitutional law. In other words, Article 45 also allows Hong Kong people to have universal suffrage under certain acceptable conditions. There is no conflict between universal suffrage and the Basic Law. So why should we stir up conflicts when dealing with the issue?

Deputy President, another point I must talk about is that the injustice as perceived by some people does not lie in the drafting of the provisions. Rather, it is the interpretation and implementation of the provisions that have aroused dissatisfaction. Thus, instead of revising the provisions of the Basic Law and changing the fundamental spirits of "one country, two systems", we should examine why there is a lack of consensus, or even serious contradictions, over the interpretations of the provisions or the basic concept of "one country, two systems", giving rise to the present antagonistic relationship. This is the issue that we have to tackle.

I therefore eagerly hope that after the constitutional reform package was vetoed, Hong Kong can have a breathing space to look into the matter. This is why I set up the Path of Democracy, which seeks to gauge public views and at the



same time relay our views, with a view to bridging the gap between our different expectations of the Basic Law and creating an atmosphere conducive to achieving genuine universal suffrage in the future (*The buzzer sounded*) ... Thank you, Deputy President.

**MR YIU SI-WING** (in Cantonese): Deputy President, since the reunification, the Central Government has implemented "one country, two systems" and "a high degree of autonomy" in Hong Kong. This arrangement, which is unique in the world, embodies the Central Government's support for and trust in the people of Hong Kong. Similarly, we should trust the Central Authorities. Only through mutual trust between the two sides can the SAR Government achieve effective governance and capitalize on the Mainland's advantages, so as to maintain the long-term prosperity and stability in Hong Kong. This clearly stands to reason, but as Hong Kong was under British rule for one and a half centuries, Hong Kong people generally tend to embrace Western values. Moreover, under the existing education system, some Hong Kong people, particularly young people, only have scanty knowledge of China's politics, economy, history and culture, hence giving foreign forces the opportunity to collaborate with the opposition camp to sway Hong Kong people in an attempt to destroy the mutual trust between Hong Kong and the Mainland, with a view to preventing the successful implementation of "one country, two systems" in Hong Kong and precluding the rise of a reunified, stronger China on the world stage, thereby maintaining the hegemony of these foreign forces worldwide.

We should see clearly that the opposition camp has made meticulous plans to achieve their goals. First, they demonized the Central Authorities and the SAR Government. Before the reunification, the opposition camp exploited the public's fear of communism to propagate the idea that there would be no freedom for Hong Kong people and no protection for their personal property after the reunification. As a representative figure of the opposition, Martin LEE resorted to scaremongering on different occasions before the reunification. At a hearing of the Congressional Human Rights Caucus of the United States House of Representatives, he said, "The United Kingdom's handover of 5.5 million Hong Kong people to China is like the handover of 5.5 million Jews to Nazi Germany during the Second World War." At a symposium held in Los Angeles on issues relating to Hong Kong, he said seditiously, "If the current version of the Basic Law is not amended to protect the interests of Hong Kong people, then after the 'doomsday' in 1997, there will be people in Hong Kong being put behind bars and

becoming 'political prisoners' because of their dissenting political views." At that time, many middle-class people were influenced by similar comments and did not have a good opinion of "one country, two systems"; they sold off their properties, quit their high-pay jobs and emigrated with their families. Now, almost 18 years have passed since the reunification. As we can see, the Central Government has kept its side of the bargain by implementing "one country, two systems" and continuing to maintain "a high degree of autonomy" in Hong Kong, and Hong Kong is more prosperous, stable, democratic and liberal than it was under British rule. A lot of Hong Kong people who emigrated overseas greatly regret their decision, and many of them have returned to Hong Kong with their children.

Since the reunification, the opposition camp has been playing the same old trick. They have one-sidedly played up the corruption of Mainland officials of all ranks, the image of Mainlanders as money grabbers with no integrity, the disparity between the rich and the poor, as well as political suppression, but have never mentioned from an objective angle the progression and development of today's China. The opposition camp has, again, ignored the facts and created the "communist phobia" and feelings of hostility towards communism, with the aim of causing those Hong Kong people, particularly young people, who do not know the truth and do not understand Mainland situations, to be ill-disposed towards the Central Authorities. Despite all the goodwill shown by the Central Government, it has been unable to win those people's understanding and acceptance. On the contrary, when the Central Authorities came forward to help clarify some matters of principle which had a bearing on Hong Kong people's livelihood, such as interpretation of the Basic Law, it was labelled by the opposition camp as intervention in Hong Kong affairs and destruction of "one country, two systems". This does the Central Authorities an injustice.

The second step taken by the opposition camp is to advocate localism and drive a wedge between Hong Kong and the Mainland. In recent years, the opposition camp has taken advantage of the uncivilized acts of some Mainlanders and kept exaggerating such acts to uglify and maliciously attack Mainlanders, be they tourists, students studying in Hong Kong, or even new immigrants coming here for family reunion. Not only have they become the target of attack, but they have also been given discriminatory and insulting labels such as "locusts" and "strong-country people". As a matter of fact, we can see that over the years, the Central Authorities have been carrying out political reforms continuously while developing the economy. Since taking office, the new generation of

leaders has been determined to make an all-out effort to combat corruption, and the results achieved are there for all to see. However, the opposition camp has still resorted to making sweeping generalizations to sow dissention and deceive the public. They have directly initiated a series of violent and radical protests such as the "anti-locust" campaign, liberation protests, and anti-parallel trading protests. Some people have even agitated for "desinicization" and promoted "Hong Kong independence", intensifying the conflicts between Hong Kong and the Mainland. As a result, Hong Kong's image as a hospitable city has been tarnished and the tourism, retail and catering industries have taken a battering, to the detriment of the economic development of Hong Kong.

Deputy President, the fact that Hong Kong enjoys freedom of speech does not mean that foreign forces can wantonly interfere with and affect Hong Kong's political ecology. Members of the public should see clearly the true colours of the opposition camp and the financier behind it, firmly safeguard "one country, two systems", and uphold the rights conferred on us by the Basic Law. Just think: if we do not have the Basic Law, how can we guarantee the effective implementation of "two systems" under "one country"? The present attempt by some people to have the Basic Law amended or even destroyed is practically tantamount to renouncing the legal protection that has proved to be effective. This is a very dangerous move.

Deputy President, now that the constitutional reform has fallen through, I hope that sensible Members from the pan-democratic camp will recognize the facts and face the future. They must stop opposing for the sake of opposing, and should devote more energy to addressing economic and livelihood issues and rebuild their relationship with the Central Authorities, so that "one country, two systems" can continue to be smoothly implemented in Hong Kong.

I so submit.

**MR TANG KA-PIU** (in Cantonese): Deputy President, this motion has certainly been proposed in a timely manner. Last week, we had dealt with the most important issue in the history of Hong Kong or even the most important issue relating to "one country, two systems", that is, the implementation of Article 45 of the Basic Law so that the Hong Kong Special Administrative Region (HKSAR) can have universal suffrage. That would exactly manifest the differences of the "two systems" in that Hong Kong can implement universal

suffrage, as differ from other administrative units in China. Unfortunately, since the pan-democratic Members insisted on handling the issue in a bundled manner, Hong Kong had once again lost a historic opportunity.

Let me specifically point out the observations we had made in the past 20 months. In discussing how we should continue to implement "one country, two systems", we are most surprised to note that the pan-democratic Members who often stress the importance of "two systems" are so dubious in their attitude towards the propositions of "Hong Kong independence", abolishing the Basic Law, amending the Basic Law or tearing up copies of the Basic Law, which have obviously emerged in our society. Certainly, after listening to Mr Dennis KWOK's speech just now, I understand that he respects the Basic Law and hopes that people will attach importance to it. However, even though he respects the Basic Law, he cannot just consider one provision and not another; he cannot just discuss Article 22 and not Article 23. If we discuss Article 2 which is a wonderful provision that authorizes Hong Kong to enjoy executive, legislative and independent judicial power, including that of final adjudication, we should also consider Article 12 and Article 20 which provide that the Central Government (including the Standing Committee of the National People's Congress) can grant other powers to the HKSAR. In fact, the position regarding residual power has all along been established in the Basic Law since its promulgation in 1990, it is only a matter of how people interpret the provisions. What puzzles us most and even arouses our dissatisfaction is that when some Members want to protect themselves, they talk about "two systems", but when they want to attack the State, they ignore the concept of "one country, two systems".

I would like to examine the idea of "one country, two systems" in particular. We often say that the political system of Hong Kong is executive-led. But, if we read the Basic Law carefully, the word "executive-led" is not used. Instead, it is hoped that this objective can be achieved through the design and implementation of the system. However, the pan-democratic Members have twisted the meaning of the word and claimed that it is a form of executive hegemony. What then is the reality? The reality is that the Government is not even executive-led, not to mention practising executive hegemony. Can we draw any comparison? I think we can at least compare the current situation with that under the British-Hong Kong era. When conducting guided tours, I like to show students the four paintings outside the Chamber.

The first painting is a portrait of Sir John SWAINE, the first Member who served as the President of the Legislative Council. As we all know, the Legislative Council has a history of over 150 years, but why are there only four portraits of the Presidents of the Legislative Council? The reason is that before 1993, the Governor of Hong Kong would also basically take up the position of the President of the Legislative Council. That was a time when the executive and the legislature were actually intermingled.

Why do so many people say that there are checks and balances of powers in the United Kingdom? I cannot imagine how such saying had been manifested in Hong Kong under the British colonial rule, not to mention that before 1995 when the "three-violation" package to reform the Legislative Council was implemented, more than half of the Members of the Legislative Council were appointed. The judicial system of Hong Kong certainly deserves respect, but in the past, the judges of Hong Kong actually had to follow the instructions of the Privy Council in England. Is that the current position of Hong Kong? Is that our position since the reunification? Evidently, Hong Kong has the power of final adjudication. Besides, while the Basic Law stipulates that the Chief Executive and 80% of all Members of the Legislative Council must be Chinese citizens who are permanent residents of Hong Kong, it has not laid down such restrictions for judges. As we can see, the design and implementation of "one country, two systems" and the Basic Law have enabled Hong Kong to have genuine democracy, "separation of powers" and "a high degree of autonomy" in the past 18 years. Therefore, when so many Hong Kong people query whether the policy of "one country, two systems" has been implemented, we have to consider one question. As Mr Ronny TONG has aptly put it, when we allege that some people have misunderstood the meaning of "one country, two systems", shouldn't we ask ourselves whether we have misunderstood the meaning too?

Since the constitutional reform package has been vetoed, the existing system of Hong Kong will remain. What can we do to truly continue the policy of "one country, two systems" and maintain the confidence of Hong Kong people? I think different political parties have to reach a consensus on this issue. In my view, while the policy of "one country" should not change and should be respected, the meaning of "two systems" (the systems of China and Hong Kong) is changing all the time. As there are changes in our social and political systems, we should not in fact neglect the continuous changes and improvements made in the systems of the State.

I learn from the news report that the National People's Congress is drafting a law which provides that leaders of the State at all levels have to swear allegiance to the Constitution of China. In other words, they have to abide by the law. This initiative has a very important meaning, signifying that our country is becoming more accountable to the Constitution. Although we may have noticed different problems in China, we cannot deny that it is making various economic, social and administrative improvements. In the previous discussion on the motion regarding the visit to Northern Europe, a Member talked about "one country, two systems". The policy of "one country, two systems" is also implemented in Northern Europe and in this connection, I would like to mention one important point. After listening to the speech of that Member, I understand that under "one country, two systems", the two systems are changing all the time, but the crux of the matter lies in whether the two systems share any common experience. Here I would make an earnest appeal to Members of all parties and affiliations who truly want to promote the interests of Hong Kong and safeguard "one country, two systems" that they should face squarely the ideologies of "Hong Kong Independence" that have emerged in Hong Kong and distance themselves from these ideologies. We should not allow these ideologies to undermine the policy of "one country, two systems" and draw Hong Kong further and further away from the State.

I so submit. Thank you.

**MS CLAUDIA MO** (in Cantonese): The voting down of the fake universal suffrage package last week was a joke and a farce of the century, making people realize how shaky "one country, two systems" is in Hong Kong, though I will not say that it has totally collapsed. Let us review what had happened. The pro-establishment Members received orders from Beijing that all Members of the pro-establishment or royalist camp who "love the country and love Hong Kong" should vote in unison in support of the constitutional reform package to direct against the opposition camp, that is, the democratic camp.

When the incident happened, I thought Members might have made an honest mistake, but what they did afterwards is utmost ugly and despicable. One of them said, "We believe that the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (Liaison Office) will not hold us accountable or be angry with us." Another said, "It is not unreasonable for us to explain to the Liaison Office, and why can't we do so? What is the meaning of 'one country, two systems'? Since Beijing certainly has

the final say on matters regarding constitutional reform, it is appropriate for us to discuss the matter with Beijing officials." How can people make such remarks? The fundamental principles of the Basic Law are "one country, two systems" and "a high degree of autonomy"; and apart from defence and foreign affairs, the affairs of Hong Kong should be handled by Hong Kong people.

However, the reality is quite different. Even Mr James TIEN said that going to the Liaison Office or confessing to officials of the Liaison Office about that farce was not a problem, because the "bosses" in Beijing have the final say and discussing the incident with them was appropriate. However, we have to give second thought to the view that Beijing has the final say and can impose restrictions on our constitutional reform. Yet, this view contains some truth too. If the Chief Executive of Hong Kong elected by "one person, one vote" is unacceptable to Beijing, Beijing can refuse to make the appointment, but that will make an even bigger international joke. Beijing must guard against this situation. If accidentally, Hong Kong people disobediently elect a Chief Executive who is unacceptable by Beijing and Beijing refuses to make the appointment, the situation will be truly ridiculous and will be ridiculed internationally. In fact, the framework of the 31 August Decision is to ensure that candidates who can reach the stage of "committee nomination" will not be rejected by Beijing for appointment as the Chief Executive. It is just that simple.

If people now say that this and that incident are related to Beijing — an official said so this morning — in other words, all issues can be discussed. In that case, why can't the Ministry of Education discuss the issue of national education, given that the issue of national education is closely related to the State? Another example is the issue of housing. One can say that Anthony CHEUNG has to discuss the housing issue with Beijing because Hong Kong has to take care of the housing needs of a large number of new entrants coming from the Mainland, or Beijing has to review the number of people coming to Hong Kong. Actually, all matters can be related to the Mainland, does that mean Hong Kong must discuss all matters with Beijing. If that is the case, how can "one country, two systems" be implemented? How can Hong Kong enjoy "a high degree of autonomy" in conducting its affairs other than defence and foreign affairs? These principles are fundamental. Hong Kong people really should not forgo our rights first. We should not hasten to fawn upon the rich and powerful shamelessly and lick their boots.

Deputy President, this Government is deliberately promoting China-Hong Kong integration and trying to wipe out the intrinsic characteristics of Hong Kong. We advocate safeguarding the local spirit of Hong Kong, its intrinsic character, the spirit of fairness, basic human rights and the concepts of democracy. As some people cannot rebut our arguments, they adopt the words of others and label this and that person as advocates of "Hong Kong Independence", thinking that the more moderate Hong Kong people will be scared to death at the mention of "Hong Kong Independence", just like the effect caused by the word "turmoil".

I understand that many Chinese people now living in Hong Kong, particularly our compatriots from the Mainland, have an inborn tendency to be frightened of turmoil. Over the last century, many Chinese people have indeed led unsettled and hard lives, starting from the Xinhai Revolution, the era of warlords, the invasion of the Japanese, and then the Civil War between the Communist Party and the Kuomintang. It seemed that the list of turmoil was endless, not to mention the pains and sufferings in the more recent Cultural Revolution and the Movements against the Three Evils and the Five Evils. People are most afraid to hear about turmoil and disturbances. What are the reasons for that? The Government does not care at all. Young people have to take good care of themselves. Hong Kong is the place where we were born and raised up and we love this city; but the Government does not show any concerns. Whenever people complain, the Government would label them as "waste youths" and advocates of "Hong Kong Independence", which is extremely unfair. I think the Government is acting like ... sorry, Deputy President, I cannot translate the famous saying of Dr Samuel JOHNSON, the eminent English writer, into Chinese instantly, "Patriotism is the last refuge of a scoundrel." The Government is acting like a person who would point his finger at someone whom he cannot win over in an argument and say, "You do not love the country and you are advocating 'Hong Kong Independence', that's all." Any rational adults would ponder whether that is fair to the young people of this generation, to Hong Kong people in future generations, to our next generation and to the generation after next (*The buzzer sounded*) ...

**DEPUTY PRESIDENT** (in Cantonese): Ms MO, your speaking time is up, please sit down.



**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, on 10 June of last year, the State Council Information Office of the People's Republic of China published the White Paper on The Practice of the "One Country, Two Systems" Policy in the Hong Kong Special Administrative Region (White Paper). The publication of the White Paper immediately aroused great concern in society and caused grave political repercussions. The reason is that many commentators think that the publication of the White Paper indicates that Beijing intends to comprehensively tightens the control over "a high degree of autonomy" enjoyed by Hong Kong and this strikes a serious blow to the promise of "one country, two systems". At the time, the Beijing authorities openly denied the alleged intention, saying that it has no such intention and reiterating that no changes are made to the policy of "one country, two systems".

Deputy President, when we use the term "one country, two systems" to refer only to the co-existence of socialism and capitalism, I believe no great changes are made in this respect. As we all know, China no longer emphasizes the development of socialism in its recent economic development, but has focused on the development of capitalism instead. There is no need for the Central Authorities to undermine or even change Hong Kong's capitalist system because that will not be conducive to the economic development of China, and will even greatly impede the development of Hong Kong. Therefore, I am not very worried about this aspect.

In fact, I am more worried that the Central Authorities have laid excessive emphasis on the capitalist system, safeguarding the interests of the capitalists while harming or neglecting the interests of grass-roots workers. For instance, before LEUNG Chun-ying assumed the position of the Chief Executive, he said time and again that he would show concern to the problems of the grassroots and the difficulties faced by wage earners, he would implement a retirement protection system and even legislate on standard working hours, and so on. Unfortunately, we have observed that when many employers, that is, capitalists, have recently voiced their opposition, LEUNG Chun-ying immediately shut up and stalled in getting the work done in these two aspects as he intended. We do not know when the work will be done or whether there is any chance that they will be done in his term of office. On this point, I am really worried about the extent of protection given to safeguard the interests of grass-roots workers under the current policy of upholding Hong Kong's capitalist system.

Apart from the issue of "one country, two systems", the most important point mentioned in the White Paper is jurisdiction and it specifically states that the Central Authorities has overall jurisdiction over Hong Kong. The White Paper specifically states that the Hong Kong Special Administrative Region (HKSAR) is like other special administrative region in the province and the Central Authorities have full authority to remove or reduce the rights enjoyed by Hong Kong. Deputy President, I think that is really unreasonable and I wonder if the Central Government has forgotten that we have the Basic Law and the Sino-British Joint Declaration. As we all know, the Central Authorities have promised in the Sino-British Joint Declaration that Hong Kong will be a special administrative region totally different from any other administrative region or municipalities in the country. Besides, the Central Authorities allow the HKSAR to deal with its affairs differently and that is why it is called a special administrative region. If Hong Kong is regarded as the same as any municipality in China, what is the significance of "special" as in the "special administrative region"? That will be totally meaningless.

Furthermore, the Basic Law of the HKSAR is endorsed by the Standing Committee of the National People's Congress (NPCSC) and its existence is acknowledged in the constitutional system. Why do they tell us now that Hong Kong's jurisdiction is not full jurisdiction and there is no residual power? If that is the case, they have in effect amended the Basic Law even though it is not formally amended.

It is clearly provided in the Basic Law and as many colleagues have said, except for defence and foreign affairs, all affairs of the HKSAR will be handled and managed by the HKSAR. Why do you people say that the Central Authorities have overall jurisdiction? We certainly understand that under the concept of "one country", Hong Kong does not enjoy absolute autonomy. We understand that fully, but in which areas do the Central Authorities have jurisdiction? To put it the other way round, in which areas does Hong Kong enjoy "a high degree of autonomy"? We enjoy "a high degree of autonomy" in all areas except defence and foreign affairs, is that right? If not, how should the provisions be interpreted?

The common law is applied in Hong Kong and one very clear principle of the common law is that what has been written down exists and what has not been written down does not exist. Since the Basic Law has not written down any other exceptions such as education, matters concerning education should be

managed by the HKSAR. Since housing issues have not been written down as an exception, how will they be handled? They will be handled by Hong Kong. Regarding the Legislative Council election and the election of the Chief Executive, the Basic Law does not provide that the NPCSC can make a decision on the arrangements; it only provides that the NPCSC has the power to approve the arrangements. In other words, changes (if any) to the mode of election or the composition of the Legislative Council shall be approved by the NPCSC. However, I do not think this is an important point. Since this point is written down in the Basic Law, it does not matter to construe that we have accepted it. But, the problem is that by laying down a framework, the 31 August Decision had overridden "a high degree of autonomy" and imposed some requirements. In this way, the Decision had contravened the Basic Law. Why does the SAR Government still claim that the constitutional reform package conforms to the Basic Law? That is a blatant lie. The package has indeed contravened the Basic Law.

Furthermore, Mr LU Ping said expressly in 1993 that constitutional reforms of Hong Kong after 2007, particularly those concerning the elections of the Legislative Council, would be handled by the SAR Government. But, the Government tells us now that this is not the case and we can only discuss the mode of election of the Legislative Council after the constitutional reform package for 2017 is passed. The Government has committed an *ultra vires* act and it is challenging, exploiting and eroding our right to enjoy "a high degree of autonomy". Therefore, I think our discussion today should not only cover "one country, two systems" (*The buzzer sounded*) ... but also "a high degree of autonomy".

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG, your speaking time is up, please sit down.

**MRS REGINA IP** (in Cantonese): Deputy President, I speak on behalf of the New People's Party against Mr Dennis KWOK's motion and the amendments of Mr IP Kin-yuen, Mr LEE Cheuk-yan, Mr Gary FAN and Mr WONG Yuk-man. I would only support the amendments of Mr IP Kwok- him and Mr Martin LIAO for the following reasons. First, on the face of it, Mr Dennis KWOK's motion appears very simple and there is no problem with it, but if we take a closer look, we will find problems. The wording of his motion is "That this Council requests

the SAR Government to earnestly invite the Central Government to implement and continue the state policy of 'one country, two systems' in Hong Kong in accordance with the original intent of 'one country, two systems'." It seems that the Central Government will only do so if it is earnestly invited by the SAR Government. Is he implying that the Central Government has not done so before? As this kind of implication or interpretation is incorrect, we cannot render our support.

(THE PRESIDENT resumed the Chair)

I think most of the other amendments reflect a misunderstanding of "one country, two systems". After reading the amendments of Honourable colleagues and the comments made by the pan-democrats in newspapers, as well as listening to the speeches delivered by Members, I think they have misunderstood "one country, two systems", thinking that Hong Kong under "one country, two systems" is an isolated island or is an insulator. They think that we only need the assistance of the People's Liberation Army when diplomatic or national defence needs arise. Do we only need the assistance of the Ministry of Foreign Affairs in the event of missile attacks, incidents like the South Asian tsunami or earthquakes in other places? Do we not need the concern or attention of the country in other areas? This is completely incorrect. If some Members or other members of the public are closer to the Central Government, does it mean that they must be bootlicking or have certain interests?

Recently, a politician who had been a Legislative Council Member commented that the fact that the Business and Professionals Alliance for Hong Kong (BPA) hastily went to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (Liaison Office) to proffer explanation after the voting error last Thursday was an act of self-destruction. If you asked me how I would deal with the matter, I would first offer an explanation to my voters. I do not know if the BPA had explained to their electors, they might have done so. In any case, what was wrong for the BPA to offer explanations to the Liaison Office?

According to the Basic Law, it is a national affair to promote universal suffrage in Hong Kong. If success can be attained, the first universal suffrage will be implemented in the country (except the Taiwan region), which is of great

significance. Therefore, since technical errors had arisen in voting, there was nothing wrong for them to give the Liaison Office an account, stating that they had not done so intentionally and no conspiracy was involved. A lot of people are very much concerned about the matter. For those who accuse the pro-establishment Members for having communications with the Liaison Office, can they account for their communications with the British Consulate-General or the Consulate General of the United States? Can they simply ignore the initiative taken by other people to contact them? Are there any problems if they have contacts with other people?

Let me tell you, many Consulates as well as the European Union have contacted me. I think it is rather important to communicate with other governments, though at very short notice. For example, the Consulate General of the United States recently invited me to meet with a senior congressional staff from the Foreign Affairs Committee of the Senate. He was sent by the Foreign Affairs Committee of the Senate to meet with some Members in Hong Kong and I believe he did not only meet with me.

Time was really pressing, and finally a meeting was arranged at 8 am on a Sunday morning. I had to get up early and my driver was on leave on that day. Knowing that it is very important to communicate with other governments, in particular with staff from the Senate of the United States, I attended the meeting. Are there any problems?

As I have communicated with other governments, what is the problem of communicating with our own country? Why should we regard our country as an enemy and comment that it is an act of self-destruction to communicate with our own country? Do people want to make trouble out of nothing, sow discord and build an unnecessary wall between the SAR and the country? I think people who make such allegations must reflect on themselves. Can Hong Kong become completely independent, not relying on others? Is it possible for Hong Kong to deny the attention, assistance or concern in all other areas other than defence and foreign affairs?

President, let us consider the economic aspect. We rank first in different areas; for instance, we rank first in terms of economic freedom, and we claim to be the centre in certain areas. Let us consider the actual situation: our economic growth rate is lagging behind other emerging cities, and we are even lagging behind Singapore which is also a small open economy. What is the impetus of

our economic development? Domestic consumption drives economic development, and domestic consumption is stimulated by the Government's relaxing measures, as well as the opportunity provided to us by the Mainland in the stock market, which has contributed to a flourishing financial sector. The collection of stamp duty alone will flood the Treasury with money, and there are also demands for tourism and real estate by Mainlanders. Can Hong Kong really determine its own destiny? I believe we should objectively consider the situation. In fact, the Mainland and Hong Kong are closely knit together and are interdependent.

Members who propose amendments today advocate an unrealistic Hong Kong isolationism, which is detrimental to the implementation of "one country, two systems". Why is there such a phenomenon? It is because many people have deliberately discredited others and blown up trivial matters in the Mainland, as commonly found on the Internet. For example, if a person publishes an article online, objectively discussing the economic growth in China, it will not be acceptable even if he quotes *The Economist*. Someone will immediately edit the pictures, replacing them with ugly pictures teasing middle-aged Mainland women or vilifying the images of Mainland compatriots (*The buzzer sounded*) ...

**PRESIDENT** (in Cantonese): I will suspend the meeting at about 8 pm. Members who do not have the chance to speak before the suspension of the meeting tonight can continue to speak when the meeting resumes at 9 am sharp tomorrow.

**DR PRISCILLA LEUNG** (in Cantonese): President, in recent years, more and more radical thoughts have emerged in Hong Kong, including the proposition on "Hong Kong independence" which violates history, the law and "one country, two systems". This reflects that many Hong Kong people still have scanty knowledge of "one country, two systems".

Today, Mr Dennis KWOK's motion and the amendments proposed by some opposition Members well illustrate how the pan-democratic camp has all along misinterpreted the Basic Law and "one country, two systems", thereby misleading the people, stubbornly rejecting the constitutional reform and upsetting "one country, two systems".

The pan-democrats have consistently asked the Government to restart the "Five-step Process", but the most fundamental problem is, if "one country, two systems" has been distorted, the relationship between the Central and local authorities as specified in the Basic Law will hit rock bottom, and there is no basis for restarting the "Five-step Process" in Hong Kong. If the pan-democrats continue to ignore "one country, two systems" and the Basic Law, they will always be the opposition camp, and they will always reject the constitutional reform.

The opposition camp has been resistant to the White Paper on The Practice of the "One Country, Two Systems" Policy in the Hong Kong Special Administrative Region (White Paper) and they even think that the White Paper is a document weakening "one country, two systems". This kind of response well proves that 18 years after the reunification, the opposition camp has not yet accepted the reality of Hong Kong's return to China. However, ignorance is not an excuse because the issues mentioned in the White Paper were already discussed in 1982 during the Sino-British negotiations on the future of Hong Kong, and a consensus was reached after the efforts made by various parties through negotiations, and a law was consequently enacted, that is, the Basic Law.

In fact, the Basic Law has two types of DNA, namely the Chinese law and the common law. We cannot deny that some provisions in the Basic Law are not familiar to people in places that practice common law. For example, it is stated in Article 158 that the power of interpretation shall be vested in the Standing Committee of the National People's Congress, and this is not a common law provision; Article 2 mentions executive, legislative and independent judicial power, as well as final adjudication power, but not the power of interpretation. Certain provisions cannot be interpreted under the common law. In addition, the Basic Law mentions the authorization of the National People's Congress. The Mainland has constantly explained that authorization is not the same as the separation of powers; hence "a high degree of autonomy" is not the same as "absolute autonomy".

In fact, the Basic Law carries two types of DNA under different legal traditions. We see distinctly different things from different perspectives, giving rise to divergent views and even disputes on legal issues.

Insofar as governance is concerned, DENG Xiaoping said in 1984 that we should not think that all affairs in Hong Kong would be handled by Hong Kong people, and the Central Authorities would not show any concern. In particular,

will things detrimental to the fundamental interests of the country not happen in the SAR? Will things detrimental to the fundamental interests of Hong Kong not happen in Hong Kong?

I did not have any special feelings about these remarks made by DENG Xiaoping at that time. However, during the large-scale illegal Occupy movement in Hong Kong last year, the occupiers created chaos at the expense of the interests of the country and Hong Kong. DENG Xiaoping had never been to Hong Kong but he made such remarks, which well reflected that he was really a far-sighted politician.

After the reunification, the opposition camp has a weak sense of national identity and has demonized the exercise of powers by the Central Government under the Constitution and the Basic Law, giving people an impression that only "two systems" but not "one country" could be mentioned in Hong Kong. This tendency is in violation of "one country, two systems" and do more harm than good to "one country, two systems". To implement "one country, two systems", both "one country" and "two systems" must be implemented and we cannot say that the Central Authorities have undermined "one country, two systems" because they have made some remarks.

Mr Dennis KWOK said that it was now high time to discuss the situation of Hong Kong in 2047. Back in 1984, a foreign reporter asked DENG Xiaoping what would happen in Hong Kong 50 years later. DENG Xiaoping answered, "Fifty years later, China would have changed." I believe in his words. I went to Beijing in 1987 and I could not imagine at that time that China would have such speedy development as of today. At that time, I could only take a bath once every seven days. I believe China cannot answer Mr Dennis KWOK's question about what would happen in 2047. It is unrealistic for him to ask such a question. If he wants to know what would happen to Hong Kong in 2047, he should at least wait until 2040 because we would then have a clearer picture of the situation.

Looking back at history, when China decided to take back Hong Kong under "one country, two systems" and "Hong Kong people administering Hong Kong", DENG Xiaoping clearly stated that "Hong Kong people administering Hong Kong" meant that Hong Kong should be governed by people who love the country. People who love the country should respect their nationality and wholeheartedly support the Motherland's resumption of the exercise of sovereignty over Hong Kong, without prejudice to Hong Kong's prosperity and



stability. However, people like Mr WONG Yuk-man prefer destruction to construction; they initiated "resignation *en masse* of Members returned from five geographical constituencies" and filibustered. They even took part in Occupy Central last year. All these caused the Central Authorities to lose confidence in Hong Kong.

In fact, if the Central Authorities have greater confidence in Hong Kong, they will exert less control on us. But in Hong Kong, any foreign countries can make comments on Hong Kong with the exception of the Central Authorities. Whenever the Central Authorities make any comments, the opposition camp will say that "one country, two systems" no longer exists. I believe people who make such comment do not understand the meaning of "one country, one system". Since they have never lived under "one country, one system", they often casually comment that "one country, two systems" is not working. Owing to their irresponsible and rash comments, young people fail to value the advantages and freedom in Hong Kong under "one country, two systems" and they are bent on destroying "one country, two systems", which would cause great damage to Hong Kong.

President, in implementing "two systems", the country has overall jurisdiction and this is nothing new. Such a statement was made when the country took back Hong Kong. Nevertheless, the country was not very explicit at that time, but Hong Kong requested the country to make its position clearer. If Occupy Central had not taken place, the country would not have promulgated the White Paper on "one country, two systems", as it had not done so in the past 18 years. We should consider this fact carefully and we should not further shake the country's confidence in Hong Kong.

It is still not too late and I hope both the opposition and the pro-establishment camps would adopt positive attitudes towards "one country, two systems", and say "no" to radicalism and the idea of "Hong Kong independence". In that case, they can start communicating with the Central Authorities and they will not be forced to oppose the constitutional reform forever.

President, we can only support the amendments of Mr Martin LIAO and Mr IP Kwok-him and cannot support Mr Dennis KWOK's motion and the amendments of other Members of the opposition camp. I so submit.

**DR KWOK KA-KI** (in Cantonese): President, today Mr Dennis KWOK of our Party proposes the motion on "Implementation and continuance of 'one country, two systems'". The timing is perfect. The wording of the original motion is very simple, "That this Council requests the SAR Government to earnestly invite the Central Government to implement and continue the state policy of 'one country, two systems' in Hong Kong in accordance with the original intent of 'one country, two systems'." Had the policy of "one country, two systems" and "Hong Kong people ruling Hong Kong" been truly implemented in Hong Kong, there is certainly no need to hold the discussion today.

Last Wednesday and Thursday, people of Hong Kong witnessed a hair-raising farce that racked "one country, two systems" and ended "Hong Kong people ruling Hong Kong". In dealing with such an important motion, the act of 33 pro-establishment Members has brought disgrace to the people of Hong Kong. Failure to cast a vote was not so disgraceful, the most disgraceful act was that after the incident, those Members rushed to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (Liaison Office) to declare their loyalty, confessing tearfully that they had done wrong and they should have done better by remaining in their seat to cast the vote. As Legislative Council Members, they have to fulfil their solemn duty to cast their vote; they should not check their mobile phone for WhatsApp messages and see what orders or instructions the Liaison Office or the so-called "class prefect" had given concerning how many Members should cast their votes. They have brought shame to the people of Hong Kong. What did they take the Legislative Council for? Did they cast the vote when the Liaison Office told them to and not cast the vote when the Liaison Office told them otherwise? What kind of "one country, two systems" was that? Did their action conform to "Hong Kong people ruling Hong Kong"? It was not only a farce but also a tragedy.

Since the reunification in 1997, we have been hoping to see "one country, two systems" envisioned by DENG Xiaoping being realized in Hong Kong. In this way, Hong Kong would be vitalized so that it could not only maintain a positive development but also push forward the reform in the Mainland, and became a litmus test of the democratic reform. Mr DENG Xiaoping had certainly envisioned this important role of Hong Kong; otherwise he would not have put forward the concept of "one country, two systems" and promised to maintain the system of Hong Kong for 50 years? If he wanted to implement "one country, one system" and put Hong Kong under the direction of the Liaison Office, he would not have put forward the idea of "one country, two systems".

However, we have witnessed a real farce, not only inside the Chamber, but also outside the Chamber where a large group of "number people" had stationed. These people are deployed from various parts of the Mainland to Hong Kong to maintain stability. There were a pack of "number people" and "masked people", how outrageous! Had we sunken so low that a stability preservation force from the Mainland was needed in the Tamar Park to lend support to the constitutional reform package? This well demonstrated the downfall of "one country, two systems" and "Hong Kong people ruling Hong Kong".

There will be another farce tomorrow. The Liaison Office will host a tea gathering, to be held after 9 pm at night, possibly to give a chance to those underperformed Members who did not remain in their seat as told by "Grandpa" to reflect on their act and demonstrate their solidarity again. How outrageous! If we want to show our loyalty, we should show our loyalty to the general public. Why do they not fight for genuine "Hong Kong people ruling Hong Kong" in this Chamber; why do they not fight for genuine universal suffrage stipulated in Articles 45 and 68 of the Basic Law, so that Hong Kong people can truly elect a Chief Executive and all Legislative Council Members who represent their views? Why should they show their loyalty to the Liaison Office on such trivial matters?

When Mr DENG Xiaoping met with a delegation from Hong Kong on 22 and 23 June 1984, he stated clearly the Chinese Government's unwavering stance, principles and policies on resolving the issue about Hong Kong, that is, the social and economic systems, basic legal system, way of life, as well as Hong Kong's status as an international trading and financial centre and a free port would remain unchanged after China's resumption of sovereignty over Hong Kong. Apart from stationing its military forces in Hong Kong, Beijing would not send any of its officials to the Hong Kong SAR Government and this policy would also remain unchanged.

But what is the situation now? What we see is a complete takeover, a takeover in all aspects. The Liaison Office and some societies are creating more societies in Hong Kong. Not too long ago, a society named the Federation of Hong Kong Foshan Associations was established. The Federation clearly stated that it was set up through the help of the United Front Work Department of the Communist Party of China and the Liaison Office, with the objectives of helping the so-called pro-establishment camp, as well as assisting the Liaison Office to identify suitable candidates for the future elections. I believe they mean the District Council election this year and the Legislative Council election next year.

This is a blatant interference in the internal affairs of the SAR. The Basic Law has already imposed a strict control over the Legislative Council through functional constituencies and the separate voting system. But such a control is still not enough. The Legislative Council has no room for manoeuvre and is subjected to continuous oppression.

At present there are views that many Hong Kong people do not identify with the Central Authorities or identify themselves as Chinese nationals. This crisis is created by the Liaison Office as well as Members from the pro-establishment camp who only take orders from the Central Authorities without independent thinking. If we remain on this path, the policy of "one country, two systems" in Hong Kong is doomed. I call upon all those brainless Members to understand their duty (*The buzzer sounded*) ... and hold themselves accountable to the people of Hong Kong.

I so submit. Thank you, President.

**MR JAMES TIEN** (in Cantonese): President, this motion concerns the implementation and continuance of "one country, two systems". I have been a Member since 1988 with the exception of a few years, which is indeed a long time. Our discussion on "one country, two systems" during the 80s was completely different from the ideas put forward by the pro-establishment and pan-democratic Members in today's debate in this Council. When we spoke of "one country, two systems" at that time, we referred to capitalism practised in Hong Kong and socialism practiced in the Mainland, which were the "two systems". But today no one talks about that anymore. At that time, the business community was frightened that Hong Kong would no longer practise capitalism but would adopt a socialist system; and if so, would many people in Hong Kong be greatly worried? Today, it seems that "two systems" have become the direction which the pan-democrats think that Hong Kong should develop, while "one country" has become the direction of development preferred by the pro-establishment camp. I believe nobody would have anticipated this situation when they formulated the Basic Law then.

President, let us look at the real situation. By 2015, "one country, two systems" has become the root cause of China-Hong Kong conflicts. One of the reasons is China's rapid economic development and its increasing global influence over the past 10-odd years, which I think Chinese people in all parts of

the world should be proud of. However, I also understand the status of Hong Kong some 10 years ago. In respect of the GDP, Shanghai, Beijing and Guangzhou have already surpassed Hong Kong, and Shenzhen and Tianjin will also surpass Hong Kong this year. This situation has never been anticipated by us at that time, and naturally people of Hong Kong do not have much confidence now.

Let us look at incidents of China-Hong Kong conflicts in recent years. They include Mainland residents coming to Hong Kong to compete for school places; "doubly non-permanent resident pregnant women" coming to Hong Kong to compete for hospital beds; Mainland residents scrambling for powered formula, daily necessities and even real estates in Hong Kong. All these had aroused great grievances among Hong Kong people, leading to disputes over Occupy Central and anti-Occupy Central last year. Recently, concerning the support or otherwise of the constitutional reform package, the pan-democrats managed to convince over 30% of the people that "pocket it first" would mean "pocket it forever". While I believe that such a notion was not true, over 30% to 40% of the people believed in this lie. They of course had their reasons. In my view, Hong Kong people did not really believe in this lie, but they were unhappy about how the Central Government handled the affairs of Hong Kong. They had the impression that Hong Kong people had no status, and thus they sided with the pan-democrats, and were willing to believe in their words and rejected the constitutional reform package even though they were well aware that the saying that "pocket it first means pocket it forever" was not quite right. From this we can see that there are increasing conflicts concerning "one country, two systems". What are the reasons?

As we have said previously, after the vetoing of the motion on the selection method of the Chief Executive, 5 million voters in Hong Kong would not be able to cast their votes and the Chief Executive would be elected by 1 200 persons. Those 1 200 persons would be elected by 200 000-odd people. We have also noticed that the Central Authorities have great influence on these 1 200 persons. To put it simply, the Central Authorities can certainly control at least a few hundred votes; otherwise, a candidate who only secures 200-odd votes can hardly become "689". After the constitutional reform package was vetoed by the pan-democrats, how would "one country, two systems" continue to operate? In the next five years, will the incumbent and the next Chief Executive regard the 5 million voters in Hong Kong as their boss or will they merely consider the

Beijing regime behind the 1 200 persons as their real boss? If the pan-democrats think that they should fight for a better deal for the people of Hong Kong, they should have let us select the Chief Executive by universal suffrage.

President, I think the role of the Chief Executive is open to discussion. Undoubtedly, the Chief Executive should be accountable to the Central Government as well as to the people of Hong Kong. But I think the Chief Executive has another role, which is to act as a bridge between Hong Kong and the Central Government to facilitate mutual communication. This is not the case at the moment as the Chief Executive has sided with one party only. I think the Chief Executive should hold more discussion with the pan-democrats in the future. How would the Central Authorities handle problems concerning us? During the question and answer session just now, some Members have already asked whether the Central Authorities would deploy more people to Hong Kong. Just now, some pan-democratic Members considered it inappropriate for Members to meet with officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. If such kind of meeting was considered inappropriate, then the coming of Beijing officials to Hong Kong for discussion would surely be described as intervention in Hong Kong's affairs by the Central Authorities. What should be done? When Mainland officials invited Members for a meeting in Shenzhen, those Members consider them being summoned and thought they had no reason to comply. In that case, how can the problems be resolved?

In my view, it is most important to consider whether we should accept the sovereignty of the Central Authorities and strive for the "highest degree of autonomy" under it; otherwise, we would have problems regarding the "co-location" arrangements for the Hong Kong section of Guangzhou-Shenzhen-Hong Kong Express Rail Link and the Hong Kong-Zhuhai-Macao Bridge. That would not be conducive to achieving a "win-win" situation under "one country, two systems", and we would more likely end up in a "lose-lose" situation. President, concerning this motion, what matters most is that many achievements have been made under the Basic Law and the "one country, two systems" policy and I hope that we will find a better way to handle the China-Hong Kong problems to achieve a "win-win" situation.

Thank you, President.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, a point of order. I think there is a lack of quorum in this Chamber, and let us wait for "the Mainland uncles" to come back.

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

(While the summoning bell was ringing, Mr Albert CHAN spoke loudly in the Chamber)

**PRESIDENT** (in Cantonese): Mr Albert CHAN, please do not speak loudly in the Chamber.

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

**PRESIDENT** (in Cantonese): Will Members please return to their seats. Ir Dr LO Wai-kwok, please speak.

**IR DR LO WAI-KWOK** (in Cantonese): President, it is timely for this Council to discuss the implementation and continuance of "one country, two systems" after the vetoing of the constitutional reform package. I think we should have a full and accurate understanding of the policy directive of "one country, two systems" and the Basic Law. "One country, two systems" is a basic state policy adopted by the Central Government to realize the peaceful reunification of the country with the objectives of safeguarding the country's sovereignty, security and development interests, as well as maintaining long-term prosperity and stability in Hong Kong. The Basic Law has been enacted to ensure the implementation of the basic policies of the State regarding Hong Kong in the form of a law.

The State Council published the White Paper on The Practice of the "One Country, Two Systems" Policy in the Hong Kong Special Administrative Region (White Paper) in June 2014 as an objective review and summary. The White

Paper clearly states that (and I quote), "the practice of 'one country, two systems' has come to face new circumstances and new problems. Some people in Hong Kong have yet felt comfortable with the changes. Still some are even confused or lopsided in their understanding of "one country, two systems" and the Basic Law. Many wrong views that are currently rife in Hong Kong concerning its economy, society and development of its political structure are attributable to this." (End of quote)

Last year, the Business and Professionals Alliance for Hong Kong organized a seminar on the White Paper and the Basic Law with other groups, including the Hong Kong Professionals and Senior Executives Association and the Hong Kong Project Management Exchange Centre. Some legal experts and scholars attending the seminar thought that the White Paper served to clarify doubts and specify that the Central Authorities have "overall jurisdiction" on the Hong Kong Special Administrative Region. That is beyond doubt if we analyse the matter from a legal perspective. Article 1 of the Basic Law provides that the Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China. Sovereignty is a holistic concept which cannot be segregated and it encompasses "overall jurisdiction". Besides, China is a unitary country and no local government shall become independent of the Central Authorities. This is actually not hard to understand, as in the case that the British government has "overall jurisdiction" over London. Hence, is there any contradiction between China's "overall jurisdiction" and the idea that Hong Kong shall enjoy "a high degree of autonomy" in accordance with the law?

Article 2 of the Basic Law stipulates that "The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law". At present, some people in society often ignore the most crucial word "authorizes". They do not understand that "a high degree of autonomy" enjoyed by Hong Kong in accordance with the provisions of the Basic Law is authorized by the Central Authorities. They do not understand that the Central Authorities reserve the power to exercise direct jurisdiction, for example, in respect of foreign affairs and defence of Hong Kong, as well as the power of supervision, including performing the duties of the Standing Committee of the National People's Congress (NPCSC) as prescribed in the Constitution of the People's Republic of China and in the Basic Law.



However, over the past 20 months or so, disputes on the constitutional development of Hong Kong have arisen, reflecting that some members of society really have a vague and incomplete understanding of the policy directive of "one country, two systems" and the Basic Law. Initially, if Hong Kong was to implement dual universal suffrage smoothly, apart from forging as far as possible a consensus within Hong Kong, there should also be positive interaction and mutual trust between Hong Kong and the Central Authorities, so that actions could be taken in strict accordance with the Basic Law and the relevant decision of the NPCSC. Unfortunately, the pan-democratic Members have all along paid no respect to the constitutional powers of the NPCSC. They refused to accept the 31 August Decision and demanded the Central Authorities to accept a proposal premised on civil nomination, which was not in compliance with the Basic Law, as a precondition for communication, or they even demanded to restart the whole process again. Some people even initiated the illegal Occupy movement last year which ended after 79 days. The movement not only failed to promote constitutional development, but only eroded the much-needed mutual respect and trust among people with different views. Members of the opposition camp advocated civil disobedience and embellished illegal acts with sugar-coated justice, thereby pushing the mass movement in the direction of violence and even nurturing advocates of "Hong Kong independence" who were suspected of making explosives. That is most heart-rending.

President, on 18 June, the pan-democratic Members voted against the constitutional reform package; as a result, it could not obtain the support of a two thirds majority of all Members of the Legislative Council. Thus, our constitutional development has come to a standstill. These Members certainly cannot deny their responsibility of throttling the room for implementing universal suffrage, thereby breaking the hearts of the public and disappointing them. Some pan-democratic Members bragged about vetoing the constitutional reform package and described it as a victory, but considering that 5 million voters of Hong Kong have been deprived of their right to elect the Chief Executive by universal suffrage in 2017, I cannot understand how they can regard it as a victory.

President, the constitutional reform package has been vetoed, but Hong Kong cannot be torn further apart. How can that be avoided? I think it can be achieved mainly in two ways. First, all sectors of the community should fully and accurately understand the policy directive of "one country, two systems" and the Basic Law, so that our political, social and other developments can progress smoothly on the track designated by "one country, two systems" and the Basic

Law. Second, all sectors of the community should put aside their political wrangles and work together for the future of Hong Kong, focusing on promoting economic development and improving the livelihood of the people. In particular, since Hong Kong has been greatly disturbed by the issue of constitutional development in recent years, its competitiveness has been seriously sapped. Following the Chinese Academy of Social Sciences' report indicating that Hong Kong's competitiveness has been surpassed by Shenzhen for the first time in 13 years, the results of comprehensive competitiveness among China's provincial-level regions in 2015 were published yesterday and Hong Kong's ranking has dropped drastically from the sixth to the twelfth. These rankings have sounded an alarm to us once again.

I urge the pan-democratic Members to retract from their wrong path, immediately stop their non-cooperation movement and give up all kinds of filibustering. In this way, Hong Kong can return to the right track of development and people can live in peace and work with contentment.

President, I so submit.

**MR CHRISTOPHER CHEUNG** (in Cantonese): President, I speak to support the amendments of Mr IP Kwok-him and Mr Martin LIAO and oppose Mr Dennis KWOK's original motion and other amendments. The reasons why I oppose Mr Dennis KWOK's motion and the amendments of other Members are that they have misinterpreted the meaning of "one country, two systems", trying to talk about "two systems" as divorced from the basis of "one country", and even overriding "one country" with "two systems". Their approach is obviously unrealistic. They have tried by all means to sow dissension and disrupt the relations between the public and the Central Authorities, with the intent to secede Hong Kong from the country. Therefore, I raise my strong opposition.

"One country, two systems" is the basic state policy of the Central Government for the realization of peaceful reunification, meaning the implementation of two systems in one country. To be specific, while socialism is practised in the Mainland, capitalism is practised in Hong Kong and Macao. It can be seen from the definition that "one country" is the basis of "two systems", and we will not have "two systems" if "one country" does not exist. To regard "two systems" as divorced from "one country" is simply to toil with no gain; it is simply a fruitless and meaningless approach.

The constitutional reform package which had just been vetoed proved that pursuing an ideal which was divorced from "one country, two systems" would eventually be in vain. Pan-democratic Members have all along insisted on civil nomination; they ignored the basis of "one country, two systems", the Basic Law and the decision made by the Standing Committee of the National People's Congress. In the end, we will not have democracy and universal suffrage and Hong Kong people's dream of selecting the Chief Executive by universal suffrage in 2017 will be shattered. I hope the pan-democratic Members would seriously learn from this painful lesson, return to the right track of "one country, two systems", and fight for democracy in a rational and pragmatic manner.

President, putting too much emphasis on "two systems" and ignoring "one country" will be conducive to spreading the ideas of "Hong Kong independence". During a number of processions and demonstrations in recent years, a small number of radical protesters waved British-Hong Kong flags, and chanted the slogan "Rise the nation of Hong Kong". At an event recently held by the pan-democrats, some young people burned copies of the Basic Law on the spot. These people have constantly allowed "well water to intrude into river water", with the purpose of undermining the implementation of "one country, two systems" in Hong Kong. Although this is the act of a handful of radical protesters, a single spark can start a prairie fire and we must severely condemn and stop them in time.

I hope Honourable colleagues would understand that, regardless of our political views, Hong Kong is, after all, a Special Administrative Region of China, and Hong Kong people are Chinese people. This fact cannot be changed. If a person is confused about his own identity and status, wilfully undermine the peaceful reunification of the country and wantonly publicize "Hong Kong independence", he has betrayed his ancestors and he is a traitor to the country!

President, it has been 18 years since the reunification, and we still have horse racing and dancing in Hong Kong because of the successful implementation of "one country, two systems". Just think, if "one country, two systems" does not exist, can those who participated in the illegal Occupy Central movement wantonly occupy the streets for 79 days? Can the tents outside the Legislative Council Complex occupy the streets for nearly a year? Can those pan-democratic Members who frequently talk about "overthrowing the Communist Party of China" participate in political discussions in this Chamber? Can pan-democratic Members who casually chant the slogan "down with the

Communists" still remain in the Legislative Council to launch the non-cooperation movement and filibuster, without having to bear legal responsibilities? Is this not the realization of "one country, two systems" and "a high degree of autonomy" in Hong Kong?

President, it is true that "one country, two systems" has been misinterpreted by some Hong Kong people. I think the Government should, apart from developing the economy and improving people's livelihood, strengthen the publicity and education of "one country, two systems" among the public, especially young people, so as to ensure that the original intent of "one country, two systems" would be correctly interpreted and understood, and that "one country, two systems" would be successfully and continuously implemented in Hong Kong.

I hope the pan-democrats will not take advantage of the discussion on "one country, two systems", amendments to the Basic Law and reactivation of the constitutional reform to start another round of argument to tear society apart, and undermine the relationship between Hong Kong and the Central Authorities, so as to accumulate political capital for themselves. History told us that all those who undermined the unity of the country and betrayed the interests of the country would ultimately be cast aside by the people!

I so submit. Thank you, President.

**MR KENNETH LEUNG** (in Cantonese): President, the Basic Law is a balanced and comprehensive constitutional document. I think Mr Dennis KWOK's motion is very precise and well-presented, complying to the protocol. Mr Dennis KWOK's motion reads "That this Council requests the SAR Government to earnestly invite ..." — the words "earnestly invite" used by Mr KWOK precisely illustrates the relationship between the Hong Kong Special Administrative Region (HKSAR) and the Central Government — the remaining wordings are "to implement and continue the state policy of "one country, two systems" in Hong Kong in accordance with the original intent of "one country, two systems". The two other keywords in the motion are "implement" and "continue", and I would like to talk about the implementation of "one country, two systems" in Hong Kong.

President, the actual implementation of and the formulation of the Basic Law are two entirely different matters. As we all know, even if a legal or constitutional document is very well written and perfectly presented, with clear train of thought and good intent, it still relies on people for its implementation. When Secretary LAU Kong-wah just now mentioned the relationship between the HKSAR and the Central Authorities, he said that there was no hierarchy in between. The relationship between the HKSAR and the Central Authorities is not the same as the relationship between the central government and the republics of a federal government. I agree to this point.

The problem is, in saying that there is no hierarchy, Secretary LAU Kong-wah means that the HKSAR Government should be accountable to the Central People's Government and all Hong Kong people. Article 43 of the Basic Law stipulates that "The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this law". Article 22 of the Basic Law stipulates that "no department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law". In other words, under the Basic Law, all ministries, government departments at the bureau and department levels and other local government departments shall not interfere in the affairs under the jurisdiction of the HKSAR. We have encountered a lot of difficulties in practice and we also found that there are a lot of irregularities. An Honourable colleague has just asked why we need to report to and communicate with the Liaison Office with regard to voting or handling of a motion. He queried if the Liaison Office is ruling Hong Kong. Why do we need to frequently discuss with the Liaison Office about how to vote? Is this a practical issue rather than the original intent of "one country, two systems" or an issue relating to policies or state policies?

Secondly, many Honourable colleagues have regarded localism as "Hong Kong independence". China has a vast territory and abundant resources and it comprises 52 different ethnic groups, including the Zhuang, Hui, Yao and Manchu ethnic groups, and of course the Han ethnic group. Each ethnic group has its spiritual outlook and culture. Owing to Hong Kong's unique historical background, our ethnic group has its specific spiritual outlooks, cultures and core values. If we lay emphasis on our core values, cultures, the Cantonese language, traditional Chinese characters, buttered pineapple buns and tea with milk, should

it be said that we advocate "Hong Kong independence" simply because we eat buttered pineapple buns and drink tea with milk? This argument absolutely does not hold water.

Are there people who often say that "Hong Kong independence" is the same as joining hands with foreign forces? Will foreign forces affect voting inclinations? The voting on the constitutional reform package clearly reflected that all pan-democratic Members have independent thinking and they are not affected by the so-called foreign forces. President, I had mentioned international standards time and again when I talked about universal suffrage. International standards are not foreign forces and they are just the minimum standards of universality and equality. Many laws, including laws in the Mainland, are based on international standards, and there are international standards of accounting and taxation. Regarding civil aviation legislation ... pilots communicate in English when they fly across airspace; even Mainland pilots communicate in English; this is the minimum international standard. How come we adopt international standards in all issues with the exception of universal suffrage? Are there any reasons that cannot be made public?

All in all, I think the implementation of "one country, two systems" has been impeded by a group of slavish and incompetent people who keep asking the Central Government for advantages. Hong Kong people must constantly strive to become stronger and safeguard our local culture. The local culture is our core values: rule of law, freedom of expression, freedom of the press, and freedom of information.

I think the Basic Law is well written and I have also spent a lot of time reading the Basic Law of Germany. It safeguards all people in Germany from being oppressed by other authoritarian countries after World War II. I believe that practice is the sole criterion for testing truth. As a matter of fact, too many shameless and unethical people who keep asking the Central Authorities for advantages have impeded the implementation of the Basic Law. Thank you, President.

**MR CHARLES PETER MOK** (in Cantonese): President, I would like to thank Mr Dennis KWOK for proposing this motion today, so that we can discuss the implementation and continuance of "one country, two systems". The fake universal suffrage package formulated on the basis of the framework laid down on 31 August (31 August Framework) was vetoed by the Council with high votes.

The package did not get passed because the supporting votes fell short of the required two thirds majority of all Members. The situation aptly demonstrates the pan-democracy camp's long-standing stance of respecting and steadfastly defending "one country, two systems" because the 31 August Framework is, *per se*, a restriction illegally added to the Basic Law.

Hong Kong people recognize rule of law and not rule by law. Hong Kong people do not accept the willful interpretation of the law by those with political power. Based on the interpretation of relevant provisions under the Basic Law, Hong Kong people have all along supported "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong". However, when Hong Kong people saw the willful interpretation of the Basic Law by the Central Government, they had no choice but to come forward to defend the Basic Law and "one country, two systems". For instance, in 2007, the Standing Committee of the National People's Congress (NPCSC) gave the interpretation that the nominating committee might be formed with reference to the Election Committee. Of course, the meaning of "with reference to" is not the same as "in accordance with". But in 2014, the authoritative interpretation of the NPCSC was as follows: "the number of members, composition and formation method of the nominating committee shall be made in accordance with" the arrangement of the former Election Committee. Restrictions after restrictions have been illegally imposed. This is a case of "boiling a frog in lukewarm water".

It is clearly stipulated in the Preamble of the Basic Law that, "Upholding national unity and territorial integrity, maintaining the prosperity and stability of Hong Kong, and taking account of its history and realities, the People's Republic of China has decided that upon China's resumption of the exercise of sovereignty over Hong Kong, a Hong Kong Special Administrative Region will be established in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, and that under the principle of 'one country, two systems', the socialist system and policies will not be practised in Hong Kong."

In the past, as at present, Hong Kong people have supported, embraced and even protected "one country, two systems" because many Hong Kong people have an underlying resistance to the institutions of China, including its political, economic and social systems as they led to injustice in society, unfairness in law as well as institutional graft and corruption. I believe that in the past, as at present, many people in the Mainland have witnessed the strengths of Hong Kong's systems.

"One country, two systems" was put forward initially to resolve the question of Taiwan. In January 1982, DENG Xiaoping stated that, "Under 'one country, two systems', two different systems are allowed to co-exist. They should not undermine the Mainland's systems, neither should we undermine theirs." Over the next two decades, it had been mentioned time and again in various national congresses of the Communist Party of China that, "On the premise that there is only one China, we are prepared to discuss any issues". In fact, when DENG Xiaoping advocated the policy of "one country, two systems", the objective then was to secure the Hong Kong Government's agreement and acceptance that China had sovereignty over Hong Kong, and the Central People's Government could decide on foreign affairs and military policies. This is well-recognized by all people of Hong Kong both before and after the reunification.

Hence, as far as "one country, two systems" is concerned, there should be no distinction between big and small. What do I mean? With due respect, I am just saying that ideas about "one country" taking priority over "two systems" or *vice versa* should not exist. Taking either stance only means provoking trouble deliberately and undermining "one country, two systems". Yet this is exactly what has been done by the Central Government. Obviously, nobody in Hong Kong is trying to undermine the Mainland's systems, but Hong Kong people clearly notice that Hong Kong's systems such as fair competition, a clean society, our economy as well as freedom of speech have been gradually eroded by the Mainland. Therefore, when Hong Kong people defend "one country, two systems", particularly "two systems", they are doing so out of their self-defense mechanism, rather than a deliberate attempt to challenge "one country".

On the contrary, the amendments proposed by Members of the pro-establishment camp today do not only reflect their mentality of "one country" taking priority over "two systems", but that "one country" is so important that "two systems" can be ignored. Even the request stated in the original motion that the SAR Government should earnestly invite the Central Government to implement "one country, two systems" in accordance with its original intent has got on the nerves of the pro-establishment camp, and they, in response, have by wilfully fabricated over-the-top accusations. In his amendment, Mr IP Kwok-him said that some people in Hong Kong were advocating the idea of "Hong Kong independence". Yet, the most vocal advocates of "Hong Kong independence" are not the tiny minority of radicals, but leftist newspapers who always use "Hong Kong independence" as a scarecrow. They are thrilled whenever such claims are made. They would hold up the banner of "Hong



Kong independence" and use this false proposition endlessly to attack their political opponents, that is, the pan-democracy camp, by playing on the mentality of the middle-of-the-road general public who long for stability and loathe chaos.

We have always steadfastly upheld "one country, two systems" and "Hong Kong people ruling Hong Kong". But it turns out that Beijing would still resort to putting labels on those whom they regarded as disobedient. Genuine universal suffrage is what the Central Authorities owe to Hong Kong people, yet numerous false propositions have been proposed by the State, including national security, love the country and love Hong Kong, interference of foreign forces (although those foreign forces suggested that we should "pocket it first"), and so on, so as to rationalize the screening requirement. But fortunately Hong Kong people are discerning. What is fake cannot be genuine, and we would always treasure, cherish and safeguard things that are genuine. Hence, there are still many members of the public who support us and refuse to accept the fake package.

President, the Central Authorities have both the power and authority, and China has claimed itself a powerful country. If the Central Authorities do not trust Hong Kong people, how can Hong Kong people, without any power or authority, trust the Central Authorities? The Central Authorities seeks to impose total control over everything. As evident by the constitutional reform package and the 31 August Framework, the Central Authorities seeks to impose the most stringent control before and behind the scene. It is clear who has disregarded "one country, two systems".

President, the Hong Kong Government has stated explicitly that the constitutional reform process would not be restarted in the near future or even during the current-term Government. But it cannot be postponed indefinitely. Both the Central Authorities and the Hong Kong Government must face the problem squarely. Further procrastination is not conducive to improving governance, and it is also against the principle of "gradual and orderly progress". If the Government does not want Hong Kong society to be ripped apart further, it should restart the constitutional reform process as soon as possible and urge the Central Government to withdraw the 31 August Framework. This is how we can demonstrate the continued implementation of "one country, two systems" in Hong Kong.

President, I so submit.

**MR CHRISTOPHER CHUNG** (in Cantonese): President, speaking of "one country, two systems", many people (including Mr Charles Peter MOK) think that it was initiated by DENG Xiaoping, but in fact, the idea was first raised by Chairman MAO Zedong in his letter to CHIANG Kai-shek of Taiwan in 1956. In the letter, it was proposed that other than foreign affairs to be centrally handled by the Central Authorities, all political matters or all military powers would be managed and upheld by Taiwan authorities. Such a peaceful way of resolving the Taiwan issue was summarized later by ZHOU Enlai as the proposal of "One Headline and Four Items". Therefore, when DENG Xiaoping proposed in '70s to adopt the policy of "one country, two systems" to resolve the issues of Taiwan and Hong Kong, he was actually following the same line of thought of MAO Zedong and ZHOU Enlai.

The wording of the motion proposed by Mr Dennis KWOK today is very weird. The motion earnestly invites the Central Government to implement and continue the state policy of "one country, two systems" in Hong Kong in accordance with the original intent of "one country, two systems". When I first heard of such words, I cannot help but wonder whether Mr KWOK has made a mistake on the target of his appeal. Instead of inviting the Central Government, he should appeal to members of the opposition camp, the localism camp and the radical camp of Hong Kong for they are the ones who do not respect the statutory status of "one country, two systems" and impede the implementation of "one country, two systems".

President, since the reunification of Hong Kong in 1997, we have noticed that the Central Government has all along strictly implemented "one country, two systems" and abided by the rule that "river water does not intrude into well water". Yet, what Members of the opposition camp have done can be described as "well water intruding into river water". For example, they often stage demonstrations in Western District, demanding the ending of one-party dictatorship in the Mainland. In respect of "one country, two systems", what does one-party dictatorship in the Mainland have to do with them? Whenever the Central Authorities speak on Hong Kong affairs under their jurisdiction in accordance with the Basic Law, the opposition camp would jumped out and claimed that the Central Authorities do not have the right to make comments, that they have contravened the policy of "one country, two systems" and interfered in the affairs of Hong Kong. However, the opposition camp has very often interfered in Mainland affairs in a self-righteous manner. Are we now implementing "one country, two systems"? Worse still, when we learnt that the

Central Intelligence Agency of the United States hacked into the computer networks of the Hong Kong Government to steal confidential information in 2013, Mr MA Fung-kwok proposed a motion in the Legislative Council to condemn the act of the United States and demand to safeguard the security of cyber communications in Hong Kong. To our surprise, some Members of the opposition camp surprisingly spoke against the motion. Members of the opposition camp would rather support the United States in interfering in the affairs of Hong Kong than allow the Central Government to exercise its powers in accordance with the law. The logic of their argument was most ridiculous.

Another impressive example is related to the discussions on the co-location arrangements at the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. Some Members of the opposition camp thought that if Hong Kong relaxed its rules and allowed authorized officers of the Mainland to enforce the law at the West Kowloon Terminus, we would be opening a gap to introduce draconian laws of the Mainland to Hong Kong. But, at present, co-location arrangements have been put in place at Shenzhen Bay Port to allow authorized officers of Hong Kong to enforce the law on the Mainland, why can't reciprocal arrangements be made in Hong Kong? According to these Members, there are no problems with the existing arrangements because Hong Kong is more democratic and it has better laws, but reciprocal arrangements cannot be made. Their view is that authorized officers of Hong Kong can go to the Mainland to enforce the law, but authorized officers of the Mainland cannot come to Hong Kong to enforce the law. This shows that they are wearing tinted political glasses, discriminating against the Mainland while blindly adoring the practices in Europe and the United States.

On the contrary, since the reunification, the Central Government has all along respected "one country, two systems". For example, members of the Hong Kong Garrison of the People's Liberation Army (Hong Kong Garrison) have never left their military camps without approval and they would not interfere in the affairs of Hong Kong. Even in dealing with the serious problems caused by the illegal Occupy Central movement last year, members of the Hong Kong Garrison were not deployed to handle the situation. When some people holding a flag advocating "Hong Kong independence" rushed into a military camp to provoke trouble, the Hong Kong Garrison just handed these people to the Hong Kong Police Force and the Judiciary. In the past 18 years since the reunification, we have not seen any interference in Hong Kong's affairs by any provincial or municipal governments of the Mainland. Even issues such as

Hong Kong/Shenzhen co-operation and economic integration of the Greater Pearl River Delta raised by our neighbour Shenzhen are to be decided by the Central Government and the relevant discussions are co-ordinated by the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. These examples show that Hong Kong has enjoyed a unique position within the territory of China, and this is attributed to the Basic Law and the policy of "one country, two systems" which the Central Government has strictly followed.

I hope that Members of the opposition camp will not make ungrounded or false accusations and wrongly criticize the Central Government of contravening the policy of "one country, two systems". If people have evidence, they can produce it. The 31 August Decision on Hong Kong's constitutional development made by the Central Government or appointments of the Chief Executive and high officials belong to the jurisdiction of the Central Government. If Members of the opposition camp have not studied the Basic Law thoroughly, the Democratic Alliance for the Betterment and Progress of Hong Kong can give them a copy. But, even if we give them a copy, they would only burn it. When the Central Government exercises its jurisdiction over Hong Kong, it does so to protect Hong Kong's interests, and yet Members of the opposition camp only speak of "two systems" but not "one country". In fact, without the premise of "one country", how can there be "two systems"? As the oracle on the lot drawn by "Uncle Fat" at the Che Kung Temple in 2012 reads, "Who is the demon and who is god? How can we differentiate between them?" Who is the "evil demon" that damages "one country, two systems" and who is the god that protects "one country, two systems", I believe the public know the answer.

With these remarks, President, I support the amendments of Mr IP Kwok-him and Mr Martin LIAO.

**MR FREDERICK FUNG** (in Cantonese): President, what is "one country, two systems"? It is a governance strategy adopted by the People's Republic of China to take back Hong Kong and make it a special administrative region of China, and so it is certainly a state policy. To put it in serious terms, the policies stated back then were "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". In this connection, the Central Government established the Committee for the Basic Law in Beijing and the Basic Law Consultative Committee in Hong Kong. Stakeholders from various

sectors joined these committees and they spent five years to draft the Basic Law, with the proposals being passed to and fro thrice during the consultation process. The policies of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" have been incorporated in the Basic Law which not only forms part of the Constitution of the People's Republic of China, but is also a mini constitution on which the governance of Hong Kong is based.

In the 80s, some people were very optimistic about the implementation of "one country, two systems". While some opined that the process merely involved a replacement of the flag and the Governor of Hong Kong, others said that "horse racing and dancing would continue". It has been 18 years since the reunification, what are the characteristics of the Chief Executives who had governed Hong Kong during this time? In my view, both Mr TUNG and Mr TSANG thought that so long as Hong Kong performed well economically, there would be no problem in implementing "one country, two systems". They had not conducted or promoted any basic discussions on the concept, objectives, strategies and ways of implementation of "one country, two systems". As for the incumbent Chief Executive Mr LEUNG, he regards governance as a form of combat. Over the last three years, he has been stirring up confrontations among people and tearing Hong Kong apart into two big camps. His deeds have run contrary to what he said immediately after he was elected the Chief Executive and I quote, "There is no 'LEUNG's camp' in Hong Kong; there is only one camp which is the 'Hong Kong camp'".

In fact, after the 1 July march in 2003 in which 500 000 people participated, the words and deeds of the Central Government made Hong Kong people feel its increasing interference in the affairs of Hong Kong. For example, an official once said that Hong Kong should have two centres of power and the Central Authorities published the White Paper on The Practice of the "One Country, Two Systems" Policy in the Hong Kong Special Administrative Region. With the implementation of the Individual Visit Scheme, contacts between Mainlanders and Hong Kong people have become closer, giving rise to some livelihood issues brought about by Mainland visitors. For example, a hike in property prices, "doubly non-permanent resident babies", inadequate supply of powdered formula and daily necessities, and so on, which have caused conflicts between Mainlanders and Hongkongers.

Besides, we notice that in the past two or three years, there were people who advocated "Hong Kong independence", waved the "Dragon and Lion flag" and demanded the stepping down of the Communist Party of China in some

social movements of Hong Kong. The relationship between the Mainland and Hong Kong has obviously worsened, at least that is the phenomenon. In August last year, six Members of the pan-democratic camp and I met with Mr ZHANG Xiaoming, Director of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. He said that in taking forward Hong Kong's constitutional development, the factor of national security should be taken into consideration. I suspected that the United States' return to Asia and the abovementioned developments have made the Central Authorities worry. At that time, my response was that the Central Authorities had to trust Hong Kong people and Hong Kong people would not elect a Chief Executive who caused disturbances in Hong Kong; the Central Authorities had to trust the systems of Hong Kong, including the systems governing the powers of the Chief Executive, the three Secretaries of Departments and 12 Directors of Bureaux, the Executive Council, as well as the Legislative Council. The powers and even actions of the Chief Executive are governed by different levels in the political structure and it is not easy for the Chief Executive to behave outrageously.

Furthermore, with regard to the constitutional development review and the 31 August Decision made by the Standing Committee of the National People's Congress, though the term "universal suffrage" is commonly used, it turns out that different parties can have totally different perspectives. These two incidents have revealed certain fundamental problems, the differences between the Mainland and Hong Kong and the polarized views held by the people on certain matters. Should we seriously consider how to face and handle these differences and resolve the conflicts within Hong Kong?

I have a number of proposals. First, the SAR Government should expeditiously review issues arising from the implementation of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" over the past 18 years and explore ways to deal with the problems. Second, the Government should examine the conflicts arising from the differences between the Mainland and Hong Kong and propose solutions to resolve such conflicts. Third, the Government should enhance the communication among stakeholders of the Mainland and Hong Kong and communications can take place within and outside the system. Communications within the system can take place, for example, in the Legislative Council. When committees of the Legislative Council discuss subjects concerning the Mainland, can we invite Mainland officials to join the discussions, or can we visit the Mainland for the purpose? In addition, can the SAR Government, particularly

Chief Secretary Mrs Carrie LAM, organize some formal or informal seminars to create more opportunities for Members of different political parties and background to communicate with one another?

Fourth, it took five years to draft the Basic Law with the proposals being passed to and fro thrice during the consultation period. The policies of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" stipulated in the Basic Law have been implemented for 18 years. During these 18 years, how much time have we spent on considering and discussing whether the aspirations and objectives of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" have been attained, whether these policies and the implementation arrangements concerned have been put into effect and whether the operation has met our demands? To discuss these questions, we suggest that the SAR Government should establish a forum with the Chief Secretary for Administration as the convenor and its membership shall include Mainland officials, officials of the SAR Government, Members of the Legislative Council representing different political parties and groupings, as well stakeholders who have played an active role in discussing this subject and the policies and problems of the Mainland. As it took five years to draft the Basic Law with the proposals being passed to and fro thrice, can we spend two years now to deal with this subject and forge consensus with the proposals being passed to and fro twice, so that the policies of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" can really be put into effect?

Thank you, President.

**MR CHAN HAN-PAN** (in Cantonese): President, "one country, two systems" is a basic state policy advocated by the Central Government to realize the peaceful reunification of the country with the aims to safeguard the country's sovereignty, security and development interests, and to maintain long-term prosperity and stability in Hong Kong. It is utterly inconceivable for Mr Dennis KWOK to propose this motion today. Why would he "invite the Central Government to implement and continue the state policy of 'one country, two systems' in Hong Kong in accordance with the original intent of 'one country, two systems'"? It has been more than a decade after the reunification, and the Central Government's policy towards Hong Kong has remained unchanged. However, some people have blatantly challenged the Basic Law and deliberately distorted the meaning of

"one country, two systems", thereby bringing chaos to Hong Kong. Given that the Central Government's policy towards Hong Kong has remained unchanged for many years, what is the point of proposing this particular motion for debate today? Following the same logic, may I ask Mr Dennis KWOK why he has not duly performed his role as a Member and honoured the undertakings made when he sworn in? President, this is the never-ending cycle of cause and consequence as this world tends to have plenty of over-worried people.

The formation and changes of the Civic Party have become a heated topic these days, and if anyone asks me who has ruined "one country, two systems", the first name that comes to my mind is the party to which Mr Dennis KWOK belongs. Do Members still remember that the Civic Party and the League of Social Democrats initiated the "resignation en mass of Members returned from five geographical constituencies" to promote a *de facto* referendum in 2010? And, when the Government put forward the constitutional reform package this year, they insisted to strive for civil nomination. Yet, both referendum and civil nomination are not stipulated in the Basic Law. From this, we can see that they do not respect the Basic Law and have not acted in the spirit of the rule of law. Basic Law, also known as the "mini constitution", is Hong Kong's constitution with constitutional status. While the Basic Law should be respected as the law governing the HKSAR and the legal instrument providing for "one country, two systems", the Civic Party has blatantly challenged it in this Council. Can we consider this a blatant challenge to "one country, two systems"?

Honestly speaking, when the Civic Party was established back then, we thought it might be a new outlet for the pan-democrats. And, before that, the Article 45 Concern Group was set up to study the selection of the Chief Executive by universal suffrage as prescribed in the Basic Law. Article 45 of the Basic Law, which contains 100-odd words, is not difficult to comprehend, which reads "The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." Is there any mention of civil nomination? No, there is not. Is there any mention of nomination by political parties? No there is not. It has nonetheless clearly mentioned the nominating committee. After nearly 10 years of study, the Civic Party finally came up with the slogan "civil nomination is a requisite". Is this pretty ridiculous? Members of the Civic Party are intellectuals and lawyers, but they have given false hopes to their voters and led the masses to fight for something that has gone beyond the law. I think this is ill-intentioned.



When the Civic Party was established, it vowed to emerge as a rational and responsible political party by attracting elites from the community, and to emerge as Hong Kong's ruling party in the future. There is no doubt that Hong Kong was desperately in need of a rational political party back then. However, as the Civic Party gradually degraded throughout the years, which is evident to all Hong Kong people, it has become more radical nowadays. Not only has it refused to communicate, it has even taken the line of localism and sided with the radical groups. I remember that a few months ago, Ms Claudia MO and Mr Gary FAN were the first to start the anti-Individual Visit Scheme (IVS) campaign by echoing each other and dragging their luggage in the busy urban areas, completely neglecting the substantial economic benefits that the IVS has brought to Hong Kong. Worse still, they had distorted the facts and provoked the rejection of our Mainland compatriots; they had even promoted anti-IVS and anti-China messages by placing a joint advertisement in Taiwanese newspapers. We can accept the anti-IVS campaign as the IVS does have room for improvement with regard to its supportive measures, but the anti-China wordings used are actually off-putting. This is a blatant attempt to hoist the banner against "one country, two systems" and it carries a heavy overtone of "Hong Kong independence". The Civic Party has adopted this line and taken the initiative to ruin "one country, two systems", yet today, "a thief is calling on others to catch a thief" as it talks about upholding the original intent of "one country, two systems".

As scholar Prof Ray YEP has said time and again recently, while pan-democrats who are apparently more radical denied being radical, those who are apparently promoting "Hong Kong independence" denied their action either. He eagerly hoped that the relevant organizations can be honest to themselves and do not confuse right and wrong. I wonder if Prof Ray YEP was implying the Civic Party, and I may have to ascertain with him.

I chat with Mr KWOK from time to time and find him a pretty rational man who attaches great importance to law. To uphold "one country, two systems", I think he should first guide his entire party to respect the Basic Law and the local constitutional instrument. Some issues can be put to discussion, but questions of principle cannot. If his fellow party members do not want to associate with him or hold conflicting views, it is time for him to encourage them to get back on the right track. If they refuse, Mr KWOK may follow the footstep of one of his party members because "to be or not to be" rests with him.

President, I so submit.

**MR ALAN LEONG** (in Cantonese): President, Mr CHAN Han-pan has just given a perfect manifestation of the saying "if you want to condemn somebody, you can always trump up a charge". If he wants to discuss Article 45 of the Basic Law, I think he is not as good as me. President, has Article 45 of the Basic Law mentioned that the nominating committee can nominate two to three candidates for the office of Chief Executive? Has Article 45 of the Basic Law mentioned that the candidates nominated by the nominating committee must secure more than half of the valid votes? Where can we find these requirements? I think Mr CHAN Han-pan should better sort out the drafting process of Article 45 of the Basic Law.

In the course of drafting Article 45 of the Basic Law in February 1989 before the "4 June massacre", there were no such words as "upon nomination by a broadly representative nominating committee in accordance with democratic procedures ...". I hope Mr CHAN will find out why such words were added when the Basic Law was finalized in April 1990, but I think the President should be well aware of this. After the "4 June massacre", the morale of Hong Kong people had sunk to a low level and there was a lack of solidarity. In order to stabilize people's confidence and pacify public sentiment, the Central Government added the phrase "by universal suffrage upon nomination by a broadly representative nominating committee" which I have just read out. The purpose of granting democracy to Hong Kong was certainly to assure Hong Kong people that what happened at Beijing's Tiananmen Square on 4 June 1989 would not recur in Hong Kong. Moreover, Hong Kong could be its own "boss" and could select its Chief Executive. This promise sounded great back then, and person who made such promise were well aware that it was nothing but a tactic to lure Hong Kong people to continue to believe in the Communist Party and stay in Hong Kong.

It turns out that the ruling party of this powerful country has now betrayed trust and justice, and irresponsibly burnt the bridge after crossing it. And yet, Mr CHAN Han-pan still shamelessly talked about the original intent in this Chamber. He should sort out the facts before he speaks.

President, regarding the original intent, when former British Prime Minister Mrs Margaret THATCHER met with Mr DENG Xiaoping at the Great Hall of the People in the 80s, Hong Kong people were aware of the imminent reunification with a communist state under people's democratic dictatorship and thus felt nervous, stressful, anxious and frightened. How did the Communist Party of

China (CPC) deal with such feelings at that time? The CPC stressed that the Sino-British Joint Declaration and its 14 annexes had set out in great detail the prevailing values and way of living of Hong Kong, in which the most comprehensible concept for Hong Kong people was "horse racing and dancing would continue". If expressed in legal terms, they have been clearly described in the Preamble of the Basic Law.

The Basic Law seeks to implement the basic policies of the State regarding Hong Kong, which (I quote) "have been elaborated by the Chinese Government in the Sino-British Joint Declaration". This is the original intent. Hong Kong people trust that the principles of "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" as prescribed in the Basic Law were adopted for the implementation and continuance of the Sino-British Joint Declaration, so that we would not have to worry about the all-powered and supreme National People's Congress (NPC) of our sovereign State ruled by people's democratic dictatorship because it would exercise self-restraint. If this all-powered and supreme organ operating under the system of people's democratic dictatorship does not exercise self-restraint in the absence of checks and balances, the "one country, two systems" policy would not be able to get started at all, let alone succeed. Worse still, according to the White Paper issued by the State Council on 10 June last year, all powers conferred upon it would be fully exercised and the 31 August Decision stands firm that the Chief Executive, to be elected by Hong Kong people, shall be screened by the CPC. People will make their own decision on the original intent.

## **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 9 am sharp tomorrow.

*Suspended accordingly at 8.01 pm.*



**Appendix I**

**WRITTEN ANSWER**

**Written answer by the Secretary for Security to Mr Steven HO's supplementary question to Question 3**

As regards the response time of fire vessels other than fire speedboats in handling marine fire incidents at typhoon shelters, the Administration has provided the supplementary information at Annex for reference.

Average response times of FSD's fire vessels  
in handling marine fire incidents at various typhoon shelters (2012-2014) <sup>(1) (2)</sup>

Typhoon Shelter Average response time of each type of vessels (mins) Year	Aberdeen		Tuen Mun (Castle Peak Bay)		Cheung Chau		Causeway Bay		Shau Kei Wan		To Kwa Wan		New Yau Ma Tei		Rambler Channel		Shuen Wan		Yim Tin Tsai	
	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat	Fireboat	Speed-boat
2012	13	38	17.4	18	13.7	32.6	--	--	--	--	--	--	--	--	--	--	Not Applicable <sup>(3)</sup>	--	--	--
2013	--	--	16.6	10.5	7.3	37.6	15.2	22.4	24	--	--	--	16.4	15.1	--	--	--	Not Applicable <sup>(3)</sup>	--	--
2014	9.8	26.5	23	11.8	--	--	10.3	15.8	16.2	44.9	25	30.6	--	--	10	--	--	--	--	--

Notes:

- (1) In addition to attending firefighting or rescue incidents, the daily routine of the fireboats includes patrolling high risk areas within their precincts, conducting navigation training at different waters, taking part in fire or rescue drills and conducting fire safety promotion and education activities at various locations. Fireboats are therefore not always standing by at the fireboat stations. As a result, the response time of FSD vessels for attending each incident may vary.
- (2) Fireboats are deployed at the respective fireboat stations located in various districts. Except during the peak seasons of fishing vessels berthing at typhoon shelters (including the fishing moratorium and important festive periods) and on weekends and public holidays during summer vacation, the Diving Support Speedboats typically stand by at the Ngong Shuen Chau Diving Base and the East Sea Rescue Berth of the Airport respectively. In responding to the vessel fire calls at various typhoon shelters, the standby points of the speedboats are generally further away from the scenes of incidents than the fireboats deployed at various districts, occasionally resulting in a longer response time of the speedboats than the fireboats. Nonetheless, as mentioned in note (1), the response time of each fire vessel depends on such factors as its location at the time of receiving the incident call and whether it is performing other duties.
- (3) As the fire had been put out by on-shore fire personnel while the fire vessels were heading to the scene of the fire incident, the fire vessels had not arrived at the fire scene.