

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 June 2017

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE CHAN HAK-KAN, B.B.S., J.P.

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

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

THE HONOURABLE WONG KWOK-KIN, S.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 LEUNG KWOK-HUNG<sup>#</sup>

THE HONOURABLE CLAUDIA MO

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

THE HONOURABLE STEVEN HO CHUN-YIN, B.B.S.

THE HONOURABLE FRANKIE YICK CHI-MING, J.P.

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING, B.B.S.

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.

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

THE HONOURABLE KENNETH LEUNG

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

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

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<sup>#</sup> According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.

THE HONOURABLE DENNIS KWOK WING-HANG

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

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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.

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

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

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE ALVIN YEUNG

THE HONOURABLE ANDREW WAN SIU-KIN

THE HONOURABLE JIMMY NG WING-KA, J.P.

DR THE HONOURABLE JUNIUS HO KWAN-YIU, J.P.

THE HONOURABLE HO KAI-MING

THE HONOURABLE LAM CHEUK-TING

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI

THE HONOURABLE SHIU KA-CHUN

THE HONOURABLE WILSON OR CHONG-SHING, M.H.

THE HONOURABLE YUNG HOI-YAN

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE CHAN CHUN-YING

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG

THE HONOURABLE LAU KWOK-FAN, M.H.

THE HONOURABLE KENNETH LAU IP-KEUNG, M.H., J.P.

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

DR THE HONOURABLE YIU CHUNG-YIM<sup>#</sup>

DR THE HONOURABLE LAU SIU-LAI<sup>#</sup>

## **MEMBERS ABSENT:**

THE HONOURABLE CHU HOI-DICK

THE HONOURABLE NATHAN LAW KWUN-CHUNG<sup>#</sup>

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**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE RIMSKY YUEN KWOK-KEUNG, S.C., J.P.  
SECRETARY FOR JUSTICE

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

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

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

MR KEVIN YEUNG YUN-HUNG, J.P.  
SECRETARY FOR EDUCATION

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

THE HONOURABLE WONG KAM-SING, G.B.S., J.P.  
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE LAU KONG-WAH, J.P.  
SECRETARY FOR HOME AFFAIRS

**CLERKS IN ATTENDANCE:**

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MS DORA WAI, 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:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Hong Kong Air Navigation (Fees) (Amendment) Regulation 2017 .....	114/2017
Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017.....	115/2017
Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017 .....	116/2017
Insurance (Levy) Regulation .....	117/2017
Insurance (Levy) Order .....	118/2017
Pharmacy and Poisons (Amendment) (No. 3) Regulation 2017 .....	119/2017

## **Other Papers**

No. 102 — Securities and Futures Commission  
Annual Report 2016-17

No. 103 — Investor Education Centre  
Annual Report 2016-17

Report No. 20/16-17 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Arbitration (Amendment) Bill 2016

Report of the Bills Committee on Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016

Report of the Bills Committee on Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill

## ORAL ANSWERS TO QUESTIONS

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

### Use of additional funds for education purposes

1. **MR CHEUNG KWOK-KWAN** (in Cantonese): *President, the Financial Secretary ("FS") said on 26 April this year that due to the higher-than-expected revenues from land sales and stamp duties as well as the lower-than-expected capital expenditure, the consolidated surplus for the 2016-2017 financial year would increase by \$18 billion from the revised estimate of \$92.8 billion to \$110.8 billion. FS decided to earmark the additional \$18 billion for education purposes, including the strengthening of the academic and scientific research development in the higher education sector. Specific allocations and details will be followed up by the Education Bureau ("EDB") according to the established procedure. On the other hand, the Chief Executive-elect ("CE-elect") has undertaken in her election manifesto to immediately increase recurrent expenditure on education by \$5 billion each year after being elected to the office. In this connection, will the Government inform this Council:*

- (1) *whether EDB has drawn up an allocation plan for the earmarked funds of \$18 billion; if so, of the respective funds to be allocated to the five major education fields, namely early childhood, primary, secondary, tertiary and special education, as well as the specific uses of the funds; if not, when EDB will draw up such an allocation plan;*

- (2) *whether EDB has consulted the various education groups and other stakeholders on the allocation of the earmarked funds of \$18 billion; if so, of the views collected and whether such views will be made public; if not, whether EDB will conduct such consultations and when it plans to do so; and*
- (3) *whether the current-term Government has communicated and coordinated with CE-elect and the personnel of her office to ensure the proper use of the aforesaid \$5 billion annual recurrent expenditure on education and the earmarked funds of \$18 billion; if so, of the details; if not, whether it will conduct such communication and coordination?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, the Government attaches great importance to education and allocates resources continuously to provide all-round and balanced education and training to young people for the sustainable development of Hong Kong. Since the inauguration of the current-term Government, the recurrent education expenditure has increased by 30% from \$60.4 billion in 2012-2013 to \$78.6 billion in 2017-2018, with the amount taking up the largest share among all policy areas. During the tenure of the current-term Government, the share of recurrent education expenditure in total education expenditure has also increased from less than 80% in 2012-2013 to 90% on average, demonstrating the Government's commitment to education.

Upon resumption of the Second Reading debate on the Appropriation Bill 2017, the Financial Secretary announced that the additional surplus of \$18 billion of 2016-2017 will be earmarked for education purposes to meet various needs in the education sector, including additional resources for academic and scientific research development in the higher education sector. The Education Bureau is devising an allocation plan for consideration and decision by the next-term Government at the earliest instance upon its taking office.

Regarding the additional recurrent education expenditure of \$5 billion set out in the Manifesto of the Chief Executive-elect, with the agreement of the incumbent Chief Executive, the Chief Executive-elect and the Education Bureau are formulating specific measures in the light of the proposals put forward by the education sector, including the priority measures to be implemented in the 2017-2018 school year. Meanwhile, the Chief Executive-elect has met with the



stakeholders of the education sector to gauge their views. Upon taking office, the next-term Government will announce the specific measures on the use of the additional recurrent expenditure and seek the funding approval of the Finance Committee of the Legislative Council.

The Education Bureau will continue to maintain close contact and communication with education groups and stakeholders to seek their views on ways to improve the work of education.

**MR CHEUNG KWOK-KWAN** (in Cantonese): *President, when I met with quite many education groups some time ago, they pointed out that many secondary and primary schools were on the brink of reduction in class size and manpower due to a possible decline in their student intake in the coming school year. These education groups invariably hoped that these two additional amounts of education resources from the Government could be expeditiously endorsed by mid-July, so as to enable schools to make planning as soon as possible for manpower and curriculum arrangements for the coming school year without having to fire existing staff members and then recruit new ones.*

*In this regard, can the Government make an undertaking that it will submit the relevant funding application to the Finance Committee before the end of the current legislative session to enable expeditious scrutiny and passage by Members?*

**SECRETARY FOR EDUCATION** (in Cantonese): *President, regarding the \$5 billion additional recurrent education expenditure proposed by the Chief Executive-elect, my understanding is that the Chief Executive-elect hopes to table the proposal before the Legislative Council for consideration before the end of the current legislative session, that is, before the end or middle of July this year. If the proposal can be submitted to the Legislative Council by that time as intended, I hope members of the Finance Committee can endorse the relevant funding as early as possible after thorough consideration.*

**MR IP KIN-YUEN** (in Cantonese): *President, Members all know the importance of education. So, we welcome an additional recurrent expenditure of \$5 billion each year and this \$18 billion one-off provision. The Chief Executive-elect*

*basically has already got some rough ideas about the uses of that \$5 billion funding. But in the case of the \$18 billion additional funding proposed by the Financial Secretary, we still have no idea about its uses for the time being. Apart from the somewhat general statement that a study will be made of the academic and scientific research development in the higher education sector, the Financial Secretary has not put forth any concrete ideas for the time being.*

*May I ask whether the Financial Secretary had already come up with certain ideas about the uses of this additional funding when he mooted the proposal? For instance, will he include the existing problems with secondary and primary school campuses and also university hostels in his consideration of the uses of this \$18 billion? During my last meeting with the presidents of the eight universities, I was told that many universities had been granted sites to develop hostels and were undertaking planning, but many works projects could not be commenced due to a lack of funding, one example being the City University of Hong Kong. Will the Secretary consider as soon as possible the question of how best the problems with university hostels and also secondary and primary school campuses can be resolved?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, during the resumed Second Reading debate on the Appropriation Bill 2017, the Financial Secretary proposed to earmark this \$18 billion surplus for education purposes, such as increasing the resources for academic and scientific research development in the higher education sector, and meeting various needs in the education sector.

So, in response to the problems with secondary and primary school campuses, their upkeep, and also the problems with university hostels as mentioned by Mr IP just now, I wish to say that we as public officers in the Education Bureau fully appreciate these different needs in the education sector. We maintain close communication with the tertiary education sector and the secondary and primary school sector, with a view to understanding their needs in various aspects.

Therefore, we will definitely take account of all such factors when considering the distribution of this \$18 billion surplus and draw up the priorities of fund distribution deemed the most appropriate by the Government.

We are now undertaking the relevant tasks. As \$18 billion is by no means a small sum, and the education sector has likewise put forth various demands, we will give them thorough consideration and hope to hold discussions with the sector or Members as soon as we have made a decision or put forward certain proposals.

**MR POON SIU-PING** (in Cantonese): *President, the Government's emphasis on education and continued resource commitment for the education and training of young people certainly command my support. According to the Secretary just now, this \$18 billion additional funding and the additional \$5 billion to be committed by the Chief Executive-elect will add up to as much as \$23 billion. The Secretary has also said that the Education Bureau will conceive a distribution proposal for the new-term Government to consider and decide.*

*I have this supplementary question. How much resources will be deployed by the Government to vocational training? Actually, staff members of the Vocational Training Council have often conveyed to me that some teaching staff members have been employed on short-term contracts for 10 consecutive years. May I ask the Government if it will increase funding for the provision of vocational training?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, vocational education and vocational training are both important tasks in the education portfolio of the Education Bureau. As early as presenting the Budget this year, the Financial Secretary already proposed to earmark \$700 million from the fiscal reserve to take forward certain tasks, one of which being the strengthening of the efforts in promoting vocational and professional education and training. So, speaking of resources, apart from this \$18 billion additional funding and the additional funding of \$5 billion now under discussion, a certain sum from the \$700 million earmarked by the Government will be designated for the promotion of vocational and professional education and training.

When considering this \$18 billion funding and its uses, we will certainly consider the necessity or otherwise of increasing resources for vocational and professional education and training.

**MR ABRAHAM SHEK** (in Cantonese): *President, I hope the Secretary can tell this Council how much of this \$18 billion funding will be earmarked for special education and the education of ethnic minorities.*

**SECRETARY FOR EDUCATION** (in Cantonese): President, due to the one-off nature of this \$18 billion funding, we must consider whether a one-off grant or funding provision in the form of recurrent expenditure is more suitable for meeting the education needs of students with special educational needs ("SENs") and non-Chinese-speaking ("NCS") students.

If we think after consideration that the one-off grant approach can meet the needs of NCS or SEN students, we will also take this into account when determining the distribution of this \$18 billion.

As we have learnt from certain press reports and people in the education sector, one consideration made by the Chief Executive-elect in determining the distribution of this \$5 billion is to introduce Special Educational Needs Coordinators. At present, the Education Bureau is implementing a pilot scheme in some schools and wishes to turn it into a permanent scheme early. On this matter, we have to wait until the Chief Executive-elect has assumed office before giving an account to Members and making an announcement. All this is already proof that the current-term Government attaches a great deal of importance to SEN and NCS students; and so will the next-term Government.

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

**MR ABRAHAM SHEK** (in Cantonese): *President, the Secretary's reply is not detailed enough. Under the existing mechanism, SEN and ethnic minority students have been greatly affected. If the Education Bureau still refuses to cater for the needs in this respect despite its receipt of the one-off funding, the problem will definitely grow increasingly more serious in the days ahead. So, I strongly hope that the Secretary can give serious thoughts to allocating a certain sum from this \$18 billion to alleviating the problems currently faced by these students.*

**PRESIDENT** (in Cantonese): Mr SHEK, you have already pointed out the part of your supplementary question which has not been answered. Secretary, do you have anything to add?

**SECRETARY FOR EDUCATION** (in Cantonese): President, we will certainly take Mr SHEK's suggestion into account when considering the uses of this \$18 billion.

**MR MICHAEL TIEN** (in Cantonese): *President, while certain initiatives may be beneficial to education, they very often involve several Policy Bureaux, thus leading to two problems. First, the initiatives are doomed to be ineffective as those Policy Bureaux merely adhere to their own policy portfolios. Second, the Policy Bureaux involved always argue over, for example, the question of the envelope from which money should be withdrawn. This will result in a situation, one which resembles a football match where the players merely pass the ball around without scoring any goals in the end. For example, I have proposed the provision of after-school childcare service for all whole-day and half-day kindergartens and primary schools, with cooperation from non-governmental organizations. But obviously, such childcare service is within the portfolio of the Labour and Welfare Bureau. The identification of students with special early childhood educational needs and the early provision of speech therapy are certainly the unavoidable duties of the Education Bureau, the Labour and Welfare Bureau and the Food and Health Bureau. The case of promoting reading is more interesting. On the one hand, the Home Affairs Bureau has introduced self-service library units on their own, and on the other, the Education Bureau has launched various activities to promote reading. In that case, when can we attain the goal of "bookcrossing" for all or reading for all? Finally, in the case of STEM (science, technology, engineering and mathematics) education, schools are literally "groping for stones to cross a river". And, as Members must be aware, the promotion of creativity and innovation is outside the portfolio of the Education Bureau and should instead require assistance from the Innovation and Technology Bureau.*

*I wish to ask this supplementary question. As this \$18 billion funding is one-off in nature, the best approach is actually to consider spending the whole sum on setting up various funds, such as a clearly positioned language fund of education value which requires inter-bureau cooperation. Some other examples*

*are a childcare service fund, a fund for supporting students with special early childhood educational needs, a reading promotion fund, and a technological research education fund. As all of these items involve various departments at present, they can hardly be included in the recurrent expenditure of the Education Bureau. If the authorities can consider the setting up of these several funds with this \$18 billion, they will be able to make focused efforts in dealing with related problems long term and convert such services into permanent services with the returns of those funds. I believe the Under Secretary, or this Bureau Director hopeful, probably wants to make a change. So, what are his views on my ideas?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, when performing their duties for the Government, various departments are certainly given charge of their respective portfolios. As pointed out by Mr TIEN just now, the tackling of many problems sometimes requires inter-bureau or inter-departmental cooperation, and the Government has likewise put in place mechanisms for dealing with these matters. Certainly, in some cases, the Government is more efficient in dealing with problems. In some cases, it may encounter more constraints in the course of dealing with problems as various departments have divergent considerations. However, I believe both the current-term Government and also the next-term Government will seek to strengthen liaison among various departments, so as to tackle and resolve the existing problems in society.

Let me come back to the \$18 billion funding. Our current consideration is based mainly on educational needs. Just as the Financial Secretary expressly stated when proposing to earmark this sum for the Education Bureau, it will be used for education purposes. Catering for educational needs is certainly our main consideration, and afterwards, we will determine the service delivery modes which can yield the best results. We cannot preclude the possibility of setting up some funds as a way of using part of this sum. But of course, all will have to depend on the final decision, meaning the services which the Education Bureau intends to provide, and the most effective modes of service delivery. If cooperation with other departments is required for dealing with certain education issues, the Education Bureau will assume a leading role and join hands with other departments to solve any problems.

**MRS REGINA IP** (in Cantonese): *President, a female teaching assistant ("TA") recently leaped onto a rail track at Tai Wai Station in Sha Tin and was killed by an oncoming train. It was suspected that she committed suicide because of immense pressure at work. May I ask the Secretary if he can consider the partial allocation of this \$5 billion recurrent expenditure to improving TAs' remunerations? As far as my understanding goes, their median salary merely stands at \$12,000. It is far lower than the median salary of a certificated master and is even no match for that of a school caretaker. May I ask the Secretary whether consideration can be given to the provision of assistance to TAs?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, we certainly feel distressed whenever any unfortunate incidents occur; neither do we wish to see any such incidents. At present, the investigation into that unfortunate incident has yet to be completed, and the reasons why the person in question developed suicidal thoughts still remain unknown. But in any case, TAs as mentioned by Mrs Regina IP are not our sole concern. The service conditions and even the mental health of contract teachers and practitioners holding various posts in the education sector are also important matters of concern to us. As far as I know, the Chief Executive-elect is now holding discussions with various organizations of the sector, gauging their views and suggestions on the uses and distribution of that \$5 billion. In this regard, as I do not have any information or details in hand, I am unable to tell Mrs Regina IP whether part of this resource provision can be allocated to the purpose of dealing with, for example, TAs' remunerations. Nevertheless, we can convey Mrs Regina IP's suggestion to the Chief Executive-elect's Office.

**MRS REGINA IP** (in Cantonese): *President, will the Secretary make any recommendation?*

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

**SECRETARY FOR EDUCATION** (in Cantonese): President, to my understanding, the Chief Executive-elect is now considering various suggestions and drawing up the final proposal. We will faithfully convey the views of Mrs Regina IP on this matter. I believe she can balance the interests of various sides and make the best decision.

**DR HELENA WONG** (in Cantonese): *President, we certainly very much hope that the Government can show concern for TAs and consider the conversion of those TAs who meet the teacher qualifications into permanent teachers. I have this question for the Secretary. The Financial Secretary initially decided to earmark the \$18 billion for education purposes, including the enhancement of academic and scientific research development in the higher education sector. I declare that I am a lecturer in The Hong Kong Polytechnic University. But speaking of the research projects undertaken by universities, some do not require much money but some do. The support offered by the Research Grants Council ("RGC") to universities for conducting research mainly takes the form of funding provision. And from what I have heard, it looks like RGC is unable to provide universities with substantial funding for conducting research due to investment problems with its fund. Does the Secretary have a clear idea about the amount of money held by RGC at present and also how much of it can be allocated to universities every year for conducting scientific research?*

**SECRETARY FOR EDUCATION** (in Cantonese): *President, insofar as I understand it, the fund's returns over the past few years have been lower than the projected returns initially. So, the annual revenue generated by the fund in those years has been lower than those over previous years. But at the same time, I know that RGC and the University Grants Committee may use a small portion of their principals to sustain certain research projects now underway in universities or to support any research projects to be conducted in the future because they are aware that the conduct of research honestly requires a rather stable source of funding support which must not fluctuate drastically. The reason is that any such drastic fluctuations may lead to major changes in the research ecology. Simply put, while it is true to say that its revenues have been lower than those over previous years, the impact on the overall annual expenditure for universities to conduct research is not that serious. Even though there are certain impacts, it is not totally necessary to transfer all the impacts of revenue reduction to universities because they may still use part of their principals.*

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



**Loaning venues for use as an assembly point and starting point of a mass rally held annually on July 1**

2. **MR HUI CHI-FUNG** (in Cantonese): *1 July of this year marks the 20<sup>th</sup> Anniversary of the establishment of the Hong Kong Special Administrative Region ("HKSAR"). It has been reported that the State President will probably visit Hong Kong at that time. On the other hand, on July 1 of each year from 2004 to last year, the Civil Human Rights Front ("CHRF") was loaned, free of charge by the Leisure and Cultural Services Department ("LCSD"), the soccer pitches at the Victoria Park for use as an assembly point and starting point of a mass rally. However, LCSD has rejected the relevant application submitted by CHRF this year because the venues have been loaned to the Hong Kong Celebrations Association ("HKCA") for holding a science and technology expo. LCSD has indicated that priority has been accorded to HKCA in making advance booking for the use of the venues because it is a charitable organization. In this connection, will the Government inform this Council:*

- (1) *whether it has received any notification regarding the State President's visit to Hong Kong on the 20<sup>th</sup> Anniversary of the establishment of HKSAR; if so, of the relevant dates, visiting arrangements and estimates of expenditures;*
- (2) *whether LCSD made the decision to loan the aforesaid venues to HKCA purely on the basis that HKCA was a charitable organization, and had not considered if the science and technology expo that HKCA planned to hold in the venues was a charitable event; whether LCSD will review the mechanism for vetting and approving applications for use of recreation facilities free of charge, with a view to ensuring that non-charitable community organizations will have fair and reasonable opportunities in using recreation facilities free of charge; and*
- (3) *whether it has assessed if LCSD's rejection of the application submitted by CHRF will give members of the public a negative impression that the Government, in view of the probable visit to Hong Kong by the State President during the 20<sup>th</sup> Anniversary of the establishment of HKSAR, is trying to contain the number of people taking part in the mass rally so as to create a euphoric atmosphere; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, on top of a series of celebration activities to be organized by the Hong Kong Special Administrative Region ("HKSAR") Government to mark the 20<sup>th</sup> Anniversary of the establishment of HKSAR, many local organizations also intend to organize celebration activities at the venues of the Leisure and Cultural Services Department ("LCSD"). My reply to the three parts of the question is as follows:

- (1) For part (1) of the question, the SAR Government does not have information to announce at the moment.
- (2) The Victoria Park is one of the leisure venues under the management of LCSD, with many applications from organizations for using the soccer pitches or Central Lawn therein for large-scale events given the easy accessibility. LCSD has all along processed and assessed the booking applications for using its leisure venues according to the established guidelines and procedures. The "Booking Procedure For Use Of Non-Fee Charging Recreation And Sports Facilities" ("the Booking Procedure") prioritizes applications according to the type of applicant organizations and advance booking period, and spells out clearly the relevant details with examples provided. According to the Booking Procedure, organizations which are allowed to reserve recreation and sports facilities three months prior to the date of events include charitable organizations registered with the Inland Revenue Department ("IRD"), subvented non-governmental organizations ("NGOs") registered with the Social Welfare Department, affiliated clubs of National Sports Associations, statutory bodies, bona fide associations and corporations registered under the Companies Ordinance or the Societies Ordinance, offices of District Council members, etc., with registered charitable organizations and subvented NGOs being accorded a higher priority. The Booking Procedure is available on the website of LCSD for public information.

LCSD received an application from the Hong Kong Celebrations Association ("HKCA") on 15 March 2017 for booking the six soccer pitches at the Victoria Park from late June to early July for organizing activities in celebration of the 20<sup>th</sup> Anniversary of the establishment of HKSAR. Subsequently, on 3 April 2017, LCSD received an application from the Civil Human Rights Front

("CHRF") under the name of Ap Lei Chau Community Trade Union ("ALCCTU") for booking the six soccer pitches, Central Lawn and Band Stand at the Victoria Park from 30 June to 1 July 2017 for the public procession on 1 July 2017.

Since HKCA is a charitable organization registered with IRD which had submitted its application for using the venue three months prior to the date of event (i.e. during the period between 1 and 31 March 2017), LCSD approved this priority application in accordance with the established guidelines. As a result, ALCCTU's application for using the six soccer pitches at the Victoria Park for organizing an activity simultaneously could not be accepted.

In general, in case different organizations apply for using the same venue to organize activities simultaneously, LCSD will consider the booking applications with regard to the order of priority set out in the Booking Procedure and try to coordinate the activities as far as practicable. For instance, LCSD will examine whether applications from different organizations can be approved at the same time or whether the organization(s) concerned can be persuaded to consider the possibility of changing the booking period or using another venue instead so that different applicant organizations can reserve LCSD's leisure venues for their activities after coordination.

The Booking Procedure (including the order of priority contained therein) has been effective, and conducive to ensuring fairness, openness and impartiality in the booking and allocation of venues. LCSD will review the relevant arrangements from time to time as necessary.

- (3) As stated above, given that an application had already been received from an organization for holding a large-scale event at the six soccer pitches at the Victoria Park from late June to early July, and the organization concerned enjoys a higher priority in the booking of facilities, LCSD could not accept applications from other organizations for using the same facility during the same period. In processing the application, LCSD had maintained liaison with CHRF and subsequently received its application for using other facilities at

the Victoria Park on 1 July this year for the public procession on 1 July 2017. Having considered factors such as crowd flow during the activity, traffic conditions, public order, etc. and consulted other relevant government departments, LCS D approved CHR F's application for using the Central Lawn and Band Stand of the park on 1 July.

**MR HUI CHI-FUNG** (in Cantonese): *Mr LEUNG, there are around two weeks to go before 1 July this year and the Government still refuses to confirm and announce at this very moment whether President XI Jinping will visit Hong Kong on 1 July. What are actually the concerns of the Government? Is the visit of President of the People's Republic of China ("PRC") to Hong Kong not considered as an honourable event? Or is it true that as the Government is very eager to protect its boss and deeply worried that the PRC President will, after his arrival in Hong Kong, notice the widespread opposition and strong public aspirations for democracy and universal suffrage, HKCA is therefore established to occupy the soccer pitches at the Victoria Park such that there is nowhere for CHR F, the organizer of the mass rally on 1 July 2017, to stand? Is it true that the Government will only announce and confirm the PRC President's visit to Hong Kong after completely suppressing the opposition and removing all obstacles? Is it the attitude and approach adopted by the Government?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, the remarks made by Mr HUI just now are not true. If Members refer to the main reply, they will note clearly that LCS D has laid down a set of established guidelines for processing applications for using non-fee charging venues. Such an arrangement did not induce any dispute on many previous occasions, and the guidelines concerned are open to the public so that everyone can access them and understand the application procedure. If an organization submits an application for using a venue in accordance with the procedure, LCS D will definitely process the application in an impartial and fair manner. This approach has been proven in the past, and we hope that all organizations can refer to the relevant application procedure and the order of priority of applications on the website in order to understand the relevant situation.

**DR HELENA WONG** (in Cantonese): *President, I understand the point made by the Secretary just now, that is, the Government has established the Booking Procedure and accorded a higher priority to charitable organizations. However, my concern is that there was a previous occasion on which the soccer pitches at the Victoria Park were also used for other purposes on 1 July instead of an assembly point of the mass rally on 1 July but the aerial photographs showed that, the activities held by a charitable organization in celebration of the reunification at the venues as approved by the Government only attracted a poor turnout actually while the areas surrounding the soccer pitches were extremely crowded.*

*May I ask the Secretary, according to his estimate, how many people can be mobilized by the charitable organization granted approval to organize activities in celebration of the reunification and whether the six soccer pitches can be fully utilized? According to previous situations, I believe the number of people taking part in the mass rally on 1 July 2017 will not decrease as a result of the Government's refusal to approve the application for using the soccer pitches as an assembly point. It is because in view of the 20<sup>th</sup> Anniversary of the reunification and the probable visit by President XI Jinping to Hong Kong, many members of the public may want to take to the streets to express their views on the reunification, on whether "one country, two systems" has been distorted as well as various conditions concerning people's livelihood and politics after the reunification. Given that LCSD has now adopted such an approach, has the Secretary assess the problems concerning security, including the need for the Police to maintain order and handle the situation of the area outside the soccer pitches at the Victoria Park being packed with a large number of people taking part in the mass rally on 1 July 2017? As the entire area of Causeway Bay may be paralyzed by then, the situation may become even worse in that case. May I ask whether LCSD has consulted other government departments (including the Police) with regard to this decision so as to examine whether this decision will exacerbate the problem of crowd control? Besides, the area in question will be packed with members of the public in a way that both the people and cars cannot move forward ...*

**PRESIDENT** (in Cantonese): Dr Helena WONG, please refrain from making lengthy comments.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, I am pleased to hear that Dr WONG appreciates that we have determined the order of priority for the application for booking the venues, and I have also noted her concern about public order on 1 July. I can state here that the existing procedure for identifying the order of priority of reserving venues is applicable not only to the Victoria Park as it is applicable to any venue in Hong Kong at all times. If there is any organization which intends to submit an application, we will process the application by adopting this set of guidelines. Therefore, there is no question of the use of a particular venue being guaranteed for a specific activity or organization. This is the principle and major criterion for processing applications for booking venues.

Second, many activities were held at the Victoria Park in the past, such as activities on integration between the disabled and able-bodied, bazaars, carnivals as well as fun fairs for health, covering a large variety of activities. On 1 July, which marks the 20<sup>th</sup> Anniversary of Hong Kong's reunification with the Motherland, I believe various activities which suit different needs of the people will be held in the community. Some people may organize celebration activities while others may take part in the rally to express their demands. In the society of Hong Kong, people are able to organize activities in a diversified and accommodating manner. With regard to the maintenance of order as mentioned by Dr WONG, we certainly are highly concerned about and attach great importance to this, and I believe proper preparations for this day will be made by the Police and other law enforcement agencies.

**MR HUI CHI-FUNG** (in Cantonese): *Mr LEUNG, the Secretary has just indicated in the main reply that HKCA is accorded a higher priority in occupying and using the Victoria Park because it is a charitable organization. Yet, HKCA is actually going to organize a science and technology expo on that day and I wonder how it is related to charity. On the contrary, the mass rally held annually on 1 July by CHRF is an occasion on which members of the public can express their views as well as an important icon of the freedom of speech, assembly and association enjoyed by the people of Hong Kong. The Government should strike a balance between these two parties but it has given priority to HKCA in using the venues. Hence, may I ask whether the Secretary will consider revising the mechanism for determining the order of priority in booking venues and assess which activity is actually more important to Hong Kong? Moreover, is it true that LCSD, by grouping two organizations with*

*opposite political views together under the current arrangement, wishes to provoke confrontations and intensify the division in society? Is it a desired outcome for the Government?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, first of all, I disagree with Mr HUI's claim that a particular organization is occupying the venue as it is not the truth. In fact, the guidelines are open to the public and transparent. According to the procedure, an application for reserving a venue must be submitted three months in advance. The current situation is that an organization had actually reserved the venue three months in advance while another organization submitted an application at a later date, indicating a small gap in the time of submitting applications.

Furthermore, with regard to the nature of organizations, I am not sure whether Mr HUI has referred to the guidelines on the website which clearly set out the order of priority of different organizations. We have adopted this approach over the years and we wish that the relevant procedure can be maintained.

While Mr HUI has asked just now whether the guidelines can be revised, the guidelines have been implemented for many years without inducing any dispute so far. For instance, Mr HUI is a District Council member and the office of a District Council member has also determined the priorities of its work. If he considers it necessary to make some changes, we must conduct many rounds of consultation before the relevant changes can be made but Mr HUI is welcome to make further suggestions.

As for the concern raised by Mr HUI at the end of his speech, which is also the concern mentioned by Dr Helena WONG earlier, many activities that suit different needs of the people will be held on 1 July and I believe the Police will make proper preparations for them. I hope Mr HUI can rest assured.

**MR WONG KWOK-KIN** (in Cantonese): *President, the Victoria Park is neither purposely built for certain people nor reserved for the exclusive use by certain organizations. The arguments which used the term "occupy" or compared the number of participants of the two activities to see which one has a higher turnout are entirely unfounded and presented in an overbearing manner.*

*Conversely, may I ask whether the Government has laid down a set of clear criteria for the use of the Victoria Park such that Secretary LAU Kong-wah can inform the public of such criteria in an unequivocal manner? As for the reservation of the use of the Victoria Park, what criteria are adopted by the Government as the basis for assessing applications? Is it true that some organizations are given priority in using the Victoria Park during a specific period of time or that some organizations are permitted to occupy the Victoria Park for a prolonged period in a certain time frame?*

*As this year marks the 20<sup>th</sup> Anniversary of Hong Kong's reunification with the Motherland, what is actually wrong with the organization of celebration activities at the Victoria Park by HKCA that have caused the complaints of some people and invited extensive criticisms? Besides, has the Government assessed the risks of arranging two groups of people with divergent views to rally at the Victoria Park?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, with regard to the questions mentioned by Mr WONG just now, the Booking Procedure is available on the website and perhaps I should further explain it in detail. For the organizations which are required to submit applications three months in advance as stated by us all along, we are referring to those which are not in the sports sectors. In fact, for instance, applications from schools will be given a higher priority and schools can submit applications one year in advance; the same arrangement applies to sports-related activities because these are sports venues and such activities are given a higher priority. As for other sectors, many activities are held by organizations of different sizes in Hong Kong covering a large variety. Therefore, LCSD has determined the order of priority for their applications submitted three months in advance and it is clear that charitable organizations are accorded a higher priority.

As for the activities organized by different organizations, I hope they can observe the rules and instructions given by the organizers in all aspects. Regarding the maintenance of order, as I have mentioned in my reply earlier, the Police and on-site colleagues will keep a close watch on the situation and make arrangements.

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



**Regulation of private outdoor barbecue sites**

3. **MR STEVEN HO** (in Cantonese): *President, some members of the public have relayed to me that there is an outdoor barbecue site operating illegally on a private farmland at Tin Ping Road, Sheung Shui, which has an area of 20 000 square feet. It is learnt that there are two other illegally operated outdoor barbecue sites in Kau Wa Keng Old Village area near Mei Foo. Such barbecue sites have caused odour, noise and light pollution nuisances to residents in the vicinity, and also brought about environmental hygiene and illegal parking problems, etc. As such barbecue sites sell liquor without a licence, law and order problems have also arisen from the troubles caused by their drunken customers. Moreover, the lack of fire service facilities in such barbecue sites jeopardizes customers' safety. Even though the authorities have instituted prosecutions against those persons operating outdoor barbecue sites illegally, the operators concerned just regard the fines as part of their operating costs. This shows that the fines are unable to achieve any deterrent effect and that there are loopholes in the relevant laws, rendering the problems unresolved over the years. In this connection, will the Government inform this Council:*

- (1) *of the ordinances that currently regulate outdoor barbecue sites, including the licences that the operators are required to obtain; the current number of lawfully operated outdoor barbecue sites, and whether it has compiled statistics on the current number of outdoor barbecue sites operating illegally; the number of complaints received against outdoor barbecue sites by various government departments in each of the past three years, together with a breakdown by the content of such complaints;*
- (2) *whether the relevant government departments regularly conduct inspections on lawfully operated outdoor barbecue sites, so as to ensure that the barbecue sites are operated in accordance with the licensing conditions and the relevant legislation; of the follow-up actions taken by various government departments in the past three years in respect of those barbecue sites which violated the licensing conditions or involved illegal structures, and whether they instituted prosecutions against the operators concerned; if so, of the punishments imposed on the convicted persons; of the current progress of such follow-up actions; given that outdoor barbecue sites have brought about long-standing problems in respect of environmental hygiene, noise, traffic, law and order, etc., whether*

*the Government has plans to amend the legislation to step up the regulation and raise the penalties, and step up its law enforcement efforts, in order to improve the current situation; if so, of the details; if not, the reasons for that; and*

- (3) *whether it will put in place for outdoor barbecue sites a demerit point system under which barbecue sites under complaint will be given demerit points if the complaints have been found substantiated, and those barbecue sites which have incurred maximum demerit points will have to cease operation, so as to achieve deterrent effect; if so, of the details; if not, the reasons for that; whether the authorities have other measures put in place to resolve the aforesaid problems?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Food and Environmental Hygiene Department ("FEHD") has all along been concerned about the environmental hygiene nuisances caused by the operation of unlicensed food business at outdoor barbecue sites. Apart from carrying out routine inspections and enforcement actions, FEHD also takes blitz prosecution actions from time to time against these unlicensed food premises. Where necessary, FEHD will increase the frequency of prosecutions, arrest and prosecute offenders and seize the articles involved to enhance the deterrent effect.

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

- (1) Depending on the mode of operation, generally there are three types of food business licence that the operator of an outdoor barbecue site may apply for under the Food Business Regulation ("the Regulation"):
- (a) if food is sold to customers for consumption on the premises, a restaurant licence should be obtained;
  - (b) if food is only prepared for sale for consumption off the premises, a food factory licence should be obtained; and
  - (c) if fresh, chilled or frozen meat is sold, a fresh provision shop licence should be obtained.

According to its records, in the past year, FEHD took enforcement actions against the operation of unlicensed food business at nine outdoor barbecue sites (including the barbecue sites mentioned in Mr Steven HO's question). Such actions included instituting 72 prosecutions against the operators of the barbecue sites for conducting food business at the sites without obtaining a food business licence (including five arrests with seizure actions). Besides, FEHD conducted two joint enforcement operations with the Police at the above outdoor barbecue sites in the past year and referred other irregularities (such as selling liquor without a licence, causing noise disturbance or breaching land lease conditions) found therein to other relevant government departments for corresponding follow-up actions.

According to its records, FEHD has granted a total of 12 food business licences for operating outdoor barbecue sites, including two food factory licences and 10 fresh provision shop licences. From 2014 to 2016, FEHD received a total of 160 complaints about suspected operation of unlicensed food business at barbecue sites, 19 complaints about environmental hygiene nuisances caused by barbecue sites and nine about provision of unwholesome food or improper storage of food at barbecue sites.

Other relevant departments will also carry out investigations and follow-up actions if any illegalities or irregularities are found at any outdoor barbecue sites. From 2014 to 2016, the Environmental Protection Department ("EPD") received a total of 119 complaints about pollution caused by outdoor barbecue sites, while other relevant departments did not keep statistics on the numbers of complaints against the barbecue sites in various districts across the territory.

- (2) FEHD staff conduct regular inspections of all licensed food premises. Upon detection of any irregularities, the staff will issue warnings or institute prosecutions as appropriate. In case of persistent breaches by the licensee, his/her licence will be subject to suspension or cancellation by FEHD under the Demerit Points System and the Warning Letter System.

From 2014 to 2016, FEHD issued a total of four verbal warnings to licensed food premises operating outdoor barbecue business for violating the licensing conditions. No such premises were prosecuted or convicted for their violation in the same period.

Under the Regulation, any person who operates a food business without a licence commits an offence and is liable on conviction to a maximum fine of \$50,000 and imprisonment for up to six months and a daily fine of \$900 should the offence persist. According to records, among the cases prosecuted by FEHD and convicted in the past year for operating unlicensed food business at the barbecue sites mentioned above, the lowest, highest and average amounts of fines were \$1,200, \$10,000 and \$4,292 respectively. When the Court hears a case where a barbecue site has been repeatedly involved in the operation of an unlicensed food business, FEHD will present to the Court information about the offender's previous related convictions and the number of relevant complaints to help the Court determine the appropriate penalty. FEHD may also apply to the Court for a closure order under section 128B of the Public Health and Municipal Services Ordinance to close an unlicensed restaurant.

Generally speaking, other relevant departments will, in the light of individual circumstances, take appropriate actions against any illegalities or irregularities found at outdoor barbecue sites within their ambit and according to the powers vested by the relevant ordinances. Such illegalities or irregularities include contravention of the Fire Services Ordinance, the Dangerous Goods Ordinance, the Dutiable Commodities (Liquor) Regulations, the Buildings Ordinance, land lease conditions and relevant pollution control ordinances.

Currently, FEHD and relevant departments are vested with adequate power to deal with the problems related to the operation of unlicensed food business at barbecue sites. They will continue to closely monitor the issues associated with the operation of unlicensed food business at barbecue sites, and step up enforcement efforts to combat illegal practices as and when necessary.

- (3) FEHD has put in place the Demerit Points System and the Warning Letter System to regulate licensed food premises (including licensed

barbecue sites). Under the Demerit Points System, a predetermined number of demerit points will be registered against a licensee upon conviction of an offence in relation to food safety and environmental hygiene under the Public Health and Municipal Services Ordinance and its subsidiary legislation. The licence will be suspended or cancelled if specific demerit points are incurred within a specified period of time. Under the Warning Letter System, FEHD will issue warning letters to licensees when their licensed food premises are found in breach of licensing conditions. Persistent breaches of licensing conditions by a licensee after receiving warning letters will lead to cancellation of his/her licence.

All in all, to effectively combat the environmental hygiene nuisances caused by the operation of unlicensed business at outdoor barbecue sites, we need the concerted efforts of relevant government departments to take appropriate enforcement actions within their ambit.

**MR STEVEN HO** (in Cantonese): *President, according to the Secretary's main reply, in the past year, the Government instituted 72 prosecutions against nine outdoor barbecue sites for operating food business without a licence. Hence, it is not that the Government did not take any action. On average, each barbecue site faced at least eight prosecutions in the past year.*

*However, in the last sentence of the main reply, Secretary Dr KO mentioned that "we need the concerted efforts of relevant government departments to take appropriate enforcement actions within their ambit". May I ask the Government, given the mention that it is vested with adequate power to take action and it may also apply to the Court for a closure order, and 72 prosecutions were instituted against nine barbecue sites in the past year, actually under what circumstances it will apply to the Court for a closure order?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): We must consider each case of illegality or irregularity on its own merits. We cannot simply use some figures as the basis, such as the total number of complaints and among them, how many convictions there were, to determine whether or not we should apply for a closure order. This entirely depends on the gravity of the irregularity

in each case and the track record of the food establishment or barbecue site involved in the case. As I mentioned in the main reply just now, on the question of leniency of the relevant penalties, the penalties stipulated in the law carry sufficient deterrence, but we will, in the light of the circumstances in individual complaints or past enforcement actions, try to present to the Court clear particulars and track record of the premises in question to assist the Court in meting out appropriate punishment.

**MS YUNG HOI-YAN** (in Cantonese): *In my view, the Government should rigorously combat unlicensed barbecue sites and food businesses operating without a licence. As stated in the reply by the Secretary just now, various departments are duty-bound to deal with the matter. According to the Food Business Regulation, the maximum penalty is a fine of \$50,000 or imprisonment of six months. May I know whether anyone was sentenced to imprisonment in the past?*

*Just now Mr HO also asked about the practice of applying for a closure order. May I ask the Secretary whether any closure order was issued in the past, and according to what procedure FEHD will decide to apply for a closure order? Will it apply for a closure order only after the number of convictions has reached a certain figure?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, Ms YUNG's supplementary question consists of two parts. The first one is whether anyone was sentenced to imprisonment in the past. The information which I can provide at the moment indicates an answer in the negative. Certainly, for the sake of accuracy, I will go back and double-check it and then provide further information. (Appendix I) At the moment, according to the information on hand, no one was sentenced to imprisonment in the past. The amounts of fines were already mentioned in my main reply just now.

As regards when the premises in question will be closed, as I explained just now, I believe it depends on the gravity of each case. If the circumstances in the cases in the past few years were not serious, certainly there would not be any closure of premises. However, should there be serious irregularity in any individual case, we will, without hesitation, impose appropriate penalties which can reflect its gravity.

**MR LAM CHEUK-TING** (in Cantonese): *President, just now the Secretary replied that the decision on an application for a closure order would be made in light of the gravity of the situation. I would like to tell the Secretary that the situation of the barbecue site in Sheung Shui is definitely serious because there are homes for the elderly and residential buildings nearby. Moreover, a large number of related complaints have been received.*

*President, according to the figures provided by the Government currently, since October, the authorities have instituted only 11 prosecutions against that site, which was fined \$4,000-odd to \$6,000-odd. That means on average there was one prosecution each month, and a fine of \$6,000-odd was paid. Actually, how would this have any deterrent effect? The Government should review the relevant situation. In fact, this problem has already caused much nuisance to members of the public. I request the Government to expeditiously adopt the measure of applying for closure orders to avoid disseminating a wrong message that will mislead people into thinking that they can continue to operate unlicensed barbecue sites by paying a fine of several thousand dollars as if they are paying a rent.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, I must reiterate that if, in light of individual irregularities or illegalities, our department considers it necessary to impose corresponding penalties, we will definitely do so without hesitation. As regards the Member's judgment on a certain complaint, I am afraid I cannot make any comments here.*

**MR CHAN HAN-PAN** (in Cantonese): *President, as stated by the Secretary just now, the amounts of fines imposed in the past prosecutions were \$1,000-odd, several thousand dollars or \$10,000-odd. Basically, there was no deterrent effect at all. Regarding this type of barbecue sites, let us take the barbecue site at Kau Wa Keng as an example. Over the years, as this barbecue site is only 20 m away from the residential buildings nearby, the residents smell burnt food and burnt charcoal every day. It is indeed unbearable. To address this problem, may I ask the Government if it will set up a joint task force dedicated to dealing with this type of barbecue sites which are frequently under complaint? The task force can be formed by officers of FEHD, the Lands Department ("LandsD"), etc. and responsible for taking appropriate and decisive measures. Will any department take the lead to do so?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, let me reiterate that regarding Mr CHAN's supplementary question, apart from the enforcement actions respectively taken by our departments within their ambit and according to the powers vested by the law, as I have said in the main reply, we will deal with individual cases of irregularities jointly with other law enforcement agencies as and when necessary.

**MR CHAN HAN-PAN** (in Cantonese): *President ...*

**PRESIDENT** (in Cantonese): Mr CHAN Han-pan, which part of your supplementary question has not been answered?

**MR CHAN HAN-PAN** (in Cantonese): *... the Secretary did not answer my supplementary question. I asked whether a task force would be set up. It is not about joint operations. I asked whether a task force would be set up to address this kind of problems.*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, my reply is that it depends on the circumstances. If the irregularity in any individual case is serious, our department will determine whether it should be handled by forming a task force, conducting a joint operation or enforcement by individual departments.

**MR STEVEN HO** (in Cantonese): *President, the problem did not arise overnight. The matter of the barbecue sites at Sheung Shui and Kau Wa Keng is not something which just happened six months or a year ago. Rather, it has persisted for five to six years. The government departments have failed to take enforcement actions, or as stated by Secretary Dr KO just now, it will be handled in light of the circumstances. Since so many cases have piled up but the relevant departments still do not consider the problem serious, we have raised the*



*question in this Council to find out whether the authorities have any enforcement power. The Government replied that it had enforcement power and could even apply for a closure order, but it had never deployed this "imperial sword". For this reason, several Members asked when the Government would resort to it. As I can see, all along the Government has taken enforcement actions against these barbecue sites by merely serving them summonses on the grounds of affecting the residents. In my view, this reply of the Government is unable to convince members of the public. Will the Secretary consider afresh adjusting the criteria determining the gravity of the problem?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, first of all, I have to point out to Mr HO that if my memory is correct, I have cited some examples in the main reply. Apart from serving summonses, there were arrests, too.

As regards some individual cases which, as keenly relayed by Members, have caused nuisances to the local residents for a long period, I will certainly review these cases with the department and see if it is necessary to step up enforcement actions.

**MR JEREMY TAM** (in Cantonese): *President, the Secretary said that summonses had been served a number of times, but these barbecue sites bring forth fire safety concern because customers have barbecues there with naked flame.*

*As I can see, the authorities have taken enforcement actions against Hidden Agenda at a great speed, including various practices such as "imposing an encumbrance". Apart from FEHD, why did the other government departments refrain from taking any action? For example, did LandsD impose any "encumbrance"? Did the Fire Services Department ("FSD") issue any penalty ticket? The problem I have now observed is that the authorities have taken enforcement actions very strictly against certain commercial activities, but did they take any enforcement actions against these activities which obviously involve fire safety issues? Were they referred to the relevant departments for enforcement?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as I mentioned in the main reply just now, FSD, particularly referred to by the Honourable Member, has taken enforcement actions. If any outdoor barbecue site is involved in illegalities or irregularities allegedly contravening the Fire Services Ordinance (such as blocking emergency fire escapes) or the Dangerous Goods Ordinance (such as storage of an excessive amount of dangerous goods without a licence), etc., FSD will take enforcement action.

Just now when I responded to another part of Mr HO's question, I provided figures relating to illegalities and enforcement. I also highlighted the figures on enforcement by FEHD and the number of complaints about pollution received by EPD. At the same time, I also pointed out that the other relevant departments did not keep statistics on enforcement relating to complaints against outdoor barbecue sites. Hence, it does not mean that FSD did not take any enforcement action. FSD has taken enforcement actions. It is only that individual departments may not especially create a category for complaints about outdoor barbecue sites.

**PRESIDENT** (in Cantonese): Mr Jeremy TAM, which part of your supplementary question has not been answered?

**MR JEREMY TAM** (in Cantonese): *President, the Secretary did not answer my supplementary question. My supplementary question was very clear. I asked whether FSD or LandsD had taken any enforcement actions, but the Secretary said that he did not have the relevant information. This oral question today has long since been submitted to them. Why are the relevant figures not available?*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, let me say it again. They do not have such a breakdown.

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

## **Future development and positioning of the trading and logistics industry of Hong Kong**

4. **MR FRANKIE YICK** (in Cantonese): *President, the trading and logistics industry is one of Hong Kong's four key economic pillars, with its economic contribution accounting for more than 20% of the gross domestic product and nearly 750 000 people being employed by it. However, the container throughput of the Hong Kong Port has shown a downward trend in recent years. Moreover, it has been reported that the Secretary for Constitutional and Mainland Affairs said in April this year that in order to avoid vicious competition among cities in the Guangdong-Hong Kong-Macao Bay Area ("the Bay Area"), Hong Kong might have to give up some of the industries in which it had no advantage (e.g. terminal cargo transportation) and should direct its development towards high value-added industries. In this connection, will the Government inform this Council:*

- (1) *whether it has discussed with the authorities of the other 10 cities in the Bay Area the formulation of a plan for the work division and cooperation relating to the freight transport industry;*
- (2) *as the Government has indicated that it will submit its views on the planning of the Bay Area to the National Development and Reform Commission at the end of this month, whether such views will include proposals for the development of Hong Kong's freight transport industry; if so, of the details, and whether it has conducted any assessment on the impact of these proposals on the freight transport industry, the local economy and the labour market, and whether it will consult members and bodies of the relevant industries before submission of the proposals; and*
- (3) *as three of the 10 busiest ports in the world are located in the Bay Area and there are also five civil airports in the area, what plans the Government has in place to further support and consolidate Hong Kong's status as a regional logistics and aviation hub and to facilitate Hong Kong's trading and logistics industry to play a leading role in the economic development of the Bay Area?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the Bay Area development plan is one of the important regional development plans under the National 13<sup>th</sup> Five-Year Plan and the Belt and Road Initiative. It helps to promote the cooperation and development of Hong Kong, Macao and the nine cities in the Guangdong Province in areas such as trade and logistics, professional services and technology innovation, as well as the connectivity of transportation infrastructure. The Hong Kong Special Administrative Region ("SAR") Government will participate in the planning work of the Bay Area under the principles of "one country, two systems", complementarity and mutual benefits, leveraging on Hong Kong's advantages, its position as a major international metropolis, as well as our open and leading role to complement and coordinate with other cities in the region and develop the Bay Area into a competitive world-class city cluster.

Our consolidated reply to the three-part question raised by Mr Frankie YICK is as follows:

Hong Kong is a major hub port in South China, with approximately 80% of the import and export goods in value being Mainland-related. The container throughput of Hong Kong Port ("HKP") last year was close to 20 million TEUs, two thirds of which was related to the Pearl River Delta ("PRD"). The Hong Kong International Airport ("HKIA") is the world's busiest cargo airport for seven consecutive years, and its air freight throughput exceeded 4.5 million tonnes last year, of which 70% was roughly estimated to have originated from or been destined for PRD, demonstrating the close connection of the freight industries in Hong Kong and the Bay Area. With further development of PRD, there is ample room for Hong Kong to grow further. Hong Kong should regularly assess our differentiation and advantages, and enhance our overall competitiveness, in order to achieve the objective of catering for the needs of the country and region with Hong Kong's strengths.

At present, HKP and the various ports in the Bay Area have their own distinctive roles and positioning. While HKP is a distribution centre for goods in South China and a major transshipment hub in the region, other major ports in the Bay Area (for example, Shekou, Yantian and Nansha, etc.) are mainly involved in handling direct cargo, and hence there is no question of abandoning HKP. Although there is no concrete cooperation plan on freight between Hong Kong and other cities in the region at present, with the further development of the Bay Area, the various ports will, under the principle of complementarity, develop

their respective strengths to enhance the logistics capacity of the whole region. Hong Kong will continue to reinforce its function as a transshipment hub and, at the same time, actively develop high value-added maritime services, so as to better serve the role as the "super-connector" between the Mainland and the rest of the world.

The Government has consulted the industries and respective advisory committees on the development plan of the Bay Area and submitted its recommendations to the relevant Mainland authorities, which have laid out the positioning of Hong Kong as a major international metropolis, as well as its competitive edges as international financial, transportation and trade centres and a professional services cluster.

On maritime front, we are committed to consolidating Hong Kong's status as an international maritime centre, and to actively foster the development of HKP and high value-added professional maritime services, with a view to providing high quality maritime services to the maritime enterprises in the Bay Area to assist them to "go global", as well as to attract overseas enterprises to use Hong Kong's services and regional headquarters positioning to access the Mainland market.

On aviation, currently there are about 1 100 daily flights connecting Hong Kong to around 190 destinations worldwide, including some 40 destinations in the Mainland. We are committed to consolidating Hong Kong's position as a leading international and regional aviation hub. With the policy support of the Central Government, we are taking forward the Three-Runway System Project and will enhance cooperation and coordination with other major airports in the region.

The Government has implemented a number of measures to complement the above mentioned "consolidation" strategies, which include:

First, the deepening of the Kwai Tsing Container Basin from 15 m to 17 m has been completed to enable ultra-large container vessels to access the terminals at all tides. More port back-up sites are also made available in phases to expand the terminal back-up yard and provide additional barge berths to enhance cargo handling efficiency.

Second, additional land is provided for the development of modern logistics. Since 2010, the Government has provided a total of 6.9 hectares of logistics sites and reserved two sites with a total area of some 10 hectares in Tuen Mun West. At the same time, the Airport Authority ("AA") has reserved about 20 hectares of land in the South Cargo Precinct of the Airport Island for supporting the development of transshipment, e-commerce and high value-added air cargo services.

Third, when the Three-Runway System of HKIA commences operation, the airport will be able to handle about 9 million tonnes of cargo annually, which will nearly double the current cargo handling capacity. Before the completion of the Three-Runway System, the AA has implemented a number of facility enhancement and expansion measures to enhance the cargo handling capacity.

Moreover, the Hong Kong-Zhuhai-Macao Bridge, which connects Guangdong, Hong Kong and Macau, will significantly shorten the travelling time between Zhuhai and the Kwai Tsing Container Terminal and HKIA upon commissioning. Cargo originated from western PRD can make better use of Hong Kong's airport and container port, thereby generating more business opportunities for our logistics industry.

We hope that, riding on Hong Kong's high value-added trade and professional services, world-class infrastructure and manpower development, as well as the global connectivity of an international metropolis, Hong Kong will play an important leading role in the Bay Area development.

**MR FRANKIE YICK** (in Cantonese): *President, first of all, I have to thank the Secretary for his clarification of the remarks made by Secretary Raymond TAM some time ago. Secretary Raymond TAM considers that to avoid vicious competition, Hong Kong should give up its port services industry, which is regarded as extremely successful by world standard. I would like to quote the wording of the Secretary in his main reply, which says, "there is no question of abandoning HKP". We welcome this clarification. I hope government officials should be more cautious in making remarks in future.*

*As for my main question, the Secretary has failed to give a specific answer. He has merely recapped the efforts the authorities have already made or are now making. I do not hear any new thinking or concrete proposals.*

*In part (2) of the main question, I asked whether the Government would consult members and bodies of the relevant industries before submitting the proposals to the Central Government. I raised this question for I did not notice that the Government had conducted the relevant consultation. Moreover, I believe no one, not even the Government, will fully understand the challenges and opportunities faced by various trades and industries, and what matching policies the trades need the Government to implement to enable them to play a certain role in the future development of the Bay Area.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, in Hong Kong, there are different organizations responsible for the development of freight transport and maritime transport of Hong Kong. The Hong Kong Maritime and Port Board ("HKMPB") is responsible for maritime transport, whereas the Hong Kong Logistics Development Council ("LOGSCOUNCIL") is responsible for logistics development. We have been engaging in discussions with these organizations on how best to consolidate Hong Kong's position as an international maritime hub and logistics hub and on the relevant measures. On the aviation front, there are other advisory organizations, including the Aviation Development and Three-runway System Advisory Committee, and AA also plays a very significant role.

Hence, the development of the Bay Area is not a wake-up call to us, for we do not only act in the face of the relevant development. In fact, the Government has all along been working hard with the trades to enhance and consolidate Hong Kong's status on the aviation and maritime fronts. The Bay Area development plan has definitely brought extra business opportunities to Hong Kong and enabled Hong Kong to effect better coordination and more cooperation with the relevant Mainland cities. Yet, I have to stress that competition among cities is sometimes inevitable, and this is the trend prevailing in various regions around the world. However, we hope that such competition will be founded on strengths rather than being vicious competition.

**MR POON SIU-PING** (in Cantonese): *President, the logistics industry is one of the four pillar industries of Hong Kong and it employs tens of thousands of people. However, our ranking of container port throughput has dropped from the first to the sixth now, affecting the income of container port workers and the*

*job orders of cross-border drivers. Earlier on, Mr Frankie YICK expressed his worry that the vicious competition brought about by the development of the Bay Area may affect the employment situation in the industry and he hoped that this might be avoided. The Secretary said earlier that the authorities had no concrete cooperation plans on freight between Hong Kong and other cities in the Bay Area at present. He considers that with further development of the Bay Area, ports in the region will attain complementarity. We surely look forward to the achievement of this effect and that there will not be vicious competition.*

*In fact, I mainly want to ask this question. With the development of the Bay Area, has the Government assessed the impact of the relevant development on the withering business of the Kwai Chung Container Terminals and practitioners in the cross-border transport industry?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):  
President, in general, both the logistics industry and the transport industry are now facing the problem of manpower shortage. Hence, we have to invest more resource to enhance talent training and attract new blood to join the industries.

On the port front, 10 years or so, around 14 to 15 years, ago, Hong Kong was the port with the highest throughput worldwide, and today, it ranks the fifth. However, it should not be interpreted as a drastic drop in the throughput of Hong Kong, for only that the throughput of other ports has increased rapidly, including Shanghai, Singapore and Shenzhen, as a large volume of trade and goods after all originated from the Mainland.

When we examine the average throughput of HKP in the past 10 years, the amount is around 20 million tonnes every year. Hence, the performance of the HKP is still outstanding and highly efficient. Let me illustrate my point with a comparison. In Europe, the Port of Hamburg is the second largest port, yet its overall throughput is only half of that of Hong Kong. In their view, Hong Kong is doing a great job. Therefore, we should not go so far as to consider Hong Kong has no more room to perform its role as a result of the recent take-off of other Mainland ports. In fact, Hong Kong is still playing its role. Yet, it is imperative for us to do self-reflection often to maintain our strengths.



**MRS REGINA IP** (in Cantonese): *President, I agree with the Secretary that we should not merely look at the throughput but should look at the value added. Yet, I believe the Secretary also knows that in the past, HKP handled a large amount of domestic export and the value added was thus high. Subsequently, when the business changed to re-export and the value added was lower. Now, according to the industry, most of the goods handled are trans-shipment and the value added is even lower. Does the Secretary have any proposals to enable Hong Kong to engage in more high value-added businesses and cope with the manpower shortage? I have not noticed any publicity launched by the Government in this aspect, and though the Government has encouraged enrolment on self-financed undergraduate programmes, has it encouraged enrolment on training courses for the logistics and transport professions?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, in fact, we have introduced new measures to encourage more young people to join the maritime and aviation industries. In 2014, with the support of the Legislative Council, the Government allocated \$100 million for the setting up of the Maritime and Aviation Training Fund, and the Fund was well received. The authorities have also made internship arrangements at relevant organizations for some students, and a relatively large proportion of students has remained in the industries.

Mrs IP's earlier remark is correct. In comparison with the early years, Hong Kong now mainly engages in re-export and trans-shipment of goods, which together accounts for close to 60%. It is evident that a qualitative change has taken place in the freight industry. If we have to maintain the maritime strengths of HKP as a whole, we cannot rely solely on freight forwarding, but should work more on maritime-related professional services. We have placed a greater emphasis on these directions lately. HKMPB has also devoted a lot of efforts to promoting maritime-related services. Our services are quite comprehensive in this aspect, ranging from ship management, marine insurance to ship finance and maritime law and arbitration, etc. In this connection, Hong Kong has been performing well. There are over 800 companies providing this type of services, which are relatively high-end and value-added services.

**MR FRANKIE YICK** (in Cantonese): *President, the Secretary mentioned in the main reply that, "Hong Kong will continue to reinforce its function as a transshipment hub and, at the same time, actively develop high value-added maritime services", which is definitely a right direction. At issue is how this can be implemented. At present, the authorities will go to places around the world to promote the competitive edges of Hong Kong from time to time. Yet, if Hong Kong's situation is really that good, our maritime-related businesses would not have lost our business to the counterparts in neighbouring countries.*

*I am glad that the Government has proposed introducing tax concession for the aircraft leasing industry to attract these companies to station in Hong Kong. May I ask whether the Transport and Housing Bureau will consider adopting Hong Kong Shipowners Association's proposal for providing tax concession to attract ship-owners, ship management operators and merchandize trading companies to station in Hong Kong, thereby attracting other related service groups to Hong Kong and facilitating Hong Kong's development into a true maritime hub of Asia?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as I mentioned in the main reply, we attach great importance to Hong Kong's role as an international metropolis and a connector to the rest of the world. On the maritime front, as well as in other business domains, we will consciously attract overseas enterprises to come to Hong Kong, so that Hong Kong will become a regional headquarters.

In the last couple of decades, in terms of tax policies, Hong Kong seldom uses special taxation arrangements compared with other regions and countries, for Hong Kong is basically a low-tax territory. Yet, as Mr YICK said just now, the authorities have made certain special arrangements in taxation for the aircraft leasing industry recently, and this is a breakthrough. I have to make it clear here that we will not attract other enterprises to come to Hong Kong through taxation arrangements deliberately like other countries do. If we rely solely on tax concessions, where other matching efforts and the overall economic strengths cannot catch up, it will be impracticable. We have learnt from the experience of other countries that these companies will leave the places soon after they have developed. Yet, after comprehensive assessment and consideration of the strategic development of certain industries in the future, we will surely consider such arrangements if deemed necessary and capable of bringing benefits.

**MR PAUL TSE** (in Cantonese): *President, the Secretary said that taxation measures will not be adopted. As for the throughput of Hong Kong in the past decade, which is maintained at the average level of 20 million tonnes, he considers this some sort of an achievement. Actually, the three points mentioned by the Secretary in the main reply state that the authorities will deepen the basin, provide additional land and ensure the commencement of the Three Runway System. Yet all of these measures are relatively indistinct. I may even say that the authorities have done nothing at all in promoting the logistics industry in Hong Kong. The Secretary has not answered whether Hong Kong, under such circumstances, has held discussions with other cities in the Bay Area and asked the State to introduce policies to help in a macroscopic perspective Hong Kong to progress forward instead of being complacent with the achievement made in the past decade.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, in terms of regional development, be it the development of the Bay Area under discussion or regional development of other places around the world, competition is the major impetus. Where there is no competition, disincentive to change and complacency will prevail and the impetus for development will diminish. Hence, we should not understate the positive impact of competition. Certainly, we do not wish to see vicious competition and overlapping of roles.

Therefore, if the development planning of the Bay Area carries mutual cooperation and vision coordination, I trust it will be favourable to complementarity and mutual benefits. The development modes of the Mainland and Hong Kong are different. In the market of Hong Kong, the development of enterprises does not rely on policies introduced by the Hong Kong, and it has been the case all along. Certainly, support of government policies is important. Indeed, the economic development of Hong Kong, including the logistics industry and business development on other fronts, is pushed forward by the impetus of enterprises.

Now, HKMPB has been set up, which stresses the full cooperation of the Government, industry, academia and the research sector, and we look forward to seeing the results. We also hope to strengthen the cooperation between the Government and the industry through LOGSCOUNCIL. Despite the highly competitive environment and the changes in the global economy and trade in the past decade, including the rapid development of Mainland ports, Hong Kong has

still managed to maintain an annual average container throughput of 20 million TEUs. I hope Mr TSE will not understate such an achievement, for industry practitioners and container terminal operators have actually made tremendous efforts to maintain this status.

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

### **Helping building owners to comply with the required fire safety standards**

5. **MS STARRY LEE** (in Cantonese): *President, in recent years, the enforcement authorities under the Fire Safety (Buildings) Ordinance (i.e. the Director of Buildings and the Director of Fire Services) have issued, under that Ordinance, Fire Safety Directions ("Directions") or/and Fire Safety Compliance Orders ("Orders") to owners of composite and domestic buildings, requiring them to install fire service installations such as water tanks and hose reel systems, in order to meet the fire safety standards currently required. Quite a number of owners of buildings which have not formed any Owners' Corporation ("OC") or residents' organization and have not hired any property management company (commonly known as "three-nil buildings") have relayed to me that they have tried for a number of times but in vain to form OCs, and thus they are unable to apply under the name of an OC for the relevant building maintenance loans and grants. In addition, the number of contractors who are willing to undertake the works concerned is so limited that the tender prices for the works remain on the high side. As a result, they are unable to afford the costs of works involved in complying with the Directions or Orders. It has been reported that the owners of a number of three-nil buildings have received in recent months the penalty demand notes issued by the enforcement authorities and some elderly owners worry that the fines will increase progressively due to continued non-compliance with the Directions or Orders, leaving them with no other choice but to sell their flats at low prices. In this connection, will the Government inform this Council:*

- (1) *of the number of composite buildings in respect of which the enforcement authorities issued Directions or Orders, as well as the respective numbers of prosecutions instituted and convictions in relation to non-compliance with Directions or Orders, in each of the*

*past three years (together with a breakdown by District Council district and whether such buildings had formed OCs); the penalties generally imposed on those persons convicted;*

- (2) *given that three-nil buildings have not formed OCs and when some of the owners are unwilling to comply with Directions or Orders, other owners who are willing to comply will be saddled with fines as a result, whether the Government has assessed if this situation is fair to those owners who are willing to cooperate, and whether it will make changes to the current practice of imposing fines across-the-board on all owners who have failed to comply with Directions or Orders, and give a longer grace period to those owners who have taken substantive actions; if so, of the details; if not, the reasons for that; and*
- (3) *whether it will, by making reference to the "Operation Building Bright", roll out an "Operation Fire Safety Building Bright" to provide eligible owners of three-nil buildings with grants for costs of works as well as professional support on technical and property management aspects; whether it will enact legislation to empower the enforcement authorities to undertake fire safety works for buildings of non-complying owners and recover the costs from the owners upon completion of the works; whether it will set up a fund to provide subsidies for owners with financial difficulties; whether it will examine the establishment of a building maintenance authority to ensure fair tendering processes for building maintenance works and to attract more contractors to bid for the contracts of such works; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR SECURITY** (in Cantonese): President, the Fire Safety (Buildings) Ordinance (Cap. 572) ("the Ordinance") stipulates that the fire service installations and fire safety construction of composite and domestic buildings constructed on or before 1 March 1987, or with their building works plans first submitted for approval on or before that day, should be enhanced to meet the modern standards. The Fire Services Department ("FSD") and the Buildings Department ("BD") will issue Fire Safety Directions (Directions) to owners or occupiers and specify the fire safety improvement works required.

In the past three years, FSD and BD issued Directions to the owners and occupiers of 2 100 old composite buildings, with detailed figures at Table 1. While owners and occupiers are normally required to comply with the Directions within one year, the departments will, provided that fire safety is not compromised and under reasonable circumstances, suitably extend the deadline for compliance, such that owners and occupiers will have enough time to arrange for works to improve the fire safety of their buildings. In fact, most buildings issued with Directions have been granted an extension of one year or more.

However, if owners or occupiers eventually do not comply with the Directions within a reasonable time frame and fail to provide reasonable justifications, the departments indeed have the responsibility to take law enforcement actions, otherwise the Ordinance could lose its effectiveness, and the fire safety standards of old buildings could not be improved. Before the initiation of prosecution, the authorities will take into consideration the evidence and circumstances of each case, including the follow-up actions taken by individual owners or occupiers with regard to the Directions. The prosecution and conviction figures in the past three years are at Table 2. According to records, the fine for each conviction generally ranged from several hundred dollars to over \$1,000.

Since the implementation of the Ordinance, the Government has been rendering all sorts of support to owners. On technical assistance, having regard to the actual circumstances of individual buildings, FSD may adjust the requirements in the Directions and consider alternative proposals put forward by owners. In recent years, FSD has also taken the initiative to study different improvised measures, with a view to alleviating the technical problems and lowering the costs of works. For instance, last year, FSD substantially lowered the requirements for fire service water tanks for old buildings of four to six storeys. If such a building is located in the urban area reachable by fire appliances within six minutes, the capacity of the water tank may be substantially lowered from 2 000 litres to 500 litres to alleviate the structural constraints of the roof due to excessive loading.

"Three-nil" buildings and old buildings without OC may encounter difficulties in coordinating fire safety improvement works. The Home Affairs Department ("HAD"), through its Building Management Professional Advisory Service Scheme ("the Scheme"), has been engaging professional property management companies to assist owners in the formation of OCs. Since its introduction in 2011, the Scheme has successfully assisted owners to form or

reform over 350 OCs, and assisted over 200 OCs to apply for subsidies or loans for building maintenance.

On financial support, the Government, the Hong Kong Housing Society ("HKHS") and the Urban Renewal Authority ("URA") have set up financial assistance schemes, which cover the fire safety improvement works under the Ordinance. For example, the Integrated Building Maintenance Assistance Scheme managed by HKHS and URA have been providing Common Area Repair Works Subsidy to owners of old buildings. For general building maintenance works, the subsidy can reach \$1.2 million for each OC, or \$3,000 for each unit. For eligible owners with financial needs, they may apply for a subsidy up to \$10,000.

Besides, the Building Maintenance Grant Scheme for Elderly Owners managed by HKHS provides a subsidy of up to \$40,000 for elderly owners living in their own flats. Owners may also apply for loans of up to \$1 million under the Building Safety Loan Scheme. Experience shows that many owners have successfully completed building maintenance and fire safety improvement works under those subsidy schemes. We will continue to explore means to provide further financial assistance to owners with financial needs.

There are suggestions that the Government could undertake the works for old buildings and recover the costs from the owners upon completion. The fire safety improvement works required by the Ordinance often require the construction of new facilities and provision of new equipment, giving rise to different feasible options and works arrangements, and the scale and costs of works may vary to a large extent. Therefore, the owners must coordinate among themselves and choose the most suitable works options in light of the specific circumstances of their individual buildings, instead of having such decisions taken by the enforcement authorities on their behalf, which may trigger unnecessary disputes or even litigations.

Moreover, Ms LEE is concerned about the fairness of tendering processes for building maintenance works. In this regard, the authorities will continue to prevent and combat such unlawful acts through such means as law enforcement, publicity and provision of technical support to owners. When this Council debated a motion on bid-rigging last week, the Secretary for Development and the Secretary for Home Affairs have explained the Government's position and measures, and I will not repeat them here.

For the improvement works relating to fire service installations under the Ordinance, the works agent must be a registered fire service installation contractor, and the information of such contractors has all been uploaded onto the website of FSD. To help registered fire service installation contractors better understand the requirements of works under the Ordinance, FSD has organized seminars from time to time to explain the criteria of works acceptable to FSD. The seminars have received overwhelming responses from the industry. FSD will continue its publicity efforts in this respect.

To conclude, the authorities are not unaware of the challenges and difficulties encountered by owners in discharging the requirements under the Ordinance, and have been devising ways to provide practical assistance to those in need. However, the public should also appreciate that as Hong Kong is a densely populated city, old buildings which do not meet the modern fire safety standards are indeed hidden threats to society, with significant consequences in case of fire. Indeed, some fire incidents in the past have resulted in significant casualties and injuries. The relevant departments will continue to review the existing measures from time to time to better assist owners in enhancing the fire safety of old buildings. We hope that these measures will reduce the threat of fire, and make our city a safer place to live in.

Table 1

## Number of Buildings issued with Directions in the Past Three Years

	<i>Number of Directions issued* (Buildings)</i>			
	<i>FSD and BD</i>			
	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017</i>	<i>Total</i>
Central and Western	115	108	80	303
Wan Chai	98	74	52	224
Eastern	42	55	42	139
Southern	23	27	26	76
Yau Tsim Mong	142	108	81	331
Sham Shui Po	108	91	57	256
Kowloon City	60	86	32	178
Wong Tai Sin	16	12	9	37
Kwun Tong	22	22	8	52
Tsuen Wan	30	22	25	77



	<i>Number of Directions issued* (Buildings)</i>			
	<i>FSD and BD</i>			
	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017</i>	<i>Total</i>
Tuen Mun	1	11	9	21
Yuen Long	49	52	35	136
North	41	28	38	107
Tai Po	38	29	23	90
Sai Kung	0	6	0	6
Sha Tin	4	21	3	28
Islands	5	8	8	21
Kwai Tsing	7	5	6	18
Total	801	765	534	2 100

Note:

- \* The departments do not maintain separate figures on whether the target buildings have OCs or not.

Table 2

Number of Prosecutions and Convictions in the Past Three Years

	<i>Number of Cases of Prosecutions initiated (Number of Convictions)</i>							
	<i>FSD</i>				<i>BD</i>			
	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017</i>	<i>Total</i>	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017</i>	<i>Total</i>
Central and Western	6(5)	21(20)	20(19)	47(44)	0	0	0	0
Wan Chai	6(6)	1(1)	16(16)	23(23)	11(5)	6(1)	0	17(6)
Eastern	0	19(19)	4(4)	23(23)	0	0	2(2)	2(2)
Southern	0	8(8)	0	8(8)	0	0	0	0
Yau Tsim Mong	5(5)	13(13)	26(26)	44(44)	1(1)	59(49)	22(18)	82(68)
Sham Shui Po	0	0	32(32)	32(32)	0	12(6)	16(5)	28(11)
Kowloon City	45(28)	19(19)	110(104)	174(151)	0	0	5(0)	5(0)

	<i>Number of Cases of Prosecutions initiated (Number of Convictions)</i>							
	<i>FSD</i>				<i>BD</i>			
	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017</i>	<i>Total</i>	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017</i>	<i>Total</i>
Wong Tai Sin	10(0)	16(16)	2(2)	28(18)	8(7)	0	0	8(7)
Kwun Tong	0	0	0	0	0	0	0	0
Tsuen Wan	0	0	10(10)	10(10)	0	0	0	0
Tuen Mun	0	0	0	0	0	0	0	0
Yuen Long	11(11)	0	0	11(11)	0	4(0)	0	4(0)
North	3(2)	0	0	3(2)	1(1)	8(2)	0	9(3)
Tai Po	0	0	3(3)	3(3)	0	0	0	0
Sai Kung	0	0	0	0	0	0	0	0
Sha Tin	0	0	0	0	0	0	0	0
Islands	0	0	0	0	0	0	0	0
Kwai Tsing	11(11)	0	0	11(11)	0	0	0	0
Total	97(68)	97(96)	223(216)	417(380)	21(14)	89(58)	45(25)	155(97)

**MS STARRY LEE** (in Cantonese): *President, the high cost of works is one of the major reasons for owners' protracted non-compliance with orders. For buildings aged several decades to comply with orders, the owners will often have to pay tens of thousands of dollars for the works. This will surely scare them off and delay the completion.*

*Hence, in part (3) of my main question, I asked the Secretary whether the Government would, by making reference to the "Operation Building Bright", roll out an "Operation Fire Safety Building Bright" which directly subsidizes elderly people without any means test, so that they can meet the requirements. I believe if such a scheme is introduced by the authorities, the time needed for compliance will certainly be shortened and more elderly people will be willing to face up to this problem because they see a sign of solution to their worry. Will the Secretary consider doing so?*

**SECRETARY FOR SECURITY** (in Cantonese): The "Operation Building Bright" that Ms LEE just mentioned was launched under special circumstances. As far as my memory goes, the scheme was launched as a one-off measure for various reasons after the Severe Acute Respiratory Syndrome ("SARS") epidemic.

As for ways to help owners of old composite buildings to raise the fire safety level of their residential buildings, as I said in the main reply, we have always been concerned about the matter and have been studying and considering viable solutions. The relevant work has always been under way, not having started only today. In summary, there are three issues in this regard. In addition to the costs issue that Ms LEE mentioned, the other two issues are also monetary. The first issue is technical support. To this end, FSD is working hard on organizing more seminars to attract more contractors to participate in the tendering, thereby reducing the tender prices.

The second and the most fundamental issue is that we have already put forward a number of improvised measures. For example, buildings of three storeys or below are allowed to convey water supply for fire fighting direct from the water mains located alongside streets, thereby saving 50% of the works costs. For four-to-six-storey buildings, the capacity requirement of the fire service water tank has been lowered from 2 000 litres to 500 litres to alleviate the loading on the buildings. It is estimated, for example, that there are 4 000 buildings of four to six storeys in Hong Kong and since the launch of the scheme, approval-in-principle have been given to the applications of 391 buildings, that is, one tenth of the total number of buildings. Relevant works have already started at several of these buildings. We hope that this scheme can help solve the issues confronting these buildings.

Insofar as buildings of 6 to 12 storeys are concerned, we are studying another option to see whether the water supply systems of water tanks or roof-top water tanks can be used for connection to fire safety systems in lieu of the construction of water tanks. We hope the relevant studies will be completed at the end of this year. We will exert our best by all means in various aspects.

**MR WU CHI-WAI** (in Cantonese): *President, with regard to the provisions on old tenement buildings in Cap. 572, the Secretary said in the fourth paragraph of the main reply that FSD will consider alternative proposals put forward by*

owners. Nevertheless, the alternative proposals considered often do not include allowing owners to replace stairway hose reel systems with fire extinguishers. The consideration of this alternative proposal is not directly related to the fire-fighting performance because I believe the Secretary will agree that the functions of fire extinguishers and hose reel systems are comparable. Hence, may I ask the Secretary whether the authorities will consider accepting fire extinguishers as an alternative by making amendments to the provisions in Cap. 572?

**SECRETARY FOR SECURITY** (in Cantonese): I am sorry to tell Mr WU that in most cases it is not viable in principle to replace a fire hose reel and water tank system with fire extinguishers. We can imagine how big is a fire extinguisher and the area that it can cover. Fire extinguishers can of course serve the purpose to a certain extent in a very small fire, but when the fire incident is more serious, a fire hose reel and water tank system is necessary. Before becoming to the Legislative Council, I saw a breaking news: there was a fire in a 20-storey building in West London built in 1974. The building was almost blaze ripped. It shows that fire safety is indeed crucial. Hence, the fire hose reel and water tank is in fact an essential requirement.

So, as I have just explained, the focus of our efforts is enabling buildings of three storeys or less to convey water supply on the street by using water pumps; while for four-to-six-storey buildings, the capacity requirement of the water tanks has been substantially lowered from 2 000 litres to 500 litres, on the condition that the location of the building is reachable by fire appliances within six minutes. As for buildings of more than six storeys, we will examine whether the existing water tanks can also be used for fire-fighting purposes. We consider these to be safe and effective measures, so that we will have sufficient equipment and tools to protect the life and property of the people living in the buildings in case of a fire.

**MR WU CHI-WAI** (in Cantonese): *President, the Secretary has not answered ...*

**PRESIDENT** (in Cantonese): Mr WU Chi-wai, the Secretary has already answered your supplementary question.

**MR WU CHI-WAI** (in Cantonese): *I would like to point out that ...*

**PRESIDENT** (in Cantonese): You may not make other comments. The Secretary has already answered your supplementary question.

**MR WILSON OR** (in Cantonese): *President, buildings built on or before 1 March 1987 must comply with these requirements. In fact, many owners have relayed to us that they are troubled by these requirements. I personally love and hate these requirements at the same time because safety is of the utmost importance. The Secretary mentioned in the main reply just now that 350 buildings have succeeded to form or reform OCs with the assistance of the authorities. As there are many "three-nil buildings", that is, buildings without an OC or hiring any property management company, will the authorities consider launching a pilot scheme to assist owners of these "three-nil buildings" in undertaking fire safety works of a small scale and recover the costs later? Just as the "Pilot Scheme on Improvised Hose Reel System" that the Government once rolled out, the merit of a pilot scheme is that owners of old buildings can deal with the problem in a step-by-step manner.*

*Will the Secretary consider launching a pilot scheme to tackle the problems that trouble owners?*

**SECRETARY FOR SECURITY** (in Cantonese): I thank Mr OR for his supplementary question. As I have pointed out in the main reply, we agree that the Ordinance will bring difficulties to some owners. I also fully agree with Mr OR that fire safety is of the utmost importance and we must take proper measures in this respect.

To this end, I have introduced various measures with FSD during my term of office. One of the few hurdles left now is that relevant work cannot be carried out until an OC is formed. Members have suggested that the Government should launch a scheme to undertake the works for the owners and recover the costs upon completion. As I have explained on a number of occasions, these requirements are new and the authorities are not in a position to decide the placement and design of the installations for the owners.

Hence, we are now trying to help owners of old buildings to join together and form OCs. Once OCs are formed, many problems can be solved. We will focus on the work in this respect while continuing to study other feasible ways of helping them.

**DR PRISCILLA LEUNG** (in Cantonese): *President, in a motion debate that I proposed last year, I suggested the Secretary to make amendments to the Ordinance, so that the Director of Fire Services can be conferred a power of discretion. The problem that lies in the old buildings that Members mentioned is sometimes more than the lack of an OC. Owners often seek help from us but there is nothing Members can do. The problem is that the owners can only stay worried even when they were fined and warned by the Courts and may be imprisoned subsequently due to non-compliance with Directions. Non-compliance was not due to the age of the building but because some of the owners might have passed away, emigrated or were unreachable. Under these circumstances, the Government may have to take up the responsibility and help these owners who are unable to meet the requirements. Some owners are rather old and all they can do every day is waiting for Directions from the authorities to come again and to be arrested.*

*Will the Government take the initiative to study the possibility of making amendments to the Ordinance, instead of waiting for Members to move a private Member's Bill?*

**SECRETARY FOR SECURITY** (in Cantonese): Thank you Dr LEUNG for the supplementary question. In this regard, we have exchanged views on various aspects. Although the standard Dr LEUNG, Mr OR or Ms LEE hope to achieve has yet to be reached, I hold that many steps have been taken towards this objective until the ultimate goal is achieved. We will continue to work in this direction.

**DR PRISCILLA LEUNG** (in Cantonese): *... where it is impossible to form an OC, can the Government assume the responsibility and handle the matter first?*

**PRESIDENT** (in Cantonese): Dr Priscilla LEUNG, please sit down. Secretary, do you have anything to add?

**SECRETARY FOR SECURITY** (in Cantonese): Owners will certainly encounter difficulties in the process of forming OCs, but I believe determination can overcome many problems. As I have pointed out in the main reply, within the six years since 2011, 350 OCs were formed. It is a good example of the direction in which I believe HAD will continue to work, because we always believe that this is the approach to solve the problems once and for all.

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

### **Work of the steering committee for the Belt and Road and the Belt and Road Office**

6. **MR JIMMY NG** (in Cantonese): *President, in order to respond actively to the national policy on "the Belt and Road", the Hong Kong SAR Government set up a steering committee for the Belt and Road ("the Steering Committee") as well as a Belt and Road Office ("the Office") last year, and appointed a commissioner to steer the Office. Quite a number of members of the sector that I represent hope to invest and start business in the countries and regions along the Belt and Road. In this connection, will the Government inform this Council:*

- (1) *as the authorities, in reply to a question raised by a Member of this Council in June last year, indicated that they were formulating the work plan for the first stage and would map out the organization and functions of the Steering Committee and the Office, of the details of such work;*
- (2) *whether the authorities have assessed the effectiveness of the various tasks undertaken by the Steering Committee and the Office since their establishment; if so, give some examples of the tasks that have been successfully accomplished; whether any difficulty has been encountered in the course of steering and coordinating the policy bureaux concerned to carry out their work; if so, of the details; if not, the reasons for that; and*

- (3) *given that the Chief Executive led a cross-sectoral Hong Kong SAR delegation to attend the Belt and Road Forum for International Cooperation held in Beijing on the 14<sup>th</sup> of last month, of the follow-up work to be carried out by the Steering Committee and the Office in the next step; whether they will examine the provision of financial support and tax concessions for the industrial activities conducted by local enterprises in the countries and regions along the Belt and Road, such as extending the scope of some support measures currently applicable only to local industrial and commercial activities to cover industrial activities outside Hong Kong?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, having consulted the Belt and Road Office ("BRO"), my reply to the question raised by Mr Jimmy NG is as follows:

- (1) The Steering Committee for the Belt and Road ("Steering Committee"), chaired by the Chief Executive and comprising the Chief Secretary for Administration, the Financial Secretary, the Secretary of Justice, the relevant directors of bureaux and the Commissioner for Belt and Road ("CBR"), is responsible mainly for formulating strategies and policies for Hong Kong's participation in the Belt and Road Initiative.

At present, there are 15 officers (including staff on loan) in the Belt and Road Office", namely CBR, one Administrative Officer Staff Grade C, one Deputy Commissioner, one Senior Administrative Officer, three Trade Officers, one Executive Officer, one Personal Secretary, three Clerical Officer grade staff and one Motor Driver, as well as two non-civil service contract staff.

CBR assists the Chief Executive through the work of the Steering Committee and BRO to liaise with government bureaux and departments, as well as various sectors of the community, to better seize the new development opportunities brought by the Belt and Road Initiative; and offers recommendations and advice to the Chief Executive and the Steering Committee on the formulation and implementation of strategies related to the Belt and Road Initiative.



- (2) The Steering Committee has so far held five meetings. It has monitored the progress of the Belt and Road work plans of relevant bureaux and departments, and discussed important issues, including participation of the Hong Kong Special Administrative Region ("HKSAR") in the Belt and Road Forum for International Co-operation ("Forum") held in Beijing in May 2017, discussions with Mainland authorities on how to assist Hong Kong companies to participate in the Belt and Road development, strategies to promote Hong Kong's edge, and to step up efforts to promote people-to-people bond.

Under CBR's leadership, BRO's work includes liaising and communicating with various stakeholders and offering advice and assistance, where appropriate, regarding the issues and suggestions raised by them.

BRO was also responsible for organizing HKSAR's participation in the Forum. The Chief Executive led a 29 strong cross-sector delegation to attend the main activities of the Forum. He also gave a speech as a guest speaker at the Financial Integration thematic session, while other delegates attended other thematic sessions on different themes. To promote Hong Kong as a key link and "super-connector" under the Belt and Road Initiative as well as its unique edge and the contributions it can make, BRO has produced a promotion video and a compendium, and has also set up the "BELT AND ROAD INITIATIVE information related to the Initiative.

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Furthermore, to enable our young people to have a better understanding of the opportunities and challenges brought by the Belt and Road Initiative, BRO co-organized with relevant bureaux a Belt and Road Experience Sharing Forum on 7 June. Four young entrepreneurs and professionals who have considerable experience working or taking part in projects in countries along the Belt and Road shared their experience and insight with some 400 young entrepreneurs, professionals and tertiary students. The Information Services Department arranged live webcast of the whole process.

BRO has been following the progress of our country's implementation of the Belt and Road Initiative, and has been liaising

closely with relevant bureaux or organizations so as to assist the bureaux to formulate suitable policies and measures in a timely manner for Hong Kong's participation in the Initiative. The awareness of our community about the Initiative and what it means to Hong Kong has increased. There is an increasing number of Belt and Road-related activities in the community. More people and organizations are interested in getting more information about the Belt and Road Initiative and how to take part in specific projects.

- (3) The Joint Communiqué of the Leaders Roundtable of the Belt and Road Forum for International Co-operation ("Joint Communiqué") was agreed at the Leaders Roundtable of the Forum. The Joint Communiqué reaffirms the commitment to uphold and advance the principle of open economy. Against the background of rising anti-globalization and protectionism, the Belt and Road Initiative, which supports and facilitates international trade and investment, is of great significance. The HKSAR Government welcomes and supports the Joint Communiqué.

Furthermore, before and during the Forum, 76 items comprising more than 270 concrete results in five key areas (namely policy coordination, facilities connectivity, unimpeded trade, financial integration and people-to-people bond) were achieved. They include measures and action plans drawn up by ministries, departments and related authorities of the Central People's Government, as well as memoranda of understanding, framework agreements, economic and trade cooperation agreements, bilateral cooperation documents, and loan/financing agreements that were entered into with other countries and organizations. BRO together with relevant Policy Bureaux will analyse the list of deliverables of the Forum, so that the new-term Government, after discussion with various sectors, can formulate and implement suitable policies and initiatives in a timely manner.

On supporting local enterprises to participate in industrial and commercial activities in countries and regions along the Belt and Road, the SME Export Marketing Fund administered by the Trade and Industry Department provides financial assistance to small and medium enterprises ("SMEs") with a view to encouraging them to

participate in export promotion activities and develop external markets, including emerging markets in countries and regions along the Belt and Road. Moreover, the SME Development Fund ("SDF") also provides financial support to non-profit-distributing organizations (including trade and industrial organizations, professional bodies, research institutes) to implement projects which aim at enhancing the competitiveness of Hong Kong SMEs in general or in specific sectors. The SDF has no regional restriction. We will continue to closely monitor the situation and need of local enterprises and provide appropriate support measures.

**MR JIMMY NG** (in Cantonese): *President, I notice that, in his main reply, the Secretary has not given a direct answer to the question of whether BRO will provide overseas taxation support to the industrial and commercial sectors for investments made in Belt and Road projects. The Belt and Road Initiative is an important national policy. Why has the SAR Government not responded correspondingly in this respect? The SAR Government should even take the lead to encourage Hong Kong businessmen to embrace the opportunities brought by the Belt and Road Initiative.*

*My supplementary question is: Can the Government give a clear reply to whether Hong Kong businessmen will be provided with financial or taxation support when making investments in Belt and Road projects? If so, what are the details?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, I have mentioned in my main reply that currently many support measures, including financial measures, have no regional restrictions. Therefore, as regards developing Belt and Road markets, the industries are welcome to make use of relevant funds for business development. And concerning the proposal of taxation support, the Government must give careful consideration to important factors, such as whether the proposal conforms to the existing tax regime in Hong Kong, especially fundamental principles like territorial source and tax symmetry, as well as whether tax avoidance loopholes will easily emerge. I believe the Government will take into account the development needs in this respect and introduce some measures that dovetail with the industries' efforts in the development of Belt and Road markets.*

**MR CHAN CHUN-YING** (in Cantonese): *President, yesterday Hong Kong officially became a member of the Asian Infrastructure Investment Bank ("AIIB"). BRO immediately stated that, as a member of AIIB, Hong Kong can provide AIIB with various types of investment and financing services, further consolidating its status as an international financial centre. The market also predicts that in the next five years, the potential demands for infrastructure in the countries along the Belt and Road amount to over US\$4,000 billion.*

*In this regard, can the Government tell me, as there are a number of developing countries along the Belt and Road which present immense business opportunities as well as considerable risks, how the Government will help the commerce-related sectors in Hong Kong engage in these businesses while avoiding risks, and whether the implementation of these measures will be taken charge of by BRO or Policy Bureaux?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, I very much agree with the Honourable Member's views. As Hong Kong is a leading corporate treasury centre in Asia with very comprehensive financial infrastructure, we can play an effective role in the Belt and Road Initiative, especially in the development of financing.*

*As regards risk assessment of Belt and Road countries, we note that many authorities, such as the National Development and Reform Commission and the Ministry of Commerce of China, have undertaken assessments and studies. BRO will keep a close watch on this and share information with the industries. Members can also note that the Hong Kong Trade Development Council ("TDC") has set up a website to provide a brief introduction on each Belt and Road country and region, as well as information of related projects, with a view to assisting the Hong Kong industries, particularly the professional industries, in promoting their services, be it infrastructure, financing or commercial and trading services, through the TDC website.*

**MR CHRISTOPHER CHEUNG** (in Cantonese): *President, Mr Jimmy NG has mentioned making investments and starting businesses. I also wish to ask this question, apart from measures for the industrial sector, what specific measures have the Government formulated for strengthening the financial cooperation between countries and regions along the Belt and Road and Hong Kong? Will*

*the Government endeavour to assist the local financial services sector in providing services on the Mainland, such as striving for enabling local securities dealers to provide financial services, such as asset management, in the Bay Area on an early and pilot implementation basis, and even help enterprises in the Area to seek listing in Hong Kong for capital formation?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, Hong Kong is an international financial centre of China, and also the Chinese financial centre of the world, so we have an edge. In the past, we introduced some measures, such as in terms of asset management, to bring our role into effective play. Mr CHEUNG has just mentioned the development of the Bay Area, which is also among the factors we need to consider in the course of making planning. We need to contemplate how to leverage on the development of the Bay Area, in particular infrastructure, to enable Hong Kong to gain a share of the Belt and Road development. Therefore, in this respect, we will proactively explore some feasible options with the industries to promote Hong Kong financial services to the Belt and Road countries and regions.

**MR SHIU KA-FAI** (in Cantonese): *The Belt and Road Initiative is a major national direction and policy. I believe a lot of members of the business sector are eager to be part of it. However, I believe the main problems now include a lack of understanding of the legal systems and tax regimes of the Belt and Road countries, as well as language barriers. Regarding the first problem, I know that the State and the SAR Government will definitely try to gain more understanding as soon as possible and hold discussions with different countries to facilitate the local business sector in seizing business opportunities. However, as regards language, Hong Kong is an international metropolis with people of different nationalities speaking various languages. Will a database be made immediately available in Hong Kong that contains information of people who speak languages of the Belt and Road countries? When the business sector has the opportunities to pursue development in these countries, they can seek help from these people to help remove the language barriers, Secretary.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I very much agree with the Honourable Member's proposals. I will divide my reply into two parts. The first one is about development of business

opportunities. Each place has its own risks and legal system. BRO will collect such information, together with the studies conducted by the State, to help the industries obtain more information in this regard. Every place has different codes and systems, such as compliance with the local rules and regulations, so the Hong Kong industries need both time and resources to develop these markets. Therefore, we hope the results and information collected in policy studies conducted by BRO, TDC or State ministries or commissions will be shared with the industries through BRO.

As regards language barriers, we also consider linguistic communication very important to the Belt and Road Initiative, especially the key area of "people-to-people bond". In this regard, the Government has increased funding for the Diversity Learning Grant (other languages) to encourage students in Hong Kong to learn the languages of the Belt and Road countries. The Hong Kong Examinations and Assessment Authority has also introduced more examinations of national languages of the Belt and Road countries in international examinations under its administration, such as Arabic, Tamil and Russian. We think that the development in this respect in Hong Kong has been slow. To seize the development opportunities brought by the Belt and Road Initiative, we definitely need to increase resources to enhance linguistic communication with these countries.

**MRS REGINA IP** (in Cantonese): *I think the Secretary is fully aware that the current CBR, Ms Yvonne CHOI, was a permanent secretary at D8 (Administrative Officer Staff Grade A1) before retirement. But now she is a voluntary "no pay" commissioner. Of course, I know that Commissioner CHOI does not work for the pay. She is very hard-working, but it is a defect that an office is without an official senior leader. Will the Government submit an official application to the Finance Committee for creation of the post? Also, it seems that the posts of the Deputy Commissioner and Administrative Officer Grade C have not been subjected to discussion in the Establishment Subcommittee. What is the current arrangement? Is it a redeployment?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I very much agree with Ms IP's suggestion. The Government needs to make corresponding arrangements in establishment. The Chief Executive also stated in the Policy Address this year that the Government had reviewed the

work and current structure of BRO and considered it necessary to beef up BRO's establishment and resources, including the creation of directorate posts and other permanent posts to ensure that it can take forward the work under the Belt and Road Initiative more effectively and on a long-term basis. The Government has made provision for the required resources, but given the approaching change of government, specific arrangements are pending confirmation and implementation by the new-term Government. Of course, relevant arrangements and allocation of resources have to pass through all procedures in the Legislative Council before implementation.

**DR ELIZABETH QUAT** (in Cantonese): *President, the Belt and Road Initiative has created enormous business opportunities, which are very important to the development of Hong Kong. Many SMEs are eager to find out how to develop these Belt and Road markets. However, based on past experience, SMEs encounter many difficulties when making investments or developing markets overseas. Likewise, when developing markets in countries along the Belt and Road, they would probably face many challenges, especially languages, tax, policies, legislation, differences in market environment and winning orders on their own, which definitely present some difficulties.*

*In fact, as the authorities wish to assist Hong Kong enterprises in developing these business opportunities, will they increase resources to set up a one-stop Belt and Road service platform for Hong Kong businesses, which offers professional market development services, business information, legal support, etc. so as to help them fully seize and capitalize on the opportunities brought by the Belt and Road Initiative?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I very much agree with the Honourable Member's suggestion. Indeed we need to provide simple procedures so that members of the business sector can obtain such information with ease. The Government and quasi-government organizations, such as TDC, have made a lot of efforts in this regard. I invite all Members to visit the TDC website, which will give them detailed information of these 60 and more countries. Through this website, providers of professional services in Hong Kong can also get in touch with members of the business sectors in Belt and Road countries who need their services in order to expand their business opportunities.

Moreover, to lower development cost, TDC has led many members of the business sector to conduct roadshows or exhibitions in countries along the Belt and Road to showcase the products and services of Hong Kong SMEs. We will continue our efforts in this respect.

**PRESIDENT** (in Cantonese): Dr Elizabeth QUAT, which part of your supplementary question has not been answered?

**DR ELIZABETH QUAT** (in Cantonese): *Yes, because I asked very directly if more resources will be allocated to setting up a one-stop Belt and Road service platform. However, perhaps the Secretary was mistaken just now and only mentioned TDC providing information or leading SMEs to organize exhibitions. Other countries will be more proactive in assisting their local SMEs ...*

**PRESIDENT** (in Cantonese): Dr Elizabeth QUAT, you have already pointed out which part of your supplementary question has not been answered. Please sit down.

Secretary, do you have anything to add?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the operation of a one-stop service platform may be exclusively assigned to a certain organization. Given that various trade associations and many organizations in Hong Kong have provided a lot of resources, I think a more appropriate approach is to coordinate the resources from various sectors. BRO's role is to pool all resources. The Honourable Member suggested setting up a one-stop service platform. To a certain extent, SMEs can contact BRO to obtain relevant information or resources. Or when they encounter problems, BRO can provide assistance in finding solutions.

**PRESIDENT** (in Cantonese): Oral questions end here.



**WRITTEN ANSWERS TO QUESTIONS****Management of cases of mental illness**

7. **MS YUNG HOI-YAN** (in Chinese): *President, the Hospital Authority ("HA") launched the Case Management Programme in different districts of Hong Kong by phases in the 2010-2011 financial year to provide community support services for patients with severe mental illness ("SMI"), and extended the Programme in the 2014-2015 financial year to cover all 18 districts across the territory. As at 31 March last year, HA employed a total of 327 case managers to take care of over 15 400 patients with SMI (i.e. each case manager needed to take care of about 47 patients on average). Some mental illness concern groups have pointed out that the wastage of case managers has been serious in recent years and the manpower shortage problem has become increasingly serious (for example, the current case manager-to-patient ratio in a certain hospital cluster is as high as 1:70). Such concern groups have also pointed out that long-acting injectable antipsychotics ("LAIAs") help reduce the relapse chance of patients (particularly those who do not take medication on time), and patients who receive LAIAs at the early stage of their illness may obtain better curative effect, which will benefit both patients and their families in the long run. In this connection, will the Government inform this Council:*

- (1) *whether it knows the number of case managers and the number of patients with SMI whom such case managers took care of, in the past three financial years, broken down by hospital cluster (set out in a table);*
- (2) *whether it knows the criteria currently adopted by HA for determining which patients with SMI should be taken care of by case managers, and the average time taken for following up each case at present;*
- (3) *whether it knows the number of patients with mental illness who are currently not being taken care of by case managers and whose conditions are stable but serious; whether HA has followed up and monitored the conditions of such patients through other channels; if HA has, of the details; if not, the reasons for that;*

- (4) *given that the relevant case manager-to-patient ratios in quite a number of advanced countries (e.g. Australia, the United States) range from about 1:20 to 1:25 at present, whether it knows if HA has assessed the number of additional case managers HA needs to recruit in order to be on par with those countries; if HA has assessed, of the outcome, including the number of additional case managers HA needs to recruit, the implementation timetable and the expenditure involved; whether HA will formulate short, medium and long-term improvement measures to reduce the workload of case managers;*
- (5) *whether it knows if HA will formulate a long-term strategy to enhance case management standards; if HA will, of the specific contents of and implementation timetable for the relevant long-term strategy; of the measures HA has in place to enhance the training for case managers;*
- (6) *whether it knows HA's estimated expenditure on drugs for patients with SMI in the current financial year and how such estimated expenditure compares with the actual expenditure in the last financial year;*
- (7) *whether it knows, among the patients with mental illness in various public hospitals in the last financial year, the respective numbers and percentages of those who took (i) first-generation and (ii) second-generation oral antipsychotics, and those who received (iii) first-generation and (iv) second-generation LAIAs (set out in a table); and*
- (8) *whether it will allocate additional resources to HA so that more patients with mental illness will be provided with LAIAs, especially second-generation LAIAs which have less side effects; if so, of the details; if not, the reasons for that; whether it has plans to categorize LAIAs as first-line drugs in HA's Drug Formulary in the long run?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Hospital Authority ("HA") adopts a multi-disciplinary approach in its provision of psychiatric specialist services. The multi-disciplinary teams, comprising

psychiatric doctors, psychiatric nurses, clinical psychologists and occupational therapists, provide patients, depending on their conditions and clinical needs, with the appropriate treatment and follow-up care, including inpatient, specialist outpatient, daytime rehabilitative training and community support services. My reply to the various parts of the question is as follows:

(1) to (5)

The Community Psychiatric Services of HA provides a range of community psychiatric services, including Community Psychiatric Nursing Services, Case Management Programme, Intensive Care Teams and Mental Health Direct hotline, for needy patients according to their conditions, clinical needs and risk levels.

HA launched the Case Management Programme for patients with severe mental illness ("SMI") under its Community Psychiatric Services by phases from 2010-2011 to proactively provide intensive, continuous and personalized support for patients with SMI residing in the community. Under the programme, case managers work closely with other service providers (particularly the Integrated Community Centres for Mental Wellness ("ICCMWs") set up by the Social Welfare Department ("SWD")) to provide community support for the target patients. In 2014-2015, the programme was extended to cover all 18 districts across the territory to benefit more patients.

The table below sets out by hospital cluster the numbers of case managers and cases handled under HA's Case Management Programme in the past three years:

<i>Cluster</i>	<i>2014-2015*</i>		<i>2015-2016*</i>		<i>2016-2017*</i>	
	<i>Number of case managers</i>	<i>Number of cases handled<sup>^</sup></i>	<i>Number of case managers</i>	<i>Number of cases handled<sup>^</sup></i>	<i>Number of case managers</i>	<i>Number of cases handled<sup>^</sup></i>
Hong Kong East Cluster	22	1 400	24	1 300	25	1 400
Hong Kong West Cluster	24	1 100	24	900	24	900
Kowloon Central Cluster ("KCC") <sup>#</sup>	22	1 000	23	1 000	21	1 000

Cluster	2014-2015*		2015-2016*		2016-2017*	
	Number of case managers	Number of cases handled <sup>^</sup>	Number of case managers	Number of cases handled <sup>^</sup>	Number of case managers	Number of cases handled <sup>^</sup>
Kowloon East Cluster	35	1 200	34	1 300	34	1 100
Kowloon West Cluster ("KWC") <sup>#</sup>	88	5 300	99	5 200	99	5 400
New Territories East Cluster	48	2 400	55	2 300	53	1 900
New Territories West Cluster	62	3 100	68	3 400	69	3 500
Total	301	15 600	327	15 400	325	15 300

Notes :

\* As at 31 March of the reporting year.

<sup>^</sup> Figures are rounded to the nearest hundred. Individual figures may not add up to the total due to rounding.

<sup>#</sup> Wong Tai Sin and Mong Kok areas have been redelineated from KWC to KCC since 1 December 2016. The service units in the concerned communities have therefore been redelineated from KWC to KCC to support the new KCC catchment districts with effect from the same date. As a transitional arrangement, reports on services/manpower statistics and financial information continued to be based on the previous clustering arrangement (i.e. concerned service units still under KWC) until 31 March 2017. Reports in accordance with the new clustering arrangement (i.e. concerned service units grouped under KCC) started from 1 April 2017.

At present, psychiatric doctors of HA decide whether to refer patients with mental illness to the Community Psychiatric Services for follow-up according to the patients' conditions and their clinical needs. Patients may also be referred to Community Psychiatric Services through various channels such as ICCMWs funded by SWD or social workers. Upon receiving the referred cases, the multi-disciplinary community psychiatric teams will provide patients with the appropriate community support services.

Except for the few patients who decline the services<sup>(1)</sup>, all others who are considered suitable will be arranged to receive community

- (1) If a patient is a conditionally discharged patient under section 42B of the Mental Health Ordinance (Cap. 136), the medical superintendent may require the patient to receive community psychiatric services or otherwise may recall the patient to the mental hospital.

psychiatric follow-up services according to their conditions and clinical needs.

As the number and duration of visits for each case under Community Psychiatric Services vary depending on the seriousness of illness, clinical needs and risk levels of the patient, HA does not maintain the average time taken for following up on each case.

In April this year, the Review Committee on Mental Health published the Mental Health Review Report. It recommends, among other things, that in order to further enhance the support for patients with SMI and lessen the burden on case managers, HA should improve the ratio of case manager to patients with SMI. The preliminary target was set at improving the ratio from the current 1:50 to around 1:40 in three to five years' time. As such, HA will conduct a comprehensive review of the planning of Community Psychiatric Services and the manpower and training arrangements of case managers within this financial year.

(6) to (8)

Over the years, HA has made every effort to increase the use of new generation psychiatric drugs which have proven effectiveness with fewer side effects, including antipsychotic drugs, antidepressant drugs, drugs for dementia and attention deficit/hyperactivity disorder. Taking the patients' wish into account, psychiatrists will provide necessary drug treatment for patients as appropriate, having regard to their clinical needs and in accordance with the clinical treatment protocol. The number of patients prescribed with the new generation antipsychotic drugs and ampoules<sup>(2)</sup> at public hospitals has increased from about 39 200 in the 2010-2011 financial year to 82 300 in the 2016-2017 financial year, representing an increase of almost 110%.

In the 2014-2015 financial year, HA repositioned the new generation oral antipsychotic drugs (save for Clozapine due to its more complicated side effects) from the special drug category to the

(2) Including long-acting and short-acting ampoules.

general drug category in its Drug Formulary so that all these drugs could be prescribed as first-line drugs.

The new generation long-acting antipsychotic ampoules have already been incorporated into the special drug category of HA's Drug Formulary. Psychiatrists will provide necessary drug treatment for patients as appropriate, having regard to their clinical needs and in accordance with the clinical treatment protocol.

The table below sets out the respective number and percentage of psychiatric patients of HA who were prescribed traditional or new generation oral antipsychotic drugs and traditional or new generation long-acting antipsychotic ampoules in the 2016-2017 financial year:

	<i>Number of patients</i>	<i>Percentage of the total number of psychiatric patients<sup>(2)</sup></i>
Traditional oral antipsychotics drugs	41 088	17.1%
New generation oral antipsychotic drugs <sup>(1)</sup>	81 352	33.8%
Traditional long-acting antipsychotic ampoules	10 998	4.6%
New generation long-acting antipsychotic ampoules <sup>(1)</sup>	1 737	0.7%

Notes:

- (1) Some psychiatric patients may be prescribed both antipsychotic drugs and long-acting ampoules concurrently.
- (2) Some psychiatric patients may be prescribed other drugs or ampoules, or may not be prescribed any medication at all.

HA has put into place an established mechanism under which experts examine and review regularly the treatment options and drugs for patients with adjustments made as appropriate, taking into account factors like scientific evidences, clinical risks and treatment efficacy, technological advancement and views of patient groups, etc. HA will continue to closely monitor the latest development of

the clinical and scientific evidences of new psychiatric drugs. It will continue to review and introduce new drugs, and formulate guidelines for clinical use of such drugs in accordance with the established mechanism having regard to the principle of optimizing the use of public resources and providing the most appropriate drug treatment for needy patients.

### **Development of tourism projects with local characteristics**

8. **MR YIU SI-WING** (in Chinese): *President, the Financial Secretary mentioned in this year's Budget Speech that the Government would invite the Hong Kong Tourism Board ("HKTB") to provide funding support to activity organizers and the tourism sector planning to launch tourism projects with local characteristics, with a view to encouraging the development of a greater variety of tourism products to attract more visitors to Hong Kong. On the other hand, HKTB launched a tourism project named "Old Town Central" in April this year, which repackages the local characteristics of Central such as its heritage buildings and landmarks, arts and culture, as well as dining and entertainment elements into tourist walking routes. HKTB also plans to extend this type of tourism project to other districts with distinct characteristics. In this connection, will the Government inform this Council:*

- (1) *whether it knows the procedure for activity organizers and the tourism sector to apply to HKTB for funding support for the launch of tourism projects with local characteristics, and the expected maximum amount of subsidy that may be granted to each application;*
- (2) *whether it knows the districts in which HKTB plans to launch, in the coming three years, tourism projects similar to the Old Town Central project, as well as the relevant timetable and estimated expenditure;*
- (3) *apart from providing the funding support mentioned in (1), of the measures to be introduced by the authorities in the coming three years to support the tourism sector to develop a greater variety of tourism products; and*

- (4) *given that some members of the tourism industry have pointed out that one of the hurdles for developing tourism projects with local characteristics is the lack of practitioners in the industry (particularly tourist guides) who have a deep understanding of local history, culture, historic monuments, etc., whether the authorities will provide relevant training for tourism industry practitioners so that they can promote local culture and characteristics to tourists in a more professional manner; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, in planning for tourism development, one of the Government's focuses is to drive product diversification by showcasing the uniqueness of Hong Kong. In this connection, the Government supported the tourism industry by allocating additional funding in the 2017-2018 Budget to roll out various measures to encourage the trade to develop diversified tourism products with a view to enhancing the attractiveness of Hong Kong.

A consolidated reply to the questions raised by Mr YIU Si-wing is as follows:

- (1) In 2017-2018, the Government will provide funding of \$12 million for the Hong Kong Tourism Board ("HKTB") to launch a pilot scheme to support tourism activities showcasing Hong Kong's local characteristics. The pilot scheme aims at providing funding support to organizers for hosting activities with local characteristics and tourism appeal, including the undertaking of relevant marketing promotion. HKTB is working out the funding criteria and guidelines for the pilot scheme and will announce the details in due course.
- (2) Promotion efforts on "Old Town Central" will be running on an ongoing basis and new elements will be brought in from time to time. At this stage, subject to the effectiveness of the campaign after implementation, consideration will be given as to whether and how to extend this idea to promote other districts in Hong Kong.



- (3) In addition to the pilot scheme to support tourism activities showcasing Hong Kong's local characteristics, in 2017-2018, the Government will provide additional funding for HKTB to launch various subsidy programmes for the travel trade, including a pilot scheme to promote in-depth green tourism, the Hong Kong Stopover Programme, to support trade partners in developing land excursion products for cruise passengers, etc.

Moreover, in order to enrich visitors' experience, HKTB has launched the "New Tour Product Development Scheme" since 2012-2013. The scheme aims at encouraging the travel trade to develop new themed and creative tour products through subsidizing the marketing of these tour products. By December 2016, the Scheme had subsidized 33 tour products.

- (4) The Government will allocate \$5 million in 2017-2018 to subsidize, through the Travel Industry Council of Hong Kong ("TIC"), the training of tourism industry members (including staff of travel agents, tourist guides and tour escorts) for enhancing the service quality of the industry. The scope of funding will cover the training for tourism industry members relating to local cultural and other distinctively themed tourism. TIC is formulating the details of the initiative (including the eligibility for application, detailed scope of the funding, etc.). Details will be announced in due course.

In addition, to enhance the skills competency of the tourism industry members, the Employees Retraining Board ("ERB") provides skills training courses under the tourism industry category of its "Skills Upgrading Scheme Plus". There are a total of 650 training places for these courses in 2017-2018. Training bodies may apply for training places from ERB on various tourism related topics, such as cultural, historic and heritage tourism, with regard to market demand and enrolment of individual courses.

### **Wastage and recruitment of civil servants**

9. **MR WONG TING-KWONG** (in Chinese): *President, information collected by the Legislative Council Secretariat shows that as at September 2016,*

*there were 165 927 serving civil servants and close to 9 000 civil service vacancies, representing increases of 7.9% and about 200% respectively over the relevant figures in September 2007. Moreover, 7 766 civil servants left the service in the 2015-2016 financial year, about 80% of whom being retirees. With respect to wastage and recruitment of civil servants, will the Government inform this Council:*

- (1) of the number of civil servants who retired in each of the past five financial years and, among them, the number of those who were offered further appointment on contract terms and the average period for which they were further appointed;*
- (2) of the number of civil servants who left the service on non-retirement grounds in each of the past five financial years and, among them, the number of those who were civil servants of middle salary band;*
- (3) of the number of civil service vacancies as at the end of the current financial year as anticipated by the authorities and, among them, the job positions with the highest number of vacancies and the reasons for that; whether they have assessed the impact of such a situation on the operation of the Government; what new measures the authorities have to fill such vacancies expeditiously;*
- (4) of the number of new recruits appointed to the civil service and the job positions with the highest number of new recruits in each of the past five financial years; and*
- (5) as it has been reported that about 90% of the departures of directorate civil servants in the 2015-2016 financial year were due to normal retirement, whether the authorities have plans to train up a sufficient number of civil servants who possess the relevant experience and competence to fill such vacancies in order to avoid succession problems; if so, of the details?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President, to provide new facilities and public services as well as to meet the demand for improved public services, the civil service establishment had increased from 160 707 as at 30 September 2007 to 174 543 as at 30 September 2016. During the 10

financial years from 2006-2007 to 2015-2016, the civil service vacancy rate had remained between 3.5% and 4.3% only. Our reply to the different parts of the question is as follows:

- (1) The respective number of civil servants who retired in each of the five financial years from 2011-2012 to 2015-2016 is as follows:

<i>Financial year</i>	<i>2011- 2012</i>	<i>2012- 2013</i>	<i>2013- 2014</i>	<i>2014- 2015</i>	<i>2015- 2016</i>
Number of retirees <sup>#</sup>	4 534	4 843	5 135	5 652	5 995

Note:

# Include normal retirement, early retirement and re-employment after retirement without a break in service.

In order to address the structural changes in population and to provide flexibility for meeting operational and succession needs, the Government has adopted a package of initiatives for extending the service of civil servants. These include raising the retirement age of new recruits to the civil service with effect from 1 June 2015, introducing the Post-retirement Service Contract Scheme in November 2015, and raising the maximum period of final extension of service to 120 days and suitably relaxing the approving criteria in February 2016. The Government has just rolled out an adjusted mechanism for further employment of a longer duration than final extension of service on 1 June 2017. Previously, applications for further appointment on agreement terms were only approved under very exceptional circumstances. Therefore, these measures will provide departments with greater flexibility to retain staff who have reached their retirement age to meet manpower needs.

- (2) Over the past five years, retirement has accounted for about 80% of the overall civil service wastage. Other reasons for leaving the service, such as resignation, completion of agreement and death, constituted only a relatively small number. The resignation rate has hovered around the low level of 0.55% of the strength of the civil service. Although in recent years over half of the resignees left the service whilst they were on probation, the number represented less than 3% of the total number of probationers. The numbers of civil

servants who left the service on grounds other than retirement in each of the five financial years from 2011-2012 to 2015-2016 are set out at Annex. However, we have not collected detailed statistics by salary band.

- (3) Civil service vacancies arise mainly from the time needed for the conduct of recruitment exercises. Since recruitment exercises are conducted by individual bureaux/departments ("B/Ds") according to their actual circumstances, it is difficult for us at the present stage to estimate the number of civil service vacancies as at the end of the current financial year.

While attention should be paid to putting in place an efficient recruitment process, it is equally important to uphold system integrity and due process, and ensure effective utilization of resource. To this end, we will continue to assist B/Ds concerned in working out suitable measures having regard to their specific circumstances. We will also provide training courses and arrange experience sharing opportunities to staff responsible for recruitment work.

- (4) The respective number of civil service appointees in each of the five financial years from 2011-2012 to 2015-2016 is set out in the table below:

<i>Financial year</i>	<i>Number of appointees<sup>^</sup></i>
2011-2012	9 491
2012-2013	9 265
2013-2014	10 432
2014-2015	10 078
2015-2016	11 927

Note:

<sup>^</sup> Include direct appointment and in-service appointment.

Civil Service Bureau has not collected detailed statistics on the basis of individual job positions.

- (5) The Government has in put in place a well-established mechanism to make early planning for succession. Under the mechanism, the Secretary for the Civil Service regularly discusses with Permanent Secretaries and Heads of Department the succession situation in individual grades, and to formulate and implement corresponding measures. Moreover, the Civil Service Training and Development Institute and individual B/Ds will provide training and development opportunities for their staff in order to equip them to rise up to different challenges in future.

Annex

<i>Financial year</i>	<i>Reasons for Leaving the Civil Service</i>		
	<i>Resignation</i>	<i>Completion of agreement</i>	<i>Other reasons</i> *
2011-2012	724	299	306
2012-2013	724	285	328
2013-2014	892	359	308
2014-2015	893	384	371
2015-2016	1 056	387	328

Note:

\* Include death, termination of service, retirement on invaliding, etc.

### **Strengthening the monitoring of performance of contractors for public works**

10. **DR LAU SIU-LAI** (in Chinese): *President, last month, the Independent Commission Against Corruption arrested 21 staff members of a public works laboratory, who were suspected of corruption and having submitted to the Civil Engineering and Development Department ("CEDD") falsified concrete compression test reports associated with the works under the Hong Kong-Zhuhai-Macao Bridge Hong Kong ("HZMB") and related projects. The laboratory is operated by an outsourced service provider ("the contractor concerned") engaged by CEDD. Moreover, CEDD suspected in July last year that the testing time recorded in some of the test reports had been tampered with by the staff of that laboratory ("report-tampering incident"). The contractor*

*concerned admitted to CEDD in September last year that the reports had been tampered with by its staff in order to make the testing time shown in the records fall within the required timeframe. However, not until the aforesaid arrest was reported did CEDD make public the incident. In this connection, will the Government inform this Council:*

- (1) of the reasons why CEDD did not make public the report-tampering incident during the period from September last year, when the incident was confirmed, to last month;*
- (2) of the existing mechanisms whereby the various government departments notify each other and make public those accidents, blunders and irregularities which occurred in public works projects (including alleged falsifications by contractors);*
- (3) whether the contractor concerned has, since 2012, been awarded any contract for conducting concrete tests for other public works projects; if so, set out by year in a table the following information of each contract: (i) contract number, (ii) project title, (iii) tender acceptance date, (iv) works commencement date, (v) anticipated works completion date, (vi) costs involved, and (vii) government department(s) awarding the contract;*
- (4) whether the authorities will immediately conduct (i) visual inspections, (ii) non-destructive concrete strength tests (commonly known as "Schmidt Hammer Tests"), and (iii) core tests on the structures built under the projects mentioned in (3), so as to allay public concern; if so, of the details; if not, the reasons for that;*
- (5) how the authorities will handle the uncompleted contracts of the contractor concerned; and*
- (6) given that after the report-tampering incident had been confirmed, CEDD did not impose any punishment on the contractor concerned other than the issuance of an adverse Quarterly Consultants' Performance Appraisal Report to it, and CEDD has not suspended the contractor concerned from tendering for public works and, instead, awarded it a new contract for public works in March this year, whether the authorities will (i) tighten the mechanisms for*

*selecting contractors for public works and evaluating their performance and (ii) increase the penalties for malpractice/default by contractors, so as to enhance the deterrent effect; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Government always accords top priority to the safety and quality of infrastructure projects. We will not tolerate any act that puts the safety and quality of works at risk. Indeed, the Government has all along attached great importance to quality assurance in public works projects, including the testing work in laboratories, and has required strict compliance with internationally recognized quality management procedures to ensure the works quality.

The aforementioned quality management procedures were proved effective in the incident as anomalies in the testing records had been identified by the Civil Engineering and Development Department ("CEDD"). Upon discovery of suspected tampering of testing time in the testing records of the concerned laboratory in mid-2016, CEDD has taken follow-up actions proactively, including comprehensive review and upgrading of the system of the laboratories under its purview to prevent recurrence of similar incidents. Also, CEDD has reported the case to ICAC and rendered full assistance to and cooperation with ICAC during its investigation.

At the Special Meeting of the Panel on Transport held on 5 June 2017, we explained the quality assurance system for use of concrete in the public works projects and reported the latest developments of the follow-up actions by CEDD into the alleged falsification of concrete test reports in respect of the works under the Hong Kong-Zhuhai-Macao Bridge Hong Kong Section and related projects.

My reply to Dr LAU Siu-lai's question is as follows:

(1) and (6)

Upon discovery of the suspected tampering of testing time in the testing records of the concerned laboratory in mid-2016, CEDD immediately commenced an investigation to review and assess the relevant testing records of the concerned laboratory. Its findings

revealed that the delays in conducting the tests were relatively short and the rate of gain in compressive strength of concrete would have slowed down beyond the age of 28 days. As such, CEDD considered that the effect of the testing time adjustments was insignificant.

In the light of the information obtained at that time, CEDD immediately gave an adverse report to the consultant concerned in its quarterly performance appraisal and requested the consultant to undertake improvement measures. Such measures included replacing the consultant's staff in charge of the laboratory concerned, deploying additional supervisory staff and upgrading the testing equipment to prevent unauthorized resetting of testing times as well as arranging refresher training on concrete testing for the consultant's staff and reminding them on the essence of integrity management. Under the prevailing mechanism, works departments would consider the information in hand and the seriousness of incidents in determining any appropriate regulating action(s) to take. Having reviewed the overall situation, including the consultant's improvement measures undertaken, CEDD considered that it was not necessary to take further regulating action (including suspension of the consultant from tendering) at that time. For the sake of prudence, CEDD subsequently reported the case to ICAC for further investigation. During the process, CEDD had to comply with the internal guidelines on confidentiality requirement and refrain from making public the incident to avoid compromising the investigation.

Having been notified by ICAC about the discovery of suspected falsification malpractice of the consultant involving replacement of test samples during its investigation in May this year, CEDD immediately conducted a follow-up investigation to examine the raw data of the concrete testing records of the laboratory concerned for the period from January 2015 to June 2016. About 0.1% of the test records were found to involve suspected falsification by replacement of test samples. In the light of its latest findings, CEDD immediately issued to the consultant a performance report with an "unacceptable" rating. With the endorsements of the Architectural and Associated Consultants Selection Board and the Engineering and



Associated Consultants Selection Board, CEDD suspended the consultant from tendering for all categories of architectural and engineering consultancy agreements within the jurisdiction of the two Boards for a period of 12 months with effect from 2 June 2017. Depending on the future development of the case, the Government may consider extending the suspension period or taking further regulating action(s) against the consultant when appropriate. In other words, the current regulating mechanism has already empowered the Administration to take regulating actions with deterrent effect where necessary. Furthermore, the Development Bureau is conducting a review, with a view to further enhancing the management of architectural and engineering consultants.

- (2) In case of major emergency incidents or industrial accidents occurring in public works projects, works departments would notify the government departments concerned and the Works Branch of the Development Bureau in accordance with the relevant works technical circular<sup>(1)</sup> and the Construction Site Safety Manual<sup>(2)</sup>. Works departments would upload or access the information about the regulating actions taken against contractors or consultants for public works projects in relation to their contract performance, including suspension from tendering, through the computer systems for the management of contractors and consultants.

In case of any instance of crime or alleged crime, works departments concerned would report it to the appropriate enforcement authority directly in accordance with their internal guidelines. Generally, works departments would not make public these instances after making referral to the enforcement authorities for investigation to avoid hindering or affecting their investigation.

- (1) For the Technical Circular (Works) No. 20/2005 (English version only), please refer to the link below:  
<<http://www.devb.gov.hk/filemanager/technicalcirculars/en/upload/21/1/C-2005-20-0-1.pdf>>
- (2) For the Construction Site Safety Manual (English version only), please refer to the link below:  
<[http://www.devb.gov.hk/en/publications\\_and\\_press\\_releases/publications/construction\\_site\\_safety\\_manual/index.html](http://www.devb.gov.hk/en/publications_and_press_releases/publications/construction_site_safety_manual/index.html)>

In general, the Development Bureau and works departments would review the seriousness of individual incident, including whether it involves public interest and causes serious impact to the public, in considering whether to make it public timely.

(3) to (5)

Since 2012, the consultant concerned has been awarded another two consultancy agreements from CEDD for management and operation of laboratories. Details are as follows:

	<i>Award date</i>	<i>Service commencement date</i>	<i>Expected service completion date</i>	<i>Lump sum fee at award (\$ million)</i>
Consultancy Agreement 1	June 2014	July 2014	August 2018	57
Consultancy Agreement 2	March 2015	April 2015	July 2019	44

In addition to the laboratory concerned<sup>(3)</sup>, CEDD has examined the concrete compression test results of other regional laboratories (including the two laboratories in operation as mentioned in the table above) and no anomaly was found. Therefore, there is no need to conduct inspection and testing again for the public works projects served by these two laboratories.

CEDD has also immediately implemented further improvement measures in all the laboratories under its purview (including the two laboratories in operation as mentioned in the table above). The measures included deployment of additional government staff to monitor the outsourced laboratories, arranging different laboratories to carry out concrete tests for public works projects on a rotational basis, increasing the number of parallel testing which testifies the consistency of the performance of different laboratories, strengthening routine auditing check on test records, and arranging installation of additional CCTVs for monitoring concrete tests.

(3) The laboratory concerned ceased operation in March 2017.

CEDD is currently reviewing its procedures for testing concrete cubes and will introduce other improvement measures as and when necessary.

In addition to the above improvement measures, the Development Bureau issued a circular memorandum in May this year requesting the works departments to review and step up the monitoring of the performance of the architectural and engineering consultants engaged by them, particularly from the integrity management and quality assurance perspectives. The works departments will continue to closely monitor the services delivered by the consultant concerned and will conduct the necessary technical audits.

### **Restrictions on carrying or posting daily necessities and health food products into the Mainland**

11. **MR SHIU KA-FAI** (in Chinese): *President, according to the Catalogue of Animals and Plants, and Animal and Plant Products Prohibited from being Carried or Posted into the People's Republic of China which came into effect on 2 March 2012, bird's nests are prohibited from being carried or posted into the Mainland. In addition, there are also restrictions on the quantity of daily necessities and health food products that may be carried into the Mainland by travellers of Chinese nationality, and the relevant quotas have not been raised since 1996. Some members of the retail industry have relayed to me that such restrictions have significantly impacted on the shopping and spending behaviour of Mainland residents in Hong Kong. In this connection, will the Government inform this Council:*

- (1) *whether it has enquired with the Mainland authorities about the reasons for and the situation of imposing the aforesaid restrictions;*
- (2) *whether it assessed in the past five years the impact of such restrictions on the retail industry of Hong Kong; if so, of the details; if not, the reasons for that;*
- (3) *as some members of the retail industry have pointed out that since the Mainland authorities signed agreements with the Malaysian and Indonesian authorities in 2013 and 2014 respectively to allow the import into the Mainland of Malaysian and Indonesian bird's nest*

*products which meet the relevant inspection and quarantine requirements, it is quite meaningless for the Mainland authorities to enforce the ban on the carrying of bird's nests from Hong Kong into the Mainland, whether the Government will discuss with the Mainland authorities the following issues: (i) lifting the restriction on carrying bird's nests from Hong Kong into the Mainland, and (ii) formulating, by making reference to the export of bird's nests from Hong Kong to places such as Europe and North America, a set of entry quarantine arrangements for the import of bird's nests, which are acceptable to the Mainland authorities, the Hong Kong Government and the retail industry; if it will not, of the reasons for that; and*

- (4) *whether it will request the Mainland authorities to raise, in light of the present robust economic development on the Mainland and the increase in the purchasing power and needs of the Mainland residents, the quotas, and the applicable ceiling values for such quotas, for daily necessities and health food products which they may carry into the Mainland; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, in consultation with the relevant Policy Bureaux and departments, I provide a consolidated reply to the various parts of the question as follows:

- (1) According to our understanding, the Mainland authorities revised the "Catalogue of Animals and Plants, and Animal and Plant Products Prohibited from being Carried or Posted into the People's Republic of China" in 2012, for the purposes of preventing animal and plant diseases and pests from spreading into the Mainland and protecting the production of agriculture, forestry, animal husbandry and fishery as well as public health and safety. The animals, plants and their products prohibited from being carried or posted into the Mainland include, among others, live animals (except cats and dogs), meat and its products, eggs and egg products, bird's nest (except canned bird's nest) and fresh fruits and vegetables. This restriction applies to all persons entering the Mainland from various countries or regions.

- (2) The Government has not conducted any assessment of the impact of the trade of bird's nests or related trade restrictions imposed by other places on our retail industry. According to the statistics of the Census and Statistics Department, edible bird's nests accounted for 0.03% of the total value of Hong Kong's external merchandise trade in 2016.

(3) and (4)

Bird's nest products include raw bird's nests and ready-to-eat ones. All raw bird's nests are imported, while some bird's nest products are processed or treated in Hong Kong for exportation to other places or for local sale. As for the exportation of bird's nest products to places such as the United States and Canada, exporters apply to the Agriculture, Fisheries and Conservation Department for the Sanitary Certificate for Products of Animal Origin as required by the exporting destinations.

The requirements set by the Mainland for importation of bird's nests are different from those adopted by other places. The Hong Kong Special Administrative Region Government is in active discussion with the Mainland authorities on the inspection, quarantine and health requirements, and consensus has been reached on some basic principles. Announcements will be made to the trade in due course when the discussion bears fruit.

The entry requirements on Mainland visitors imposed by the Mainland authorities are applicable to all visitors entering the Mainland from various places across the world (including Hong Kong). We will continue to keep close track of the latest development in this respect.

### **Overtime work compensation for teaching staff members of tertiary institutions**

12. **MR LEUNG CHE-CHEUNG** (in Chinese): *President, a staff union of a tertiary institution has sought my assistance and told me that in order to escort students to places outside Hong Kong for taking part in exchange activities, some*

*teaching staff members of their institution needed to perform duties or to stand by in the airport and on the plane to take care of students. However, among such staff members, those of a certain rank were not given compensation leave because the employer did not regard such staff members as performing overtime work during such period. Regarding the issues relating to the overtime work performed by teaching staff members in escorting students to places outside Hong Kong for taking part in exchange activities, will the Government inform this Council:*

- (1) of (i) the number, (ii) the details and (iii) the follow-up work in respect of the relevant labour dispute cases received by the authorities in each of the past three years;*
- (2) whether it knows if the various universities funded by the University Grants Committee ("UGC") have drawn up guidelines in respect of the aforesaid issues; if they have, of the details; if not, whether UGC will request those universities to draw up the relevant guidelines; and*
- (3) whether it knows if the various publicly funded tertiary institutions (other than UGC-funded universities) as well as government primary and secondary schools have formulated policies on the aforesaid issues, and how such policies compare with the relevant policies adopted by those policy bureaux which have made arrangements for students to go to places outside Hong Kong for taking part in exchange activities held in (e.g. the Education Bureau and the Home Affairs Bureau)?*

**SECRETARY FOR EDUCATION** (in Chinese): President, post-secondary institutions in Hong Kong enjoy a high degree of autonomy in academic development and administration. They can implement their own remuneration and overtime compensation systems that best suit their needs and circumstances, and are accountable for such decisions. The Education Bureau and the University Grants Committee ("UGC") generally will not intervene. On the other hand, post-secondary institutions as employers should fulfil their obligations as stipulated in the employment contracts and comply with the applicable labour legislation.

Our reply to the question raised by Mr LEUNG is as follows:

- (1) The Labour Department ("LD") does not maintain statistical data on labour disputes related to teaching staff accompanying students to places outside Hong Kong for exchange activities. Generally speaking, if there are disputes between employers and employees on employment issues, LD will provide voluntary conciliation services for them to resolve their differences in accordance with the relevant statutory requirements and the terms of the employment contract. If both parties fail to settle through conciliation, LD will, at the request of the claimant and depending on the amount of claim involved, refer the claimant to the Labour Tribunal or the Minor Employment Claims Adjudication Board for civil adjudication.
- (2) According to the information provided by the UGC-funded universities, each university has put in place its own policy, internal mechanism and rules for handling matters on overtime work and overtime compensation according to the relevant labour legislation, terms, ranks and types of employment, management and operational needs as well as actual circumstances. Under the principle of institutional autonomy, UGC has not made any particular rules in this regard.

In general, subject to their ranks and types of employment, eligible staff are entitled to compensation (such as time-off in lieu or overtime allowance) for overtime work performed outside their conditioned working hours set out in their terms of employment. They should apply for such compensation through the established procedures. Their applications will be considered by their department heads having regard to the university's policy and the specific circumstances of each case. The aforesaid compensation arrangements are applicable to the overtime work performed by eligible staff for operational needs when accompanying students to places outside Hong Kong for taking part in exchange activities, irrespective of the place of work and transportation arrangements. For example, eligible staff who are required to perform overtime work in the airport to meet operational needs may also receive compensation.

- (3) For civilian civil service grades in general (including civil servants working in Policy Bureaux and those from non-teaching grades who work in government schools), specific conditioned hours of work are laid down for different grades in the light of the job nature, operational needs and other considerations. According to the Civil Service Regulations ("CSRs"), overtime work is work which the civil servants are required to undertake in excess of their conditioned hours, irrespective of the day or time on which such work is performed. For individual cases, the actual time and place for performing the required work would depend on the situation. CSRs also set out the compensation arrangements for overtime work.

As regards the civil service teaching grades, in view of their unique working environment, it is a long-established practice for individual government schools to draw up their school calendars for manpower deployment and work arrangement purposes having regard to their operational needs. The arrangements for conditioned hours of work relevant to civilian grades in general do not apply to the teaching grades. As such, the compensation arrangements for overtime work of civil servants as stipulated in CSRs are not applicable to the teaching grades.

Apart from the eight UGC-funded universities, the Vocational Training Council ("VTC") and the Hong Kong Academy for Performing Arts ("HKAPA") are also publicly-funded tertiary institutions. VTC has promulgated guidelines on compensation by time-off in lieu and allowance for overtime work performed by eligible staff (mostly junior staff). Eligible staff can apply for compensation according to the established procedures. Besides, VTC has made special arrangements for teaching staff of specific ranks. If they need to work overtime for operational reasons, they can apply for time-off in lieu in accordance with the established procedures. In practice, department heads will assess applications for time-off in lieu and overtime allowance according to the policies of VTC and the actual operational circumstances.

HKAPA handles matters of overtime work and compensation according to the relevant labour legislation and its internal mechanism.



**Handling of ivory covered by Licences to Possess upon phasing out of the local ivory trade**

13. **MRS REGINA IP** (in Chinese): *President, many local ivory shop owners and ivory craftsmen have relayed to me that over the past few decades, the trade has been in possession of and selling ivory while holding valid Licences to Possess issued by the Agriculture, Fisheries and Conservation Department and there is now still a stock of dozens of tonnes of local ivory covered by Licences to Possess. In June last year, the Government indicated its intention to implement a plan to phase out the local ivory trade and halt the renewal of Licences to Possess by the end of 2021. By then, it would be an offence to possess ivory for commercial purposes. Moreover, ivory and ivory products are not permitted under the legislation to be exported or sold to overseas places. As a result, it is difficult for the trade to sell the existing ivory off. In this connection, will the Government inform this Council:*

- (1) of the current ivory stock covered by Licences to Possess;*
- (2) whether it knows the local sales volume of ivory or ivory products in the past five years;*
- (3) whether measures are in place to assist the trade in handling unsold ivory stock after the expiry of the aforesaid deadline; if so, of the details; if not, the reasons for that; and*
- (4) whether it will consider adopting the trade's suggestion of the Government purchasing the ivory stock covered by Licences to Possess from the traders and donate it to the local museums for conservation education and exhibition purposes; if not, of the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): *President, the Government is committed to the protection of endangered species, including Africa elephants which are facing the threat of extinction. To coordinate with international efforts and demonstrate Hong Kong's commitment in combating the illegal ivory trade and eradicating illegal poaching of wild elephants, the Government announced at the end of 2016 a three-step plan ("the Plan") to phase out the local trade in ivory by the end of 2021. In this regard, the Government*

has started the legislative procedure to amend the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance") in order to take forward the Plan and impose heavier penalties to enhance deterrent against smuggling activities of endangered species (including ivory).

Our replies to the questions raised by Mrs Regina IP are as follow:

- (1) The Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") started to regulate the international trade in Asian elephant and African elephant in 1975 and 1976 respectively. Since 1990, the international trade of all elephant species has been virtually banned. In Hong Kong, the "post-Convention ivory" acquired before the international trade ban in 1990 was required to register with the then Agriculture and Fisheries Department. According to the Ordinance, possession of "post-Convention ivory" for commercial purposes requires a Licence to Possess. As at end of 2016, there were about 75 tonnes of "post-Convention ivory" under Licences to Possess for commercial purposes.

Besides, the ivory traders may be possessing "pre-Convention ivory" that was acquired before the CITES provisions started to apply to elephants for commercial purposes, or any ivory for non-commercial purposes. No Licence to Possess is required for the above circumstances. Therefore, we do not have record on the exact quantity of such ivory.

- (2) The Census and Statistics Department does not have statistics on the local trade in ivory or ivory products. Separately, the Agriculture, Fisheries and Conservation Department ("AFCD") conducted an ivory trade survey from February to April 2016. The results of the survey revealed that the local ivory trade is inactive. About 90% of the surveyed stocks of "post-Convention ivory" had no transaction in the previous five years.
- (3) The Government has started to regulate the trade in ivory since 1970s. According to the results of the AFCD survey mentioned above, the local ivory trade is inactive. The sale of ivory in general does not constitute a substantial part of the traders' business. Many

ivory traders had already undergone business transformation or switched to trade other commodities not under CITES control such as mammoth ivory. AFCD has briefed the ivory trade the latest international and local developments on ivory control since June 2015. Since March 2016, AFCD has briefed the ivory trade the ivory phase-out plan and consulted them from time to time. The proposed effective date of the total ban of ivory trade is 31 December 2021. There are five years from the announcement of the concerned policy for the traders to dispose of the ivory in their possession and undergo business transformation. Although the ivory owner cannot sell ivory after the ban takes effect, they can still legally keep the ivory for non-commercial purposes such as personal collection, inheritance, exhibition, gifts etc. Separately, we propose to provide re-employment training to affected ivory craftsmen who are specialized in ivory crafting. Meanwhile, AFCD has been carrying out a survey with the ivory craftsmen to ascertain their assistance and training needs.

- (4) By amending the Ordinance to implement the three-step plan to phase out the local trade in ivory, the Government aims to send a strong signal to the international community (including the people who are involved in poaching of elephants) that Hong Kong is determined to close its local ivory market in order to eradicate such poaching activities. The Government will not consider any way of buying-out the ivory so as to avoid sending the wrong message which further stimulates the illegal poaching activities of wild elephants.

### **Treatment and prevention of Acquired Immune Deficiency Syndrome**

14. **DR HELENA WONG** (in Chinese): *President, according to a study report published in the United States in 2015, the life-long medical treatment fees for a person living with Human Immunodeficiency Virus ("HIV") was US\$338,000 (i.e. around HK\$2,629,640). In the past three years, the average expenditure incurred by the Hospital Authority ("HA") on the use of prophylaxis on people after exposure to HIV, i.e. post-exposure prophylaxis ("PEP"), was around \$8,800 per case. In other words, as long as one among every 290 PEP recipients can be successfully prevented from HIV infections as a result of the use*

*of PEP, this intervention measure is cost-effective. This situation can prove that the timely use of PEP is, apart from providing effective and life-long guard against HIV infections among high-risk groups, also conducive to the Government's efforts in reducing its exorbitant expenditure on anti-HIV drugs. However, the Scientific Committee on Acquired Immune Deficiency Syndrome and Sexually Transmitted Infections ("the Scientific Committee") currently does not recommend the routine use of PEP for non-occupational exposure to HIV (e.g. exposure to HIV through sexual contact) for the prevention of Acquired Immune Deficiency Syndrome ("AIDS"). On the other hand, in its Recommended HIV/AIDS Strategies for Hong Kong (2017-2021) released last month, the Hong Kong Advisory Council on AIDS ("ACA") has pointed out that the number of new HIV infections has continued to escalate in recent years and that the next few years will be a critical point which may determine if the HIV epidemic in Hong Kong spins out of control. ACA has also recommended that the Scientific Committee should consider revising its recommendation on the non-occupational use of PEP. In this connection, will the Government inform this Council:*

- (1) *of the following information in relation to the medical treatment and nursing care provided by the public sector to AIDS patients in each of the past seven financial years: (i) the expenditure incurred by the Department of Health, (ii) the expenditure incurred by HA, (iii) the number of healthcare staff involved, and (iv) the number of patients involved (set out such information in the table below);*

<i>Financial year</i>	<i>(i)</i>	<i>(ii)</i>	<i>(iii)</i>	<i>(iv)</i>
<i>2010-2011</i>				
<i>2011-2012</i>				
<i>2012-2013</i>				
<i>2013-2014</i>				
<i>2014-2015</i>				
<i>2015-2016</i>				
<i>2016-2017</i>				

- (2) *whether it will allocate additional resources in the coming few years to cope with the worsening HIV epidemic in Hong Kong; if so, of the details; if not, the reasons for that; and*

- (3) *whether it will, in the light of the recommendations of ACA, request the Scientific Committee to revise its recommendation on the non-occupational use of PEP shortly; if so, of the details and timetable; if not, the reasons for that?*

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

- (1) The comprehensive treatment and care services provided by the Department of Health ("DH") for patients with Acquired Immune Deficiency Syndrome ("AIDS") include doctor's assessment, medication, psychological counselling, health education and social support, which are classified as expenditure items for different areas of work. Therefore, DH is unable to work out the expenditure of medical treatment and nursing care incurred specifically for AIDS patients. In the past seven financial years, the number of AIDS patients who received medical treatment and nursing care provided by DH in each year and the number of health care staff involved are set out in the table below:

<i>Financial year</i>	<i>Number of health care staff</i>	<i>Number of patients</i>
2010-2011	25	1 626
2011-2012	25	1 774
2012-2013	25	2 012
2013-2014	25	2 266
2014-2015	25	2 507
2015-2016	25	2 773
2016-2017	25	3 038

As health care professionals of the Hospital Authority ("HA") providing medical treatment and nursing care for AIDS patients also provide clinical services for other patients, HA is therefore unable to work out the expenditure incurred and number of health care staff involved specifically for providing medical treatment and nursing care to AIDS patients. The number of AIDS patients who received medical treatment and nursing care provided by HA in each of the past seven financial years is set out in the table below:

<i>Financial year</i>	<i>Number of patients</i>
2010-2011	955
2011-2012	1 083
2012-2013	1 195
2013-2014	1 342
2014-2015	1 538
2015-2016	1 761
2016-2017	2 008

(2) and (3)

The Government has been allocating resources for the prevention and control of Human Immunodeficiency Virus ("HIV")/AIDS. Established in 1990, the Hong Kong Advisory Council on AIDS has been tasked for reviewing local and international trends and developments relating to HIV infection and AIDS; advising the Government on policy relating to the prevention, care and control of HIV infection and AIDS in Hong Kong; and advising on the coordination and monitoring of programmes on the prevention of HIV infection and the provision of services to people with HIV/AIDS in Hong Kong.

The Finance Committee ("FC") of the Legislative Council approved in April 1993 a one-off provision of \$350 million for the establishment of the AIDS Trust Fund ("the Fund") to provide assistance for HIV-infected haemophiliacs, improve medical and support services, and enhance public education on AIDS. An additional injection of \$350 million was approved by FC in 2013-2014 to provide continuous support for funding applications under the Fund.

DH has also allocated resources to the Student Health Service, Special Preventive Programme ("SPP"), Men's Health Programme and Social Hygiene Service for HIV prevention, public education and publicity programmes. SPP is also committed to appealing to the public to care more about HIV/AIDS, supporting the development of evidence-based AIDS strategies, and training up clinical and public health experts in HIV and infectious diseases. Besides, the Government has been organizing activities in

partnership with non-governmental organizations to raise public awareness of AIDS and promote public acceptance of people with HIV/AIDS.

The Scientific Committee on AIDS and Sexually Transmitted Infections ("the Scientific Committee") under the Centre for Health Protection of DH is responsible for advising the Government on the scientific basis of the prevention, care and control of AIDS and sexually transmitted infections. For non-occupational exposure to HIV through sexual contact or injection exposure, the current position of the Scientific Committee, as issued in 2006, is that post-exposure prophylaxis ("PEP") should not be prescribed as a matter of routine.

Currently, anyone who had unsafe sex (non-occupational exposure to HIV) may seek medical treatment at the Accident and Emergency Department upon exposure. The doctor will conduct assessment and examination on the person. Where necessary and appropriate, the doctor will prescribe PEP and refer the person to the integrated treatment centre of DH for follow-up treatment. Records show an increase in the number of PEP prescriptions by DH in the past few years. The number of cases increased from 21 in 2014 to 62 in 2016. In the same period, the number of cases treated by HA also increased from 15 to 29.

In view of the rising demand for PEP prescriptions in recent years, the Scientific Committee has planned to review shortly its recommendation made in 2006. The Government will consider whether and how to revise the current practice in accordance with the updated recommendations of the Scientific Committee, and thereafter consider the amount of resources to be allocated.

### **Life annuity scheme to be launched by the Hong Kong Mortgage Corporation Limited**

15. **MR CHAN KIN-POR** (in Chinese): *President, the Hong Kong Mortgage Corporation Limited will introduce a life annuity scheme ("public annuity scheme") by the middle of next year at the earliest. The initial design of the*

*scheme is as follows: (i) annuitants aged 65 or above may, after making a lump-sum premium payment, receive immediate lifetime annuity payouts on a monthly basis, (ii) a cap and a floor on the premium amount are set at \$1 million and \$50,000 respectively, and (iii) the initial scale of the scheme is \$10 billion. In this connection, will the Government inform this Council:*

- (1) whether it will, after the introduction of the public annuity scheme, conduct consultations targeting people of different age groups and social strata, in order to determine whether the scale of the scheme needs to be expanded; if so, of the timetable; if not, the reasons for that;*
- (2) whether it will make reference to private annuity schemes and adopt more flexible arrangements in the implementation of the public annuity scheme, such as allowing members of the public to make premium payment at the age of 60 but to start to receive annuity payouts at the age of 65, with a view to increasing the amount of the annuity payouts; and*
- (3) whether it will conduct a study on linking up the public annuity scheme with the mandatory provident fund ("MPF") schemes so that elderly people can opt to inject the accrued benefits withdrawn from the MPF schemes into the public annuity scheme, and increasing the cap on the premium amount, in order to improve the retirement protection for middle-class people; if it will not, of the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, the life annuity scheme ("the Scheme") to be provided by the Hong Kong Mortgage Corporation Limited ("HKMC") will come in the form of an immediate, lifetime-guaranteed, fixed-payout annuity, whereby eligible annuitants aged 65 or above will receive monthly payouts for a lifetime immediately after making a lump-sum premium payment. This type of annuity product may help annuitants mitigate the risk of outliving their savings, but the offering of which is rather limited in the market.

Under the Scheme, a cap will be set on the premium amount (tentatively at HK\$1 million) for each annuitant, taking into account all relevant considerations



(such as encouraging market participation, avoiding over concentration of longevity risks, etc.). Having regard to their own needs and circumstances, eligible annuitant may decide whether to allocate funds from their Mandatory Provident Fund accounts to the Scheme and the appropriate amount of allocation.

HKMC will monitor closely the public's views, market responses and implementation experience before considering ways to refine the Scheme. HKMC will explore the feasibility of increasing the scale of the Scheme if the market response is favourable, and subject to the principles of prudential risk management being met.

### **Aircraft noise**

16. **MR CHAN CHI-CHUEN** (in Chinese): *President, the Government told this Council on 15 June last year that to reduce the impact of aircraft noise on the residents living near the flight paths, the Civil Aviation Department ("CAD") had implemented a number of aircraft noise abating measures in accordance with the balanced objectives, promulgated by the International Civil Aviation Organization ("ICAO"), of managing aircraft noise. Such measures included requiring aircraft in the small hours to avoid, as far as possible, overflying populated areas, and to adopt ICAO's noise abatement departure procedure during take-off and the continuous descent approach for landing. Moreover, with a view to encouraging more airlines to deploy quieter types of aircraft, the Airport Authority Hong Kong ("AAHK") was studying the introduction of environmental charges in relation to aircraft noise, and would consult the aviation industry and the relevant stakeholders on the findings of the study. Yet, I have learnt that aircraft noise during the period between 11:00 pm each day and 7:00 am of the next day still often causes nuisance to a number of residents at present, making it difficult for them to fall asleep. In recent months, I have even received complaints from Ma Wan residents pointing out that quite a number of aircraft still overfly Ma Wan at an altitude below 5 000 feet after take-off, in contravention of the authorities' undertaking made years ago that all aircraft departing Hong Kong would overfly Ma Wan at an altitude not lower than 7 000 feet. In addition, some aircraft overfly the urban areas at an altitude below 7 500 feet, causing residents in the urban areas to suffer greatly from aircraft noise nuisance. In this connection, will the Government inform this Council:*

- (1) *of the respective numbers of aircraft departing Hong Kong last year overflew Ma Wan at altitudes (i) below 5 000 feet, (ii) between 5 000 and 7 000 feet, and (iii) above 7 000 feet (set out in a table);*
- (2) *of the monthly data, recorded during the period between 11:00 pm each day and 7:00 am of the next day from April last year to May this year by various aircraft noise monitoring terminals, on aircraft noise levels which reached (i) 70 to 74 decibels ("dBs"), (ii) 75 to 79 dBs, and (iii) 80 dBs or above;*
- (3) *among the aircraft departing Hong Kong last year, of the types of those with noise levels reaching 80 dBs or above, and the airlines to which such aircraft belonged;*
- (4) *whether it knows the latest progress of the study conducted by AAHK on the introduction of the aforesaid environmental charges; and*
- (5) *whether CAD will further strengthen the existing aircraft noise abating measures to reduce the nuisance caused to residents in the districts concerned; if so, of the details?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, in accordance with international standards and recommendations, the design of flight paths takes into account factors including terrain environment and required obstacle clearances. To ensure aviation safety, departing aircraft are required to comply with the minimum climb gradient requirements specified in the departure procedures published in the Hong Kong Aeronautical Information Publication ("HKAIP"). The departure procedures published in HKAIP are designed in accordance with the safety requirements of the International Civil Aviation Organization ("ICAO"). According to the relevant requirements, departing aircraft are required to fly at an altitude of not less than 1 800 feet in the vicinity of Ma Wan. The actual climb gradient of departing aircraft is dependent on various factors such as the payload and performance characteristics of individual aircraft and weather conditions, etc. Generally speaking, as far as minimum climb gradient is concerned, apart from the requirements set out in HKAIP, the Civil Aviation Department ("CAD") would not specify additional requirement for departing aircraft.

Our reply to the various parts of Mr CHAN Chi-chuen's question is as follows:

- (1) The number and altitude of aircraft flying overhead of Ma Wan between 11:00 pm and 7:00 am the following day when departing to the northeast of the Hong Kong International Airport ("HKIA") in 2016 are set out at Annex 1.
- (2) CAD has 16 noise monitoring terminals ("NMT"). The aircraft noise events recorded between 11:00 pm and 7:00 am the following day by these terminals from April 2016 to March 2017 by month are set out at Annex 2. The data for April and May 2017 are pending verification and thus not available yet.

According to the noise data recorded at the Ma Wan NMT between 2012 and 2016, the number of noise events of 70 decibels or above and of 80 decibels or above has decreased by 27% and 59% respectively. This shows the effectiveness of the aircraft noise mitigating measures adopted by CAD, the details of which are elaborated in part (5) below.

- (3) In 2016, among departing aircraft, the operating airlines and aircraft types of aircraft with noise events of 80 decibels or above recorded between 11:00 pm and 7:00 am the following day are set out at Annex 3.
- (4) CAD understands that, on the basis of the 24-hour operation of HKIA and by adopting the guidelines relating to aircraft noise charges issued by ICAO, the Airport Authority Hong Kong is studying in detail the introduction of environmental charges/incentive schemes as a means of encouraging more airlines to use quieter aircraft. Subject to the findings of the study, the aviation industry and the stakeholders will be consulted accordingly.
- (5) CAD has implemented a series of aircraft noise mitigating measures in accordance with the balanced approach to aircraft noise management promulgated by ICAO. These measures include requiring aircraft to avoid overflying populated areas, to adopt the noise abatement departure procedures prescribed by ICAO during take-off and to adopt the quieter Continuous Descent Approach for

landing, etc. in the small hours as far as possible. CAD has also implemented a new set of flight procedures since 2012 to allow aircraft equipped with satellite-based navigation technology to adhere closely to the nominal centre line of the flight track when departing to the northeast of HKIA and making south turn to the West Lamma Channel, thereby keeping the aircraft at a distance away from the areas in the vicinity of the flight paths, and reducing the impact of aircraft noise on these areas.

Apart from implementing the aircraft noise abatement operational procedures mentioned above, CAD has prohibited aircraft not meeting the relevant aircraft noise standards from landing and taking off in Hong Kong. Since 2002, aircraft not complying with the noise standards in Chapter 3 of Volume I, Part II of Annex 16 to the Convention on International Civil Aviation (Chapter 3 noise standards) are not allowed to operate in Hong Kong. To strengthen this aircraft noise mitigating measure, starting from 2014, CAD has imposed further restrictions on aircraft which are marginally compliant with the Chapter 3 noise standards<sup>(1)</sup> to land and take off in Hong Kong. CAD will review this arrangement from time to time and closely monitor the latest developments of ICAO, the international aviation industry and the operation of HKIA in considering the need to step up the relevant requirement.

With the advancement of aviation technology, aircraft engines are quieter than before, and the improved design of airframe has also helped reduce noise significantly. To reduce the impact of aircraft noise on the areas near the flight paths, many airlines are replacing their aircraft with quieter models progressively. CAD will continue to monitor the progress made by airlines in aircraft fleet replacement and deployment of quieter aircraft for night time operations, as well as the effectiveness of such measures.

- (1) Volume I, Part II of Annex 16 to the Convention on International Civil Aviation sets out the aircraft noise standards formulated by ICAO at different times. The aircraft noise standards of Chapter 3, which were formulated at a later stage than those of Chapter 2, were more stringent. Generally speaking, the noise levels of Chapter 3-compliant aircraft were lower than those of Chapter 2-compliant aircraft. Aircraft marginally complying with Chapter 3 noise standards refers to an aircraft which is in compliance with Chapter 3 noise standards, but its noise level is relatively close to the upper limit prescribed in Chapter 3.





## Annex 3

Departure flights with noise events of 80 dB or above recorded in 2016  
 Aircraft types and operating airlines  
 (between 11:00 pm and 7:00 am the following day)

<i>Airlines</i>	<i>Aircraft Type</i>
Aerologic	Boeing B777-200LR
Air Hong Kong	Airbus A300-600
	Boeing B747-400
Air Atlanta Icelandic	Boeing B747-400
Air Cargo Global	Boeing B747-400
All Nippon Airways	Boeing B767-300
Atlas Air	Boeing B747-400
	Boeing B747-8
Cargolux Airlines International	Boeing B747-8
Cargolux Italia	Boeing B747-400
Cathay Dragon	Airbus A321
Cathay Pacific Airways	Airbus A330-300
	Boeing B747-400
	Boeing B777-300
	Boeing B777-300ER
Emirates	Boeing B747-400
Hong Kong Airlines	Airbus A330-200
	Airbus A330-300
K-Mile Air	Boeing B737-400
Kalitta Air	Boeing B747-400
Korean Air	Boeing B747-400
	Boeing B777-300ER
Polar Air Cargo	Boeing B747-400
Qantas Airways	Airbus A330-300
Qatar Airways	Airbus A330-200
Raya Airways	Boeing B727-200
Singapore Airlines	Boeing B777-300ER
Singapore Airlines Cargo	Boeing B747-400
Swiss International Air Lines	Boeing B777-300ER
Turkish Airlines	Boeing B747-400
United Air Lines	Boeing B737-800
UPS Parcel Delivery Services	Boeing B747-400
	McDonnell Douglas MD-11

**The making of an audio recording of a conversation by a party thereto without the knowledge of the other party**

17. **DR CHIANG LAI-WAN** (in Chinese): *President, I have learnt that recently, when meeting a public officer, an assistance seeker made, without informing the other party, an audio recording of their conversation. Upon learning about the incident, the public officer was dissatisfied and relayed it to a supervisor. In this connection, will the Government inform this Council whether:*

- (1) *it has studied if, in the event of a public officer facing a criminal trial or disciplinary inquiry, audio recordings of his/her conversations with other persons made without his/her knowledge will normally be admitted as evidence; if it has studied and the outcome is in the affirmative, whether it has assessed if such a situation is tantamount to encouraging the making of an audio recording of the contents of a conversation by a party thereto without the knowledge of the other party;*
- (2) *it has studied under what circumstances the audio recording of a conversation by a party thereto without the knowledge of the other party will constitute the offence of "access to computer with criminal or dishonest intent" under section 161 of the Crimes Ordinance (Cap. 200); when a public officer reports a similar incident to the Police, whether the Police will conduct criminal investigation to find out if anyone has committed the said offence; if they will not, what type of case into which the relevant incident will be classified by the Police for handling; and*
- (3) *it will implement effective measures to promote mutual trust between public officers and members of the public so as to reduce the occurrence of similar incidents; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): *President, having consulted the Department of Justice and the Security Bureau, our replies to different parts of the question are appended below:*



- (1) In respect of criminal trial, the Court has discretion to decide on the admissibility of the evidence concerned, and the main consideration factors include the evidential value; whether there is prejudicial effect; the identity of the person making the recording as well as the reason and motive; the accusation against the public officer involved; and the nature of the Court proceeding seeking the admission of the recording, etc. According to case law, covert recordings are not absolutely inadmissible as evidence.

As regards disciplinary hearings, there is also no general rule precluding all covert recordings from being admitted as evidence. Bureau or department must consider whether the audio recording may prove the relevant facts and whether it would be fair and just to admit it as evidence in hearings. It depends on the circumstances of individual case and there is no hard and fast rule for all such cases.

- (2) According to section 161(1) of the Crimes Ordinance (Cap. 200), any person who obtains access to a computer with the following criminal or dishonest intent commits an offence and is liable on conviction upon indictment to imprisonment for five years—
  - (a) with intent to commit an offence (whether on the same occasion as he obtains such access or on any future occasion);
  - (b) with a dishonest intent to deceive (whether on the same occasion as he obtains such access or on any future occasion);
  - (c) with a view to dishonest gain for himself or another (whether on the same occasion as he obtains such access or on any future occasion); or
  - (d) with a dishonest intent to cause loss to another (whether on the same occasion as he obtains such access or on any future occasion).

Whether recording a discussion of two parties without the knowledge of the other party would amount to the offence of "access to computer with criminal or dishonest intent" would depend on whether the device used is a computer, and the reasons and intent of

the recording, etc. According to case law, a smart phone can legally be regarded as a computer.

The Police will investigate any reported case in detail. However, whether the act involved in a case constitutes an offence would require careful consideration of the details of the case, including the evidence obtained, and taking into account the legal advice sought as necessary. Upon receiving request for legal advice from law enforcement agency, the Department of Justice would consider the relevant law, the Prosecution Code and the actual circumstances of the case in deciding whether to take forward criminal prosecution.

- (3) The Civil Service Bureau promulgated the Civil Service Code in 2009 to set out core values including commitment to the rule of law; honesty and integrity; objectivity and impartiality; and dedication, professionalism and diligence, etc. These values not only underpin good governance, they also help maintain trust of the general public.

In addition, the Civil Service Training and Development Institute organizes regular courses on complaint management, handling disputes, public engagement, communication skills, etc. The aim is to help minimize conflicts between civil servants and the general public, and enhance mutual understanding and trust.

### **Measures to ensure blood safety**

18. **PROF JOSEPH LEE** (in Chinese): *President, in order to ensure the supply of safe blood to patients in Hong Kong, the Hong Kong Red Cross Blood Transfusion Service ("BTS") carries out tests for infectious diseases, including test for Human Immuno-deficiency Virus ("HIV"), on each unit of blood collected. According to the blood donation guidelines of BTS, any person who has a higher risk of being infected with viruses due to certain behaviours (e.g. a man who has had sex with another man) should not give blood. In this connection, will the Government inform this Council:*

- (1) *of the number of cases in the past 10 years of HIV infections suspected to be caused by blood transfusion; whether BTS had conducted investigations to see if the blood concerned had passed*

*the infectious disease tests and if the blood donors concerned had violated the blood donation guidelines;*

- (2) *whether any mechanism is in place to monitor the compliance with the blood donation guidelines by persons who wish to give blood, so as to ensure blood safety; and*
- (3) *given that some countries (e.g. the United States and New Zealand) allow a man who did not have sex with another man in the past 12 months to give blood, whether it knows if BTS will review its practice of imposing lifetime deferral on that type of persons; if BTS will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Hong Kong Red Cross Blood Transfusion Service ("BTS") provides blood supplies for public and private hospitals in Hong Kong. It is committed to ensuring blood safety and taking measures to prevent blood recipients from acquiring transfusion-transmitted infection. My reply to the question raised by Prof Joseph LEE relating to the measures to ensure blood safety is as follows.

- (1) BTS has not received any local cases of Human Immuno-deficiency Virus ("HIV") infection caused by blood transfusion in the past 10 years.
- (2) To prevent blood recipients from acquiring transfusion-transmitted infection, all blood donors are required to fill in a health questionnaire each and every time before donation and go through a rigorous screening process. They are asked to honestly answer the questions in the questionnaire, which cover, inter alia, current and past health status, lifestyle and travel history, so as to help BTS ensure the safety of the blood collected from the donors.

In addition, with an automated testing system, BTS tests all the blood collected for viruses of blood-borne infectious diseases. The existing test items include HIV antibodies, antigen and ribonucleic acid ("RNA"), Hepatitis B surface antigen and deoxyribonucleic acid ("DNA"), Hepatitis C antibodies and RNA, Human T-Lymphotropic

Virus antibodies and Syphilis antibodies. Although the tests conducted by BTS are up to international standard, there is still limitation in testing technology and hence some diseases cannot be detected during the early stage of infection. This is commonly referred to as the "window period". Therefore, apart from relying on the current tests for infectious diseases, BTS has to implement stringent measures in screening donors in order to minimize patients' risks of acquiring transfusion-transmitted infection. As for HIV test, with advances in technology, BTS started to conduct Nucleic Acid Testing on the blood samples of all donors in 2007 and the window period for detecting HIV infection in donated blood was then reduced to six days.

Moreover, BTS has set up a 24-hour hotline. Blood donors may contact the medical staff of BTS if they consider the blood they have donated not suitable for transfusion. BTS will take expeditious follow-up actions accordingly.

- (3) To ensure blood safety, BTS conducts health enquiries on donors and implements a blood donor screening policy. The screening policy was formulated according to the guidelines of the Hospital Authority (BTS) Expert Panel on Blood and Blood Products Safety with a view to ensuring blood safety and blood donors' health. BTS and the expert panel will review from time to time the guidelines on blood donor screening with reference to local and overseas data and guidelines and revise the guidelines where appropriate.

BTS has noted that in recent years individual countries, including the United States, Australia, New Zealand, the United Kingdom, Ireland, France, Switzerland and Canada, have amended their screening policies of deferral of blood donation by men who have sex with men ("MSM"). It has also noted that some countries or regions have started discussion on amending their policies of permanent deferral of blood donation by MSM. While its policy guidelines on permanent deferral of blood donation by MSM have been adopted for years, BTS has kept monitoring local and overseas scientific data, and examining the relationship of changing the deferral period with blood safety.

Having regard to the views of the expert panel, BTS is considering the option of relaxing the blood donation policy for MSM by changing the restriction from permanent deferral to one-year deferral. BTS has started to discuss the option and exchange views with doctors and patient groups as well as non-profit-making organizations providing support services for patients with AIDS. BTS will continue to arrange more meetings and maintain contact with relevant stakeholders to collect views from various sectors before deciding on the way forward.

### **Engagement of information technology contract staff by policy bureaux/government departments**

19. **MR LUK CHUNG-HUNG** (in Chinese): *President, currently, various policy bureaux/government departments ("B/Ds") may, through the "body-shopping" contract (commonly known as "T-contract") centrally managed by the Office of the Government Chief Information Officer, engage contractors to employ information technology ("IT") contract staff under a term contract ("T-contract staff") to provide IT services and support. Some trade unions have recently relayed to me that the remuneration packages of such staff are inferior to those of civil servants with comparable responsibilities. In this connection, will the Government inform this Council:*

- (1) *whether it will include the T-contract staff's remuneration packages (including wage levels and working hours) pledged by tenderers in their tendering documents as the assessment criteria for T-contracts; if so, of the details (including the weightings of such criteria); if not, the reasons for that;*
- (2) *whether it will set and publish the minimum remuneration packages that contractors are required to offer to T-contract staff of various ranks, so as to prevent the wages of such staff from being suppressed or wrongfully deducted;*
- (3) *whether it will regularly conduct random checks or request contractors to submit the records for wage payments of T-contract staff, so as to monitor whether contractors have paid wages in*

*accordance with the remuneration package provisions set out in the employment contracts they signed with their staff; if so, of the details; if not, the reasons for that; and*

- (4) *whether it will step up its efforts in publicizing among administrators of T-contracts, contractors and T-contract staff in various B/Ds the labour rights and interests to which such type of employees are entitled; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR INNOVATION AND TECHNOLOGY** (in Chinese): President, the Government strives to promote information technology ("IT") development in Hong Kong and enhance e-Government services. As government bureaux/departments ("B/Ds") developed more IT systems to support policy implementation, the number of IT staff required has increased correspondingly. In the past five years, the Government implemented more than 1 000 new IT projects with an overall expenditure reaching \$10 billion. Since the numbers of IT staff and the period of engagement required by different projects vary, the Government, with its years of experience in developing IT projects, has put in place an effective manpower arrangement, namely to pool together civil servants, T-contract staff and the service contractors to form a professional team of public-private collaboration. The engagement of T-contract staff can complement the service provided by IT staff directly employed by the Government or non-civil service contract staff in order to meet the changing IT manpower demand. This arrangement can facilitate the Government to tap the market's latest expertise and pool of professionals for developing and supporting IT systems and programmes, and foster technology exchange between IT personnel in the Government in the private sector.

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

- (1) to (3)

The procurement of T-contract services has been conducted in accordance with the principles and procedures stipulated in the Stores and Procurement Regulations, i.e. to secure the most advantageous offers which best serve public interest through fair, open and competitive bidding.

T-contract staff are professionals. The requirements on the scope of work, professional knowledge, skills and experience, etc., of individual T-contract staff positions are different. The remuneration packages offered to T-contract staff by the T-contractors would depend on the educational qualifications, professional knowledge, relevant skills and experience of individual staff, as well as the prevailing job market situation, etc. The flourishing IT market in recent years has helped keep the remuneration packages of T-contract staff at reasonable and competitive levels. Based on the understanding of the Office of the Government Chief Information Officer ("OGCIO"), T-contractors are generally willing to offer more favourable packages to T-contract staff who possess the relevant skills and experience, in order to retain talents.

The existing T-contract commences from 1 February 2016 and has a contract period of 36 months. At present, the Government does not set any minimum remuneration packages for respective T-contract staff categories in the service agreements with the T-contractors. Nevertheless, when preparing the tender documents for the next T-contract, OGCIO will review the situation and the assessment criteria, including whether to take the remuneration packages for T-contract staff into account, and to monitor contractors' management of the remuneration packages of their staff.

- (4) To ensure that T-contract staff are given reasonable treatment and due protection, there are terms in the T-contracts requiring contractors to be responsible employers, to comply with the employment legislation of Hong Kong, and not to include unreasonable terms in the employment contracts. Although the Government and T-contract staff do not have any employer-employee relationship, any reports of exploitation, if substantiated, could be regarded as a breach of contract. The Government will issue warnings to the contractor or even terminate the service contract.

OGCIO will remind T-contractors regularly that as responsible employers, they have to clearly convey to T-contract staff the protection and rights which they are entitled to under the

employment legislation and employment contracts. OGCIO also encourages T-contractors to communicate with T-contract staff regularly to understand their work, and provide advice and assistance on issues such as career prospects and benefits, etc.

### **Promotion of futsal in Hong Kong**

20. **DR PIERRE CHAN** (in Chinese): *President, some members of the sports community have pointed out that futsal has become increasingly popular in Asia and even around the world, and has been listed as one of the events of the Youth Olympic Games in summer 2018 and the East Asian Youth Games in 2019. However, as futsal in Hong Kong has not gained enough attention from the Government and the Hong Kong Football Association ("HKFA"), the development of the sport is hindered by the lack of facilities and policy support. In this connection, will the Government inform this Council:*

- (1) *whether it knows the respective current rankings in the world and in Asia for the Men Team and the Women Team of the Hong Kong Futsal Representative Team in the Federation Internationale de Football Association ("FIFA");*
- (2) *whether it has studied the development of futsal in Hong Kong and how it compares with that in the neighbouring countries/regions; if so, of the outcome; if not, whether it will expeditiously commission a consultancy study on this;*
- (3) *of the following information on each of the futsal pitches currently managed by the Leisure and Cultural Services Department ("LCSD") (set out in a table):*
  - (i) *address,*
  - (ii) *located indoors or outdoors,*
  - (iii) *length and width of the pitch,*
  - (iv) *pitch surfacing materials,*



- (v) *which of the following cases applies: installed with boundary fencing which also serves as rebound walls, installed with independent boundary fencing and rebound walls, or with none of these two facilities,*
  - (vi) *whether or not the pitch is in compliance with FIFA's standards for non-international matches,*
  - (vii) *whether or not the pitch is in compliance with FIFA's standards for international matches, and*
  - (viii) *construction cost;*
- (4) *whether it knows the respective numbers and year-on-year changes, in each of the past five years, of futsal (i) players, (ii) coaches (including holders of certificates of various levels of coaching issued by HKFA and the Asian Football Confederation) and (iii) referees, who were registered with HKFA;*
- (5) *of (i) the details of the promotional efforts dedicated to futsal made by the authorities (including such efforts' effectiveness and expenses), and (ii) the total attendance of players and spectators in the futsal matches organized or sponsored by LCSD, in each of the past five years; and*
- (6) *whether the authorities will, in the coming five years, construct new futsal pitches, or convert existing futsal pitches into ones, which meet FIFA's standards for international matches; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President,

- (1) At present, the Federation Internationale de Football Association ("FIFA") and the Asian Football Confederation ("AFC") have not set up world ranking or Asian ranking for men or women's futsal teams.
- (2) In 2013, the Hong Kong Football Association ("HKFA") used Government funding to employ a Futsal Manager, together with the

Football Development Director and his team, to promote and develop Futsal in Hong Kong. The specific tasks include:

- (a) set up the Futsal League in 2013-2014. The number of participating teams has increased from the then 6 teams to a total of 11 teams in the First and Second Divisions in the current season (2016-2017 season);
- (b) with the support of Hong Kong Jockey Club, promote futsal in schools. In 2016-2017, over 250 teams of nearly 4 000 students participated in the Jockey Club Futsal Cup (School Division);
- (c) in "NIKE Five 2017", a total of 3 600 male and female players competed in 10 event groups;
- (d) set up futsal teams of different age groups, including Men's, Women's, Men's under 20, Boy's under 16, Boy's under 14 and Boy's under 12 years; and
- (e) provide resources for the training of coaches, referees and sports administrators to support the continued development of futsal.

The number of players participating in the futsal activities organized by HKFA has been increasing in recent years, from about 16 000 in 2015-2016 season to nearly 19 000 in early 2017. In recent years, HKFA has also sent teams to participate in international competitions, including the AFC Men's under 20 Futsal Competition in Thailand in this May, in which Hong Kong Team had a record of two wins and two losses, ranking the third in the Group.

At school level, nearly 200 teams participated in the futsal competition organized by the Hong Kong Schools Sports Federation ("HKSSF") in the 2016-2017 school year, an increase of 14% when compared to the previous year. In addition, led by HKSSF, the futsal team participated in the National Youth "Future Star" Sunshine Sports Games and attained a bronze and a gold medal in 2015 and 2016 respectively.

Since the implementation of the Five-Year Strategic Plan in 2015 by HKFA, futsal has been under development. HKFA will continue the efforts in the promotion of futsal and keep close attention to its development in neighbouring regions.

- (3) There are 72 futsal pitches managed by Leisure and Cultural Services Department ("LCSD"). Relevant information is set out at the Annex.
- (4) Over the past five years, the numbers and year-on-year changes of futsal players, coaches and referees registered with HKFA are shown below:

	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Registered Number of Players	Not Applicable <sup>Note</sup>	101	164 (+64%)	244 (+48.7%)	238 (-2%)
Registered Number of Coaches	15	34 (+126.7%)	47 (+38.2%)	72 (+53.2%)	75 (+4.2%)
Registered Number of Referees	82	113 (+37.8%)	120 (+6.2%)	125 (+4.2%)	133 (+6.4%)

Note:

The registration system for futsal players was established in 2013-2014.

- (5) LCSD has been striving to promote the "Sports for All" in the community and to organize various sports events. During the past five years, LCSD has organized 157 futsal activities, including Fun Days, training courses and matches, attracting 7 675 participants, with a total expenditure of \$1,759,500. Among these events, the biennial Hong Kong Games ("HKG") is a territory-wide major multi-sport event with the 18 District Councils as participating units. Futsal is one of the eight sports of HKG. The futsal matches in HKG attract huge spectators, reaching 8 000 spectators in last two HKGs (in 2013 and 2015).

In addition, LCSD also provides annual subvention to HKFA under the Sports Subvention Scheme to support its promotion and development of local football. During the past five years, LCSD provided funding support to HKFA in organizing 588 futsal activities, including school sports promotion, various district

matches, squad training and competition with a total of 41 629 participants, and the total subvention amounts to \$6,873,000.

- (6) Of the 72 futsal pitches under the management of LCSD, 41 pitches comply with FIFA's standards and, among them, 25 pitches also meet the standards for international matches. The Hong Kong Housing Authority is carrying out the re-provisioning work of a futsal pitch at the Northwest Kowloon Reclamation Site 6, Sham Shui Po. The pitch will comply with FIFA's standards after the re-provisioning work.

Moreover, there are two works projects under planning, namely the re-development of the Lam Wah Street Playground, Kwun Tong and Hoi Bun Road Park, Kwun Tong, which include improvement works of the futsal pitches for meeting FIFA's standards. Upon completion of the improvement works, the futsal pitch at Lam Wah Street Playground will comply with the standards for international matches. For these two projects, the Government will consult the relevant Panels of the Legislative Council and seek funding approval from the Finance Committee in accordance with the prevailing mechanism.

Annex

#### Information on the 5-a-side Soccer Pitches of LCSD

	<i>District</i>	<i>Venue</i>	<i>Indoor/Outdoor</i>	<i>No. of Pitches</i>	<i>Pitch Length (m)</i>	<i>Pitch Width (m)</i>	<i>Pitch Surfacing Material</i>	<i>Without Rebound Walls</i>	<i>Rebound Walls with Fencing</i>	<i>Separate Fencing and Rebound Walls</i>	<i>Conform to FIFA Standard for Non-international Matches</i>	<i>Conform to FIFA Standard for International Matches</i>	<i>Remarks</i>
1.	Central and Western	Li Sing Street Playground	Outdoor	1	22.7	12.1	Hard-surface Pitch	Yes	No	No	No	No	
2.	Central and Western	Sai Woo Lane Playground	Outdoor	1	30.1	18.2	Hard-surface Pitch	Yes	No	No	Yes	No	
3.	Eastern	Tin Chiu Street Playground	Outdoor	2	30.0	18.5	Hard-surface Pitch	No	Yes	No	No	No	

	<i>District</i>	<i>Venue</i>	<i>Indoor/Outdoor</i>	<i>No. of Pitches</i>	<i>Pitch Length (m)</i>	<i>Pitch Width (m)</i>	<i>Pitch Surfacing Material</i>	<i>Without Rebound Walls</i>	<i>Rebound Walls with Fencing</i>	<i>Separate Fencing and Rebound Walls</i>	<i>Conform to FIFA Standard for Non-international Matches</i>	<i>Conform to FIFA Standard for International Matches</i>	<i>Remarks</i>
4.	Eastern	Sheung On Street Playground	Outdoor	1	19.8	15.0	Hard-surface Pitch	Yes	No	No	No	No	
5.	Southern	Stanley Sports Centre	Indoor	1	32.8	19.8	Wooden Flooring	Yes	No	No	Yes	No	Provided in the multi-purpose arena
6.	Southern	Stanley Promenade	Outdoor	1	37.7	20.2	Hard-surface Pitch	Yes	No	No	Yes	No	
7.	Southern	Wong Chuk Hang Recreation Ground	Outdoor	2	39.7	21.8	Hard-surface Pitch	Yes	No	No	Yes	Yes	
8.	Kowloon City	Ede Road Playground	Outdoor	1	32.1	17.1	Hard-surface Pitch	Yes	No	No	Yes	No	
9.	Kowloon City	Hoi Sham Park	Outdoor	2	42.0	25.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
10.	Kwun Tong	Hoi Bun Road Park	Outdoor	1	37.0	30.0	Hard-surface Pitch	No	No	No	No	No	
11.	Kwun Tong	Lam Tin Park	Outdoor	1	32.0	22.0	Hard-surface Pitch	No	No	Yes	No	No	
12.	Kwun Tong	Lam Wah Street Playground	Outdoor	1	36.0	30.0	Hard-surface Pitch	No	No	Yes	No	No	
13.	Kwun Tong	Sam Ka Tsuen Recreation Ground	Outdoor	1	29.3	19.0	Hard-surface Pitch	Yes	No	No	Yes	No	
14.	Kwun Tong	Sau Nga Road Playground	Outdoor	1	38.0	25.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
15.	Kwun Tong	Shun Lee Tsuen Playground	Outdoor	1	38.0	25.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
16.	Sham Shui Po	Shek Kip Mei Park Sports Centre	Indoor	1	42.0	25.0	Wooden Flooring	Yes	No	No	Yes	Yes	Provided in the multi-purpose arena only for the futsal activities organized by LCSD or relevant National Sports Associations

	<i>District</i>	<i>Venue</i>	<i>Indoor/Outdoor</i>	<i>No. of Pitches</i>	<i>Pitch Length (m)</i>	<i>Pitch Width (m)</i>	<i>Pitch Surfacing Material</i>	<i>Without Rebound Walls</i>	<i>Rebound Walls with Fencing</i>	<i>Separate Fencing and Rebound Walls</i>	<i>Conform to FIFA Standard for Non-international Matches</i>	<i>Conform to FIFA Standard for International Matches</i>	<i>Remarks</i>
17.	Sham Shui Po	Fat Tseung Street West Playground	Outdoor	1	28.0	18.0	Hard-surface Pitch	Yes	No	No	Yes	No	
18.	Sham Shui Po	Tung Chau Street Park	Outdoor	1	28.5	18.5	Hard-surface Pitch	No	Yes	No	No	No	
19.	Wong Tai Sin	Choi Hung Road Playground	Outdoor	1	39.4	18.6	Hard-surface Pitch	No	No	No	No	No	
20.	Wong Tai Sin	Shek Ku Lung Road Playground	Outdoor	2	35.9	27.8	Hard-surface Pitch	No	No	No	No	No	
21.	Wong Tai Sin	Tsz Wan Shan Estate Service Reservoir Playground	Outdoor	1	42.0	25.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
22.	Yau Tsim Mong	MacPherson Playground	Outdoor	2	41.0	25.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
23.	Yau Tsim Mong	Sycamore Playground	Outdoor	1	40.0	20.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
24.	Islands	Tung Chung Road Soccer Pitch	Outdoor	1	28.0	18.0	Hard-surface Pitch	Yes	No	No	Yes	No	
25.	Kwai Tsing	Central Kwai Chung Park	Outdoor	2	28.7	16.3	Hard-surface Pitch	No	No	No	No	No	
26.	Kwai Tsing	Chung Mei Road Temporary Playground	Outdoor	1	29.4	19.8	Hard-surface Pitch	Yes	No	No	No	No	
27.	Kwai Tsing	Hing Fong Road Playground	Outdoor	2	42.0	22.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
28.	Kwai Tsing	Kwai Chung Sports Ground	Outdoor	2	42.0	25.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
29.	Kwai Tsing	Lai King Soccer Pitch	Outdoor	1	28.0	18.4	Hard-surface Pitch	Yes	No	No	Yes	No	
30.	Kwai Tsing	Liu To Road Playground	Outdoor	1	33.5	19.2	Hard-surface Pitch	Yes	No	No	Yes	No	
31.	Kwai Tsing	Tai Lin Pai Road Playground	Outdoor	1	33.5	21.2	Hard-surface Pitch	No	No	Yes	No	No	

	<i>District</i>	<i>Venue</i>	<i>Indoor/Outdoor</i>	<i>No. of Pitches</i>	<i>Pitch Length (m)</i>	<i>Pitch Width (m)</i>	<i>Pitch Surfacing Material</i>	<i>Without Rebound Walls</i>	<i>Rebound Walls with Fencing</i>	<i>Separate Fencing and Rebound Walls</i>	<i>Conform to FIFA Standard for Non-international Matches</i>	<i>Conform to FIFA Standard for International Matches</i>	<i>Remarks</i>
32.	Kwai Tsing	Tai Wo Hau Road Playground	Outdoor	1	36.4	18.8	Hard-surface Pitch	No	No	No	No	No	
33.	Kwai Tsing	Tai Wo Hau Road South Playground	Outdoor	1	29.3	17.9	Hard-surface Pitch	No	No	No	No	No	
34.	Kwai Tsing	Tsing Wah Playground	Outdoor	1	26.0	17.5	Hard-surface Pitch	Yes	No	No	No	No	
35.	Kwai Tsing	Wing Kei Road 5-a-side Soccer Pitch	Outdoor	1	28.0	17.5	Hard-surface Pitch	No	Yes	No	No	No	
36.	Kwai Tsing	Yip Shing Street Playground	Outdoor	1	27.4	16.1	Hard-surface Pitch	Yes	No	No	Yes	No	
37.	North	Kwu Tung Playground	Outdoor	1	30.0	21.5	Hard-surface Pitch	No	No	Yes	No	No	
38.	North	Tai Tau Ling Playground	Outdoor	2	30.0	21.5	Hard-surface Pitch	Yes	No	No	Yes	No	
39.	Sai Kung	Tseung Kwan O Sports Centre	Indoor	1	40.0	20.0	Wooden Flooring	Yes	No	No	Yes	Yes	Provided in the multi-purpose arena only for the futsal activities organized by LCSD or relevant National Sports Associations
40.	Sai Kung	Po Tsui Park	Outdoor	1	42.0	25.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
41.	Sai Kung	Wai Man Road Playground	Outdoor	1	30.0	20.0	Hard-surface Pitch	No	No	No	No	No	
42.	Sha Tin	Ma On Shan Sports Centre	Indoor	1	40.0	20.0	Wooden Flooring	Yes	No	No	Yes	Yes	Provided in the multi-purpose arena only for the futsal activities organized by LCSD or relevant National Sports Associations

	<i>District</i>	<i>Venue</i>	<i>Indoor/Outdoor</i>	<i>No. of Pitches</i>	<i>Pitch Length (m)</i>	<i>Pitch Width (m)</i>	<i>Pitch Surfacing Material</i>	<i>Without Rebound Walls</i>	<i>Rebound Walls with Fencing</i>	<i>Separate Fencing and Rebound Walls</i>	<i>Conform to FIFA Standard for Non-international Matches</i>	<i>Conform to FIFA Standard for International Matches</i>	<i>Remarks</i>
43.	Sha Tin	A Kung Kok Playground	Outdoor	1	25.2	15.3	Hard-surface Pitch	No	No	No	No	No	
44.	Sha Tin	Chui Tin Street Soccer Pitch	Outdoor	1	42.0	21.5	Hard-surface Pitch	Yes	No	No	Yes	Yes	
45.	Sha Tin	Hung Mui Kuk Road Playground	Outdoor	1	24.5	17.3	Hard-surface Pitch	No	No	Yes	No	No	
46.	Sha Tin	San Mei Street Playground	Outdoor	1	32.0	18.6	Hard-surface Pitch	Yes	No	No	No	No	
47.	Sha Tin	Wo Liu Hang Playground	Outdoor	1	32.8	21.0	Hard-surface Pitch	Yes	No	No	Yes	No	
48.	Tai Po	Fung Yuen Playground	Outdoor	1	25.0	15.0	Hard-surface Pitch	Yes	No	No	No	No	
49.	Tai Po	Wan Tau Kok Playground	Outdoor	1	28.0	18.4	Hard-surface Pitch	No	Yes	No	No	No	
50.	Tsuen Wan	Kwok Shui Road Park	Outdoor	1	37.0	18.0	Hard-surface Pitch	No	Yes	No	No	No	
51.	Tsuen Wan	Sha Tsui Road Playground	Outdoor	4	40.0	20.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
52.	Tsuen Wan	Shing Mun Valley Park	Outdoor	1	40.8	24.8	Hard-surface Pitch	Yes	No	No	Yes	Yes	
53.	Tsuen Wan	Tsuen King Circuit Recreation Ground and Rest Garden	Outdoor	1	30.0	20.0	Hard-surface Pitch	Yes	No	No	Yes	No	
54.	Tuen Mun	Butterfly Beach Park	Outdoor	1	28.0	19.5	Hard-surface Pitch	Yes	No	No	Yes	No	
55.	Yuen Long	Kik Yeung Road 5-a-side Football Pitch	Outdoor	2	28.2	18.0	Hard-surface Pitch	No	Yes	No	No	No	
56.	Yuen Long	Shui Mei Village Playground	Outdoor	1	25.0	13.0	Hard-surface Pitch	No	No	Yes	No	No	
57.	Yuen Long	Tin Ho Road Playground	Outdoor	1	26.0	16.0	Hard-surface Pitch	Yes	No	No	Yes	No	



	District	Venue	Indoor/Outdoor	No. of Pitches	Pitch Length (m)	Pitch Width (m)	Pitch Surfacing Material	Without Rebound Walls	Rebound Walls with Fencing	Separate Fencing and Rebound Walls	Conform to FIFA Standard for Non-international Matches	Conform to FIFA Standard for International Matches	Remarks
58.	Yuen Long	Tin Shui Wai Park	Outdoor	1	40.0	24.0	Hard-surface Pitch	Yes	No	No	Yes	Yes	
59.	Yuen Long	Yuen Long Park	Outdoor	1	29.5	22.5	Hard-surface Pitch	No	Yes	No	No	No	
Total No. of Courts/Pitches:				72									

Remarks:

As most of the 5-a-side soccer pitches form part of the facilities provided in the public leisure venues, LCSO does not have separate figures on the construction cost of individual facilities.

## Food Truck Pilot Scheme

21. **MR KENNETH LEUNG** (in Chinese): *President, in July last year, the Government selected 16 applicants to join the Food Truck Pilot Scheme ("the Pilot Scheme"). Since the official launch of the Pilot Scheme on 2 February this year, 12 food trucks have commenced business after obtaining the relevant licences. The various food trucks are required to operate in eight designated tourist locations on a rotational basis. However, some operators have pointed out that their businesses at certain operating locations are poor due to low flow of people. Shortly after the launch of the Pilot Scheme, an operator dropped out before commencing operation. After the introduction of a number of enhancement measures by the authorities in April this year, another operator dropped out before commencing operation. In this connection, will the Government inform this Council:*

- (1) *whether the authorities have, since the official launch of the Pilot Scheme, compiled statistics on the operation of food trucks (including the flow of people and the turnover of the operators at different times at various operating locations); if so, of the outcomes; if not, whether they will compile such statistics;*

- (2) *whether the authorities will consider changing the positioning of the Pilot Scheme as a tourism promotion project, and designating more locations with a heavy flow of people as the operating locations for food trucks so as to improve the business environment of food trucks; if so, of the details; if not, the reasons for that;*
- (3) *whether it has established a mechanism for maintaining communication with the operators continuously, so as to understand the operational difficulties encountered by them; if so, of the details; if not, the reasons for that; and*
- (4) *whether it has gained an understanding about the reasons for some operators dropping out of the Pilot Scheme, and conducted a review of the Pilot Scheme to prevent other operators from dropping out; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, the Food Truck Pilot Scheme ("the Scheme") was launched in February 2017 for two years with an aim to enhancing the attractiveness of tourist attractions in Hong Kong by providing diverse, creative and high quality food options to tourists and the locals while at the same time showcasing good hygiene and food safety. Currently, there are 14 food trucks in operation. We hope the Scheme can bring more specialty gourmet food and complement the existing food landscape in Hong Kong. It is not intended to drive consumers away from the existing restaurants. The Scheme is launched as pilot. The suitability of its operating locations, operating mode and how smooth it would be implemented are not foreseeable before the launch, and it takes time to learn the experience from various trials. Tourism Commission has set up a designated office to provide one-stop service to the food truck operators. The designated office has been maintaining close contact with and collecting feedback from food truck operators and operating locations since the launch of the Scheme in February with a view to adjusting and enhancing the Scheme as appropriate. In mid-April, we announced a variety of refinement measures, including the addition of food trucks' operating locations and introduction of a more flexible operating mode. These measures have been rolled out successively since end May/early June.

Replies to the questions raised by Mr Kenneth LEUNG are as follows:

- (1) Tourism Commission would observe the general operating condition of each food truck during the initial period after its commencement of business. As of now, Hong Kong Disneyland is the venue with most satisfactory business performance, while the business performance at Energizing Kowloon East Venue 1, Central Harbourfront Event Space and Ocean Park is less satisfactory.

Food truck operators are required to provide financial statements to operating locations on their gross receipts for the relevant trading period. According to the financial statements submitted by the 11 operators, there is one food truck with total gross receipts over \$1,000,000, two over \$800,000, one over \$700,000, two over \$400,000, three over \$200,000 and two below \$200,000. It is worth noting that those food trucks with total gross receipts less than \$200,000 have conducted business for less than 50 days. In this light, food truck business is comparable to that of newly opened restaurants.

- (2) In the 2015-2016 Budget, the Government announced that it would consider introducing food truck which is popular abroad to Hong Kong and take forward the Scheme as a tourism project. The Government made reference to the experience of food truck's operation overseas and introduced food trucks to Hong Kong under a step-by-step approach. Under the Scheme, food trucks have to operate at designated attractions. The advantage of tourist attraction is its ability to attract people traffic from both locals and tourists, and tourists visiting the attractions differ daily. Our arrangement of food trucks to operate at tourist attractions has helped widen the source of customers.

We have discussed with the catering industry in choosing suitable operating locations for food trucks. An important consideration is to avoid direct competition with the existing restaurants. As streets in Hong Kong are generally narrow, the parking spots of food trucks should avoid blocking people and vehicular flow. The operating

locations should allow food trucks to do business while at the same time not competing with the existing restaurants. We have been always open-minded to the operating locations of food trucks, and are willing to consider if there are operating locations fulfilling the requirements of the Scheme and the parking spots satisfying the above criteria.

We designated eight tourist attractions as the operating locations when devising the scheme. In the past four months, we noticed that the people traffic at some locations is higher and more stable while the people traffic at some locations is concentrated at a specific period of time. In view of this, we introduced refinement measures by different phases with a view to bringing more business opportunities and source of customers to food trucks. For instance, Meetings, Incentives, Conventions and Exhibitions ("MICE") travel is one of the important aspects of tourism and we therefore introduced AsiaWorld-Expo and Science Park as optional venues in April. When there are suitable MICE events, food trucks can choose to operate at the two venues to test out their business sense as well as marketing and sales strategies.

On the other hand, in accordance with the signed agreement between food truck operators and operating locations, operators have to operate at mega events designated by Tourism Commission and organized by the Hong Kong Tourism Board ("HKTB") to test out the ambience and effect of all food trucks appearing at mega events. The first such event is the Food Trucks Gala at the Hong Kong Dragon Boat Carnival ("the Carnival") held in early June recently. Fourteen food trucks operated at three consecutive days at the Carnival, which enhanced the ambience of the Carnival and provided more food options to tourists and local residents. The business performance of all food trucks at the Carnival is satisfactory. This year, we will continue to arrange food trucks to participate in mega events organized by HKTB such as the Esports and Music Festival Hong Kong in early August, Hong Kong Cyclothon in October and Hong Kong New Year Countdown Celebrations, etc. Besides, food truck operators can identify and participate in events with local

characteristics and appeal to visitors on their own volition. We are given to understand that seven food trucks will operate at the Celebration of the 20<sup>th</sup> Anniversary of the Establishment of HKSAR—Tai Po Music and Arts Carnival on 30 June.

The Scheme has been launched for four months only and it takes time for the refinement measures to take effect. To avoid creating complication to the community and other industry stakeholders, we consider it inappropriate to adjust the positioning of the Scheme.

- (3) The Food Truck Office of Tourism Commission has been maintaining close contact with food truck operators to assist them in applying licences and hold regular meetings with them to understand their operating condition with a view to duly adjust the Scheme.
- (4) The Scheme has laid down mechanism for handling withdrawal and replacement of food trucks. In case of withdrawal from the Scheme by a selected applicant, we will invite those on the waiting list to take up the vacancy. The withdrawal of Chrisly Café and Xiao Tian Gu is due to their own business considerations. In fact, each operator has different considerations on food truck's operating mode, risk assessment and projected investment of resources. How to compete for business and excel in a level playing field is a challenge to the food truck operators in terms of marketing strategies, creativity and quality of food, food pricing, service standard and promotional strategies, etc.

The vacancies left by Chrisly Café and Xiao Tian Gu will be taken up by JAJAMBAO and The Butchers Club. Both of them are required to obtain the operating licences within six months after the issue of the Notice of Conditional Recommendation. The Food Truck Office of Tourism Commission will continue to maintain close contact with the applicants and provide necessary assistance on vehicle installation and licence application, etc.

**Statistics on domestic household income and employment earnings of employed persons**

22. **DR YIU CHUNG-YIM** (in Chinese): *President, will the Government, on the basis of the Quarterly Reports on General Household Survey published by the Census and Statistics Department, provide this Council with the following annual statistics for 1997, 2002, 2007, 2012 and 2016:*

- (1) *the range, median and mean of the monthly domestic household income of each of the decile groups into which all domestic households are divided after being ranked in terms of their monthly incomes (in ascending order);*
- (2) *the range, median and mean of the per-capita monthly household income of each of the decile groups into which all Hong Kong people are divided after being ranked in terms of their per-capita monthly household incomes (in ascending order);*
- (3) *the range, median and mean of the employment earnings of employed persons of each of the decile groups into which all employed persons are divided after being ranked in terms of their monthly employment earnings (in ascending order);*
- (4) *in respect of the decile groups into which all employed persons are divided after being ranked in terms of their monthly employment earnings (in ascending order), a further breakdown of the employed persons of each group respectively by gender, age group, educational attainment, employment status (i.e. employee, employer and self-employed), industry section and occupational group; and*
- (5) *the respective Gini coefficients compiled on the basis of (i) monthly domestic household income, (ii) per-capita monthly household income, and (iii) employment earnings of employed persons?*

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

(1) to (4)

Based on data obtained from the General Household Survey ("GHS") conducted by the Census and Statistics Department ("C&SD"), the relevant statistical figures of 1997, 2002, 2007, 2012 and 2016 are given at Annexes 1 to 4 respectively.

(5) Since the sample size of GHS is not sufficient for compiling precise Gini Coefficients, it is an established practice that C&SD compiles Gini Coefficients based on population censuses/by-censuses which have larger sample sizes. Based on such data, the Gini Coefficients by household income, per capita household income and income for main employment for 1996, 2001, 2006, 2011 and 2016 are given in the table below:

<i>Gini Coefficient</i>	1996	2001	2006	2011	2016
Household income	0.518	0.525	0.533	0.537	0.539
Per capita household income	0.493	0.491	0.502	0.507	0.499
Income from main employment	0.483	0.488	0.500	0.509	0.495

The above Gini Coefficients reflect households' income disparity in terms of cash income. Analyses of household income in cash alone may not be able to reflect fully the actual economic well-being of households. Government policies through taxation and in-kind social benefits (including education, housing and medical) also have an overall redistributive impact on household income. Accordingly, C&SD also compiles Gini Coefficients based on household income after tax and transfer of in-kind social benefits, relevant figures of which are presented in the table below:

<i>Gini Coefficient</i>	1996	2001	2006	2011	2016
Post-tax post-social transfer household income	0.466	0.470	0.475	0.475	0.473
Per capita post-tax post-social transfer household income	0.427	0.421	0.427	0.431	0.420

For the concepts and estimation methods of the above Gini Coefficients, please refer to "2016 Population By-census Thematic Report: Household Income Distribution in Hong Kong" <[www.censtatd.gov.hk/hkstat/sub/sp459.jsp](http://www.censtatd.gov.hk/hkstat/sub/sp459.jsp)>.

Range, Median and Average of Monthly Household Income by Decile Group of  
Monthly Income of Domestic Households

Year: 1997

<i>Decile Group</i>	<i>Range of monthly household income (HK\$)</i>	<i>Median monthly household income (HK\$)</i>	<i>Average monthly household income (HK\$)</i>
1 <sup>st</sup>	≤7,000	4,200	4,100
2 <sup>nd</sup>	7,000-10,000	8,700	8,700
3 <sup>rd</sup>	10,000-12,200	11,000	11,000
4 <sup>th</sup>	12,200-15,300	14,000	14,000
5 <sup>th</sup>	15,300-19,000	17,000	17,100
6 <sup>th</sup>	19,000-23,000	20,400	20,700
7 <sup>th</sup>	23,000-28,500	25,000	25,400
8 <sup>th</sup>	28,500-35,900	31,500	31,800
9 <sup>th</sup>	35,900-50,900	42,000	42,500
10 <sup>th</sup>	≥50,900	70,600	86,500

Year: 2002

<i>Decile Group</i>	<i>Range of monthly household income (HK\$)</i>	<i>Median monthly household income (HK\$)</i>	<i>Average monthly household income (HK\$)</i>
1 <sup>st</sup>	≤4,700	3,100	2,700
2 <sup>nd</sup>	4,700-7,800	6,200	6,200
3 <sup>rd</sup>	7,800-10,300	9,000	9,100
4 <sup>th</sup>	10,300-13,500	12,000	11,800
5 <sup>th</sup>	13,500-17,000	15,000	15,200
6 <sup>th</sup>	17,000-21,000	19,400	19,200
7 <sup>th</sup>	21,000-27,000	24,000	24,000
8 <sup>th</sup>	27,000-35,000	30,100	30,800
9 <sup>th</sup>	35,000-50,800	41,000	42,000
10 <sup>th</sup>	≥50,800	72,000	87,300

Year: 2007

<i>Decile Group</i>	<i>Range of monthly household income (HK\$)</i>	<i>Median monthly household income (HK\$)</i>	<i>Average monthly household income (HK\$)</i>
1 <sup>st</sup>	≤4,700	3,200	2,800
2 <sup>nd</sup>	4,700-7,900	6,300	6,300



<i>Decile Group</i>	<i>Range of monthly household income (HK\$)</i>	<i>Median monthly household income (HK\$)</i>	<i>Average monthly household income (HK\$)</i>
3 <sup>rd</sup>	7,900-10,700	9,100	9,200
4 <sup>th</sup>	10,700-13,900	12,000	12,200
5 <sup>th</sup>	13,900-17,500	15,500	15,600
6 <sup>th</sup>	17,500-22,000	20,000	19,600
7 <sup>th</sup>	22,000-28,000	24,800	24,700
8 <sup>th</sup>	28,000-36,000	31,000	31,600
9 <sup>th</sup>	36,000-53,500	43,300	43,800
10 <sup>th</sup>	≥53,500	75,400	96,600

Year: 2012

<i>Decile Group</i>	<i>Range of monthly household income (HK\$)</i>	<i>Median monthly household income (HK\$)</i>	<i>Average monthly household income (HK\$)</i>
1 <sup>st</sup>	≤5,000	3,500	2,900
2 <sup>nd</sup>	5,000-9,000	7,000	7,000
3 <sup>rd</sup>	9,000-12,400	10,700	10,700
4 <sup>th</sup>	12,400-16,500	14,600	14,400
5 <sup>th</sup>	16,500-21,000	19,000	18,800
6 <sup>th</sup>	21,000-26,500	23,700	23,600
7 <sup>th</sup>	26,500-33,500	30,000	29,800
8 <sup>th</sup>	33,500-43,800	38,000	38,200
9 <sup>th</sup>	43,800-64,400	52,000	52,700
10 <sup>th</sup>	≥64,400	90,000	112,700

Year: 2016

<i>Decile Group</i>	<i>Range of monthly household income (HK\$)</i>	<i>Median monthly household income (HK\$)</i>	<i>Average monthly household income (HK\$)</i>
1 <sup>st</sup>	≤5,200	3,700	3,000
2 <sup>nd</sup>	5,200-10,000	7,900	7,700
3 <sup>rd</sup>	10,000-15,000	12,100	12,300
4 <sup>th</sup>	15,000-20,000	17,000	17,200
5 <sup>th</sup>	20,000-25,200	22,300	22,400
6 <sup>th</sup>	25,200-32,000	29,000	28,700
7 <sup>th</sup>	32,000-40,000	36,000	36,100
8 <sup>th</sup>	40,000-53,000	46,000	46,200
9 <sup>th</sup>	53,000-77,900	62,300	63,200
10 <sup>th</sup>	≥77,900	105,000	134,600

Range, Median and Average of Per Capita Monthly Household Income  
by Decile Group of Per Capita Monthly Income of Domestic Households

Year: 1997

<i>Decile Group</i>	<i>Range of per capita monthly household income (HK\$)</i>	<i>Median per capita monthly household income (HK\$)</i>	<i>Average per capita monthly household income (HK\$)</i>
1 <sup>st</sup>	≤2,400	2,000	1,800
2 <sup>nd</sup>	2,400-3,200	2,800	2,800
3 <sup>rd</sup>	3,200-4,000	3,600	3,600
4 <sup>th</sup>	4,000-5,000	4,500	4,500
5 <sup>th</sup>	5,000-6,000	5,400	5,400
6 <sup>th</sup>	6,000-7,300	6,700	6,600
7 <sup>th</sup>	7,300-9,000	8,100	8,200
8 <sup>th</sup>	9,000-12,000	10,100	10,400
9 <sup>th</sup>	12,000-18,800	14,600	14,700
10 <sup>th</sup>	≥18,800	26,900	34,400

Year: 2002

<i>Decile Group</i>	<i>Range of per capita monthly household income (HK\$)</i>	<i>Median per capita monthly household income (HK\$)</i>	<i>Average per capita monthly household income (HK\$)</i>
1 <sup>st</sup>	≤2,100	1,500	1,300
2 <sup>nd</sup>	2,100-2,800	2,500	2,500
3 <sup>rd</sup>	2,800-3,500	3,200	3,200
4 <sup>th</sup>	3,500-4,400	4,000	3,900
5 <sup>th</sup>	4,400-5,500	5,000	4,900
6 <sup>th</sup>	5,500-6,800	6,100	6,100
7 <sup>th</sup>	6,800-8,800	7,700	7,700
8 <sup>th</sup>	8,800-12,000	10,000	10,200
9 <sup>th</sup>	12,000-19,000	14,800	14,800
10 <sup>th</sup>	≥19,000	27,800	34,800

Year: 2007

<i>Decile Group</i>	<i>Range of per capita monthly household income (HK\$)</i>	<i>Median per capita monthly household income (HK\$)</i>	<i>Average per capita monthly household income (HK\$)</i>
1 <sup>st</sup>	≤2,300	1,700	1,500
2 <sup>nd</sup>	2,300-3,100	2,800	2,700
3 <sup>rd</sup>	3,100-3,900	3,500	3,500
4 <sup>th</sup>	3,900-4,900	4,400	4,400
5 <sup>th</sup>	4,900-6,000	5,400	5,400
6 <sup>th</sup>	6,000-7,500	6,700	6,700
7 <sup>th</sup>	7,500-9,500	8,300	8,400
8 <sup>th</sup>	9,500-12,800	10,900	11,000
9 <sup>th</sup>	12,800-20,000	15,500	16,000
10 <sup>th</sup>	≥20,000	30,000	38,000

Year: 2012

<i>Decile Group</i>	<i>Range of per capita monthly household income (HK\$)</i>	<i>Median per capita monthly household income (HK\$)</i>	<i>Average per capita monthly household income (HK\$)</i>
1 <sup>st</sup>	≤2,800	2,000	1,600
2 <sup>nd</sup>	2,800-3,800	3,300	3,300
3 <sup>rd</sup>	3,800-4,800	4,300	4,300
4 <sup>th</sup>	4,800-6,000	5,300	5,400
5 <sup>th</sup>	6,000-7,300	6,600	6,600
6 <sup>th</sup>	7,300-9,000	8,100	8,100
7 <sup>th</sup>	9,000-11,300	10,000	10,100
8 <sup>th</sup>	11,300-15,100	13,000	13,100
9 <sup>th</sup>	15,100-23,800	18,600	18,800
10 <sup>th</sup>	≥23,800	34,600	45,100

Year: 2016

<i>Decile Group</i>	<i>Range of per capita monthly household income (HK\$)</i>	<i>Median per capita monthly household income (HK\$)</i>	<i>Average per capita monthly household income (HK\$)</i>
1 <sup>st</sup>	≤3,200	2,200	1,800
2 <sup>nd</sup>	3,200-4,700	4,000	4,000

<i>Decile Group</i>	<i>Range of per capita monthly household income (HK\$)</i>	<i>Median per capita monthly household income (HK\$)</i>	<i>Average per capita monthly household income (HK\$)</i>
3 <sup>rd</sup>	4,700-6,000	5,200	5,300
4 <sup>th</sup>	6,000-7,400	6,700	6,700
5 <sup>th</sup>	7,400-9,000	8,200	8,200
6 <sup>th</sup>	9,000-11,000	10,000	10,000
7 <sup>th</sup>	11,000-13,800	12,300	12,300
8 <sup>th</sup>	13,800-18,300	15,600	15,800
9 <sup>th</sup>	18,300-28,100	22,000	22,400
10 <sup>th</sup>	≥28,100	40,500	53,500

Annex 3

Range, Median and Average of Monthly Employment Earnings of  
Employed Persons by Decile Group of Monthly Employment Earnings of  
Employed Persons

Year: 1997

<i>Decile Group</i>	<i>Range of monthly employment earnings of employed persons (HK\$)</i>	<i>Median monthly employment earnings of employed persons (HK\$)</i>	<i>Average monthly employment earnings of employed persons (HK\$)</i>
1 <sup>st</sup>	≤5,000	3,800	3,400
2 <sup>nd</sup>	5,000-7,000	6,000	5,800
3 <sup>rd</sup>	7,000-8,000	7,500	7,400
4 <sup>th</sup>	8,000-9,000	8,500	8,500
5 <sup>th</sup>	9,000-10,000	10,000	9,700
6 <sup>th</sup>	10,000-12,000	11,000	10,800
7 <sup>th</sup>	12,000-15,000	13,000	13,100
8 <sup>th</sup>	15,000-19,500	16,000	16,300
9 <sup>th</sup>	19,500-28,000	20,100	22,000
10 <sup>th</sup>	≥28,000	40,000	51,000

Year: 2002

<i>Decile Group</i>	<i>Range of monthly employment earnings of employed persons (HK\$)</i>	<i>Median monthly employment earnings of employed persons (HK\$)</i>	<i>Average monthly employment earnings of employed persons (HK\$)</i>
1 <sup>st</sup>	≤3,700	3,200	2,600
2 <sup>nd</sup>	3,700-5,700	4,900	4,700
3 <sup>rd</sup>	5,700-7,000	6,500	6,400
4 <sup>th</sup>	7,000-8,500	8,000	7,800
5 <sup>th</sup>	8,500-10,000	9,500	9,400
6 <sup>th</sup>	10,000-12,000	11,000	11,000
7 <sup>th</sup>	12,000-15,000	13,800	13,700
8 <sup>th</sup>	15,000-20,000	18,000	17,600
9 <sup>th</sup>	20,000-30,000	24,000	24,200
10 <sup>th</sup>	≥30,000	41,700	54,300

Year: 2007

<i>Decile Group</i>	<i>Range of monthly employment earnings of employed persons (HK\$)</i>	<i>Median monthly employment earnings of employed persons (HK\$)</i>	<i>Average monthly employment earnings of employed persons (HK\$)</i>
1 <sup>st</sup>	≤3,500	3,200	2,500
2 <sup>nd</sup>	3,500-6,000	5,000	4,700
3 <sup>rd</sup>	6,000-7,000	6,500	6,500
4 <sup>th</sup>	7,000-8,500	8,000	7,900
5 <sup>th</sup>	8,500-10,000	9,500	9,400
6 <sup>th</sup>	10,000-12,000	11,000	11,200
7 <sup>th</sup>	12,000-15,000	14,000	13,900
8 <sup>th</sup>	15,000-20,000	18,000	18,000
9 <sup>th</sup>	20,000-30,000	25,000	25,100
10 <sup>th</sup>	≥30,000	45,000	59,200

Year: 2012

<i>Decile Group</i>	<i>Range of monthly employment earnings of employed persons (HK\$)</i>	<i>Median monthly employment earnings of employed persons (HK\$)</i>	<i>Average monthly employment earnings of employed persons (HK\$)</i>
1 <sup>st</sup>	≤3,700	3,600	2,900
2 <sup>nd</sup>	3,700-7,200	6,000	5,600
3 <sup>rd</sup>	7,200-9,000	8,000	8,100
4 <sup>th</sup>	9,000-10,500	9,500	9,500
5 <sup>th</sup>	10,500-12,000	11,000	11,300
6 <sup>th</sup>	12,000-15,000	13,000	13,400
7 <sup>th</sup>	15,000-19,000	16,000	16,300
8 <sup>th</sup>	19,000-25,000	20,000	21,300
9 <sup>th</sup>	25,000-38,000	30,000	30,300
10 <sup>th</sup>	≥38,000	52,500	70,500

Year: 2016

<i>Decile Group</i>	<i>Range of monthly employment earnings of employed persons (HK\$)</i>	<i>Median monthly employment earnings of employed persons (HK\$)</i>	<i>Average monthly employment earnings of employed persons (HK\$)</i>
1 <sup>st</sup>	≤4,200	4,000	3,300
2 <sup>nd</sup>	4,200-8,500	6,100	6,200
3 <sup>rd</sup>	8,500-11,000	10,000	9,800
4 <sup>th</sup>	11,000-13,000	12,000	11,800
5 <sup>th</sup>	13,000-15,000	14,000	14,000
6 <sup>th</sup>	15,000-18,000	16,000	16,200
7 <sup>th</sup>	18,000-22,000	20,000	19,800
8 <sup>th</sup>	22,000-30,000	25,000	25,800
9 <sup>th</sup>	30,000-45,000	35,000	35,900
10 <sup>th</sup>	≥45,000	60,500	82,300

## Annex 4

Number of Employed Persons by Gender, Age, Educational Attainment,  
Employment Status, Occupation, Industry and Decile Group of  
Monthly Employment Earnings of Employed Persons

1997:

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>
Total	316 400	316 400	316 400	316 400	316 400	316 400	316 400	316 400	316 400	316 400	3 163 600
Gender											
Male	55 000	148 200	185 300	198 900	212 500	222 500	223 600	213 400	214 700	235 600	1 909 700
Female	261 400	168 100	131 100	117 500	103 900	93 900	92 800	103 000	101 700	80 700	1 253 900
Age group											
15-24	43 300	71 400	87 700	70 200	46 200	39 100	31 400	26 200	10 400	2 100	428 100
25-34	92 100	49 000	81 800	95 000	104 800	110 000	116 800	128 100	121 300	89 700	988 700
35-44	91 300	69 000	66 800	76 900	87 900	96 200	102 900	103 500	115 300	136 900	946 700
45-54	49 500	67 700	50 100	50 900	56 300	53 000	49 100	44 700	53 300	68 300	542 900
55-64	27 600	47 400	26 100	20 800	18 800	15 900	14 600	12 100	14 100	17 000	214 500
65+	12 500	11 900	3 800	2 600	2 500	2 200	1 400	1 700	1 900	2 300	42 800
Educational attainment											
Primary and below	105 700	128 600	84 200	79 100	74 100	67 200	50 700	30 000	19 700	6 600	645 900
Lower secondary	43 100	82 500	81 900	78 000	71 500	67 600	60 800	41 000	26 400	8 500	561 300
Upper secondary	131 100	92 700	130 500	135 100	137 200	137 500	142 900	147 200	126 600	71 000	1 251 900
Post-secondary—non-degree	14 200	8 100	14 600	17 500	21 800	27 600	35 000	50 900	64 400	61 600	315 700
Post-secondary—degree	22 200	4 500	5 200	6 700	11 700	16 500	27 000	47 200	79 200	168 600	388 800
Employment status											
Employees	283 000	301 300	299 600	298 900	286 900	287 300	288 400	276 300	258 800	256 700	2 837 200
Employers	600	2 400	2 900	3 100	10 000	10 300	13 700	27 700	45 000	53 800	169 600
Self-employed	14 000	12 600	13 800	14 300	19 400	18 800	14 200	12 400	12 600	5 900	138 000
Unpaid family workers	18 800	*	*	*	*	*	*	*	*	*	18 800
Occupation											
Managers and administrators	600	700	900	1 200	4 900	6 100	12 500	30 100	66 000	124 000	247 000
Professionals	800	400	700	1 100	2 600	4 500	9 100	19 200	39 200	85 700	163 300
Associate professionals	6 900	12 700	18 400	25 300	39 600	51 400	68 600	100 300	114 700	85 800	523 700
Clerks	18 400	57 600	92 500	89 300	81 100	75 100	69 500	59 800	33 200	8 000	584 600
Service workers and shop sales workers	40 000	57 100	61 400	57 700	49 300	47 100	42 700	43 700	33 700	6 500	439 000
Craft and related workers	12 900	29 600	40 000	47 300	54 900	60 900	57 200	34 200	15 700	3 300	356 000
Plant and machine operators and assemblers	18 800	34 400	33 200	36 700	39 200	42 100	38 700	21 200	10 200	2 100	276 500
Elementary occupations	214 600	122 400	68 300	57 000	43 900	28 500	17 400	7 400	3 100	800	563 200
Other occupations	3 300	1 600	900	900	900	700	600	500	600	*	10 200

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Industry											
Manufacturing	38 000	67 100	53 200	44 900	43 700	43 900	42 900	40 400	37 400	31 500	443 000
Construction	8 500	22 500	33 500	38 700	41 900	44 200	40 600	30 200	23 200	19 900	303 100
Wholesale and import/export trades	11 500	32 800	49 600	47 700	49 200	48 300	48 000	52 200	59 000	59 200	457 600
Retail	27 100	39 700	40 900	33 400	26 600	22 600	18 700	18 200	16 000	8 800	251 800
Restaurants and hotels	26 000	48 700	35 900	32 900	28 800	27 400	22 000	13 200	10 600	5 900	251 400
Transport storage and communications	9 700	26 700	39 700	43 200	43 600	46 300	46 900	36 100	29 400	21 700	343 400
Financing insurance real estate and business services	8 100	34 100	32 200	30 700	33 300	36 300	42 800	50 400	55 400	81 900	405 100
Community social and personal services	184 000	42 700	29 900	42 600	46 300	44 000	50 300	72 700	82 300	83 500	678 200
Other industries	3 500	1 900	1 500	2 200	3 000	3 400	4 100	3 100	3 100	4 100	30 000

2002:

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Total	321 800	321 800	321 800	321 800	321 800	321 800	321 800	321 800	321 800	321 800	3 218 400
Gender											
Male	70 900	114 800	168 600	193 200	202 300	203 700	210 700	205 100	203 700	221 100	1 794 000
Female	251 000	207 100	153 200	128 700	119 500	118 100	111 200	116 700	118 100	100 700	1 424 400
Age group											
15-24	59 500	52 400	71 200	64 100	37 500	22 400	14 900	13 000	3 900	900	339 700
25-34	85 600	57 900	64 400	89 800	102 100	108 000	109 600	112 400	105 400	68 000	903 100
35-44	85 700	83 000	72 300	78 400	91 000	97 600	112 200	119 200	130 200	146 300	1 016 000
45-54	60 800	81 100	75 100	63 300	68 000	73 600	67 900	61 200	66 900	87 200	704 900
55-64	20 900	37 400	33 100	22 900	20 600	18 300	15 600	14 200	13 300	16 900	213 200
65+	9 500	10 000	5 900	3 200	2 700	1 900	1 800	1 900	2 200	2 500	41 700
Educational attainment											
Primary and below	83 200	106 700	79 300	57 800	53 700	52 600	37 100	21 500	10 800	3 900	506 700
Lower secondary	61 500	72 600	85 800	79 300	69 500	65 200	53 700	36 300	19 800	5 800	549 500
Upper secondary	136 200	116 600	130 900	145 100	146 400	142 700	147 700	144 700	123 700	54 500	1 288 400
Post-secondary—non-degree	14 100	13 000	16 800	24 500	27 600	29 000	35 300	47 200	61 700	51 100	320 100
Post-secondary—degree	26 800	12 900	9 100	15 300	24 700	32 300	48 000	72 100	105 900	206 600	553 700



	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Employment status											
Employees	259 700	288 600	285 500	285 600	281 800	289 800	286 000	278 100	275 100	274 000	2 804 200
Employers	6 200	4 100	4 900	6 000	11 700	11 300	17 000	26 900	34 400	40 000	162 400
Self-employed	34 800	29 100	31 500	30 200	28 400	20 800	18 800	16 900	12 300	7 800	230 700
Unpaid family workers	21 100	*	*	*	*	*	*	*	*	*	21 100
Occupation											
Managers and administrators	2 800	1 000	1 100	2 000	6 800	9 600	20 900	44 800	78 700	132 500	300 300
Professionals	1 400	1 100	900	1 900	4 300	7 300	14 700	26 300	41 000	97 100	196 000
Associate professionals	17 200	15 600	20 200	31 100	47 200	59 700	85 600	108 600	110 300	77 700	573 100
Clerks	20 800	31 400	69 400	88 900	86 200	80 500	66 100	51 400	34 900	6 100	535 700
Service workers and shop sales workers	54 000	57 400	72 100	63 300	52 800	44 800	41 500	36 600	40 300	5 800	468 600
Craft and related workers	15 300	26 200	33 800	40 800	46 100	44 800	44 600	26 300	9 000	1 300	288 200
Plant and machine operators and assemblers	12 400	22 300	29 900	37 900	38 000	35 600	33 600	20 500	6 100	1 000	237 100
Elementary occupations	195 300	165 400	93 000	55 100	39 900	38 800	14 400	6 800	1 600	*	610 600
Other occupations	2 600	1 400	1 300	900	700	700	400	500	*	*	8 700
Industry											
Manufacturing	17 100	27 600	30 600	31 200	32 500	32 100	32 800	32 700	28 400	22 800	287 800
Construction	16 800	26 300	33 100	38 200	39 700	34 800	34 400	26 900	19 200	14 900	284 100
Wholesale and import/export trades	15 000	21 500	39 400	52 800	56 900	58 000	62 500	61 600	56 500	52 000	476 200
Retail	36 200	33 900	48 700	41 000	31 200	21 900	17 600	14 600	10 900	6 300	262 200
Restaurants and hotels	22 500	43 700	40 000	32 400	30 000	26 700	22 400	11 800	6 800	3 500	239 800
Transport, storage and communications	13 000	22 800	39 400	45 600	43 000	44 200	46 600	38 800	27 500	22 400	343 100
Financing, insurance, real estate and business services	9 200	28 100	47 300	42 300	42 700	46 800	51 200	58 500	63 300	85 500	474 900
Community, social and personal services	189 200	116 200	41 800	37 000	44 500	54 700	51 400	73 700	105 700	110 800	825 000
Other industries	2 800	1 700	1 600	1 400	1 400	2 700	3 100	3 300	3 500	3 700	25 300

2007:

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Total	347 700	347 700	347 700	347 700	347 700	347 700	347 700	347 700	347 700	347 700	3 476 900
Gender											
Male	57 400	122 000	179 000	198 700	210 800	222 200	215 600	211 700	217 900	229 300	1 864 600
Female	290 300	225 700	168 700	149 000	136 900	125 500	132 100	136 000	129 800	118 400	1 612 400
Age group											
15-24	69 800	51 600	72 100	62 600	40 100	25 800	16 200	8 500	3 100	1 100	351 000
25-34	103 900	51 000	66 000	100 500	111 500	110 800	109 900	106 100	93 600	56 500	909 700
35-44	79 700	75 900	67 400	71 800	84 000	90 800	106 800	119 900	134 300	144 500	975 200
45-54	62 800	104 300	91 000	78 600	77 500	88 500	85 800	85 300	90 500	110 000	874 500
55-64	24 400	54 800	46 100	30 900	31 100	29 800	26 900	24 900	23 200	32 100	324 200
65+	7 100	10 100	5 000	3 200	3 500	2 100	2 100	2 900	3 000	3 300	42 300
Educational attainment											
Primary and below	73 900	108 900	72 600	50 100	44 600	40 000	26 400	14 800	7 200	3 000	441 600
Lower secondary	69 100	88 900	95 000	80 900	67 700	65 400	51 600	32 200	16 100	6 000	572 900
Upper secondary	145 300	121 900	150 200	165 900	163 800	154 400	158 600	151 500	118 200	57 500	1 387 300
Post-secondary—non-degree	21 000	13 700	21 300	32 200	34 000	36 000	39 900	46 400	54 300	39 000	337 800
Post-secondary—degree	38 400	14 300	8 600	18 500	37 600	51 800	71 100	102 800	151 900	242 200	737 400
Employment status											
Employees	295 700	319 200	318 100	316 600	311 800	314 100	308 100	301 400	297 500	301 400	3 084 100
Employers	2 400	2 800	3 100	3 800	7 600	9 000	16 300	26 100	36 000	36 600	143 700
Self-employed	29 900	25 700	26 400	27 200	28 300	24 600	23 300	20 200	14 200	9 700	229 400
Unpaid family workers	19 700	*	*	*	*	*	*	*	*	*	19 800
Occupation											
Managers and administrators	2 200	1 000	1 300	2 200	7 300	9 400	23 300	54 000	99 100	149 600	349 400
Professionals	1 400	1 800	800	1 800	5 000	11 000	19 700	34 400	57 200	107 500	240 700
Associate professionals	17 300	18 300	21 700	36 100	59 400	82 200	111 800	132 700	114 700	77 500	671 600
Clerks	23 000	36 700	73 500	94 300	95 400	77 900	65 100	49 400	23 400	5 000	543 600
Service workers and shop sales workers	62 200	72 900	84 000	81 200	56 800	52 100	46 700	36 000	40 000	5 500	537 300
Craft and related workers	6 600	22 000	28 600	37 000	44 800	51 100	41 300	21 100	7 300	1 500	261 300
Plant and machine operators and assemblers	7 000	19 300	28 300	35 100	38 000	37 200	30 500	15 600	4 800	1 000	217 000
Elementary occupations	226 300	174 700	108 700	59 500	40 700	26 400	9 000	4 200	1 200	*	650 900
Other occupations	1 600	900	700	600	400	300	300	300	*	*	5 100

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Industry											
Manufacturing	10 400	22 800	20 500	20 600	21 000	23 300	22 600	24 000	21 300	13 500	200 000
Construction	8 400	23 900	32 300	37 900	39 900	40 200	35 200	25 700	18 300	13 000	274 800
Wholesale and import/export trades	15 700	24 300	45 900	58 900	72 900	71 400	76 900	82 600	79 700	67 900	596 200
Retail	31 900	39 200	52 900	46 300	33 900	27 000	19 400	17 200	11 600	7 600	287 100
Restaurants and hotels	22 400	49 200	42 400	38 400	28 100	28 500	23 900	12 800	8 000	4 900	258 700
Transport, storage and communications	11 800	26 900	44 300	50 300	50 200	50 000	46 900	38 900	29 600	23 000	371 900
Financing, insurance, real estate and business services	8 700	33 300	56 600	43 400	47 900	50 700	59 000	66 700	74 800	105 300	546 400
Community, social and personal services	236 500	126 400	51 400	50 900	52 400	54 500	60 900	77 200	101 200	108 700	920 200
Other industries	1 900	1 700	1 400	900	1 400	2 100	2 900	2 600	3 100	3 700	21 700

## 2012:

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Total	365 800	365 800	365 800	365 800	365 800	365 800	365 800	365 800	365 800	365 800	3 658 000
Gender											
Male	50 500	124 800	171 000	197 200	219 900	228 400	221 200	218 500	221 800	243 300	1 896 600
Female	315 300	241 000	194 800	168 600	145 900	137 400	144 600	147 300	144 000	122 500	1 761 400
Age group											
15-24	52 700	40 100	59 300	49 400	36 700	25 600	15 200	9 100	2 800	2 200	293 100
25-34	126 300	57 000	74 400	97 700	114 600	114 400	112 100	100 600	89 800	49 500	936 400
35-44	90 200	70 500	63 600	70 600	77 100	88 800	100 100	109 100	125 100	124 900	920 100
45-54	57 700	103 400	91 800	89 200	85 800	89 700	95 700	106 000	109 100	133 900	962 400
55-64	31 600	78 600	67 900	52 900	47 700	43 100	39 500	37 000	34 200	49 000	481 500
65+	7 300	16 300	8 800	5 900	3 800	4 100	3 200	4 000	4 800	6 300	64 500
Educational attainment											
Primary and below	60 800	95 400	71 000	45 700	39 000	30 600	21 900	12 300	4 100	1 700	382 500
Lower secondary	61 700	89 700	93 900	78 200	66 100	60 100	44 600	25 400	13 500	5 200	538 500
Upper secondary	181 100	143 600	161 400	178 800	174 500	167 600	162 100	147 600	107 000	46 200	1 469 900
Post-secondary—non-degree	17 800	16 000	23 500	29 800	35 600	38 000	40 600	43 000	43 700	28 200	316 100
Post-secondary—degree	44 400	21 100	16 000	33 300	50 500	69 500	96 600	137 500	197 500	284 400	950 900

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Employment status											
Employees	321 500	328 900	338 900	333 300	337 100	334 500	329 700	317 800	319 000	321 600	3 282 200
Employers	2 400	2 600	2 900	5 300	4 700	7 200	12 000	22 700	27 800	33 300	120 900
Self-employed	26 900	34 300	24 000	27 100	24 000	24 100	24 200	25 300	19 000	10 900	239 900
Unpaid family workers	15 000	*	*	*	*	*	*	*	*	*	15 000
Occupation											
Managers and administrators	2 700	1 500	2 200	4 900	6 600	13 000	27 600	64 900	113 100	172 900	409 300
Professionals	1 600	1 800	2 100	3 800	5 600	9 800	17 400	37 100	69 100	121 900	270 100
Associate professionals	17 100	21 000	21 600	39 300	61 700	89 600	129 400	145 400	125 100	64 500	714 700
Clerical support workers	13 100	29 100	70 500	89 200	89 000	81 200	67 900	45 000	16 500	1 600	503 200
Service and sales workers	61 700	88 200	100 200	89 900	75 900	63 000	46 200	39 900	34 200	3 800	603 000
Craft and related workers	5 200	20 400	23 700	32 400	45 600	50 900	43 100	20 000	4 300	600	246 200
Plant and machine operators and assemblers	4 500	17 500	24 400	27 800	33 000	34 700	24 600	10 200	2 800	400	180 000
Elementary occupations	258 800	185 600	120 600	78 100	47 900	23 100	9 200	3 200	600	*	727 200
Other occupations	1 000	700	500	500	500	500	300	*	*	*	4 300
Industry											
Manufacturing	5 800	13 900	14 300	14 100	14 800	14 600	14 200	15 200	14 400	12 000	133 400
Construction	6 100	23 900	27 800	34 000	42 200	46 200	42 200	31 800	20 700	15 100	290 100
Import/export trade and wholesale	11 000	26 900	46 700	56 400	60 600	64 800	72 100	78 300	74 500	70 500	561 900
Retail	28 400	48 900	56 000	49 100	40 000	29 900	24 400	20 300	14 200	9 600	320 700
Accommodation and food services	20 900	43 800	49 400	38 900	33 400	33 500	21 900	13 000	7 100	4 300	266 300
Transportation, storage, postal and courier services, information and communications	12 600	31 300	45 600	49 800	56 500	58 000	56 100	47 300	40 400	36 300	434 100
Financing, insurance, real estate, professional and business services	18 900	74 200	71 900	65 700	62 000	62 000	68 700	73 300	80 500	113 500	690 800

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Public administration, social and personal services	260 500	101 400	52 900	56 400	53 900	53 800	62 800	83 500	110 500	101 100	936 800
Other industries	1 500	1 300	1 100	1 500	2 600	2 800	3 400	3 100	3 300	3 400	24 000

## 2016:

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Total	378 700	378 700	378 700	378 700	378 700	378 700	378 700	378 700	378 700	378 700	3 787 100
Gender											
Male	59 000	111 700	165 500	192 700	218 700	236 300	231 500	231 200	228 000	247 600	1 922 100
Female	319 700	267 000	213 200	186 000	160 000	142 400	147 200	147 500	150 700	131 100	1 865 000
Age group											
15-24	65 600	37 000	45 300	49 200	37 800	22 600	14 500	11 800	2 700	1 000	287 400
25-34	101 600	64 100	68 800	101 000	115 200	115 700	108 300	109 200	86 300	52 200	922 400
35-44	99 800	76 200	58 600	67 800	78 000	90 200	99 100	107 800	128 400	118 900	924 900
45-54	58 100	89 800	96 400	83 400	81 500	86 700	94 700	97 000	112 000	133 600	933 000
55-64	39 400	86 900	89 100	67 700	59 400	58 000	55 700	47 500	43 100	65 600	612 200
65+	14 300	24 700	20 500	9 600	6 800	5 500	6 500	5 400	6 300	7 500	107 200
Educational attainment											
Primary and below	48 500	82 500	70 100	43 000	31 400	27 400	19 900	11 200	5 200	1 800	341 000
Lower secondary	53 200	83 200	96 000	80 100	65 600	60 200	46 100	30 200	12 500	4 000	530 900
Upper secondary	193 500	162 900	153 400	171 600	176 900	171 400	153 300	128 200	96 600	36 000	1 443 700
Post-secondary—non-degree	21 900	18 700	30 200	35 700	38 100	37 700	40 000	43 500	41 300	23 800	330 900
Post-secondary—degree	61 700	31 500	28 900	48 300	66 600	82 000	119 500	165 700	223 200	313 200	1 140 700
Employment status											
Employees	335 800	346 400	351 100	357 400	352 200	350 900	339 700	345 200	341 800	337 100	3 457 600
Employers	2 800	2 000	3 200	2 500	4 400	6 300	14 000	16 300	22 900	31 500	105 800
Self-employed	29 000	30 300	24 500	18 800	22 100	21 500	25 000	17 200	14 000	10 100	212 600
Unpaid family workers	11 200	*	*	*	*	*	*	*	*	*	11 200
Occupation											
Managers and administrators	2 300	1 500	4 500	4 200	8 100	14 600	34 800	68 200	124 300	179 900	442 500
Professionals	1 500	1 400	1 800	2 400	4 700	7 500	23 000	47 200	75 200	122 400	287 200
Associate professionals	22 900	26 300	32 400	45 800	68 600	96 400	127 900	141 100	116 400	70 000	747 800
Clerical support workers	17 200	27 000	71 900	97 400	96 400	80 000	62 500	38 900	17 100	2 200	510 600

	<i>Decile group</i>										<i>Overall</i>
	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>	<i>5<sup>th</sup></i>	<i>6<sup>th</sup></i>	<i>7<sup>th</sup></i>	<i>8<sup>th</sup></i>	<i>9<sup>th</sup></i>	<i>10<sup>th</sup></i>	
	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	<i>Number</i>	
Service and sales workers	73 100	88 200	96 400	91 900	80 800	66 200	49 700	37 800	33 000	2 500	619 600
Craft and related workers	3 800	13 600	23 400	30 600	38 900	49 800	42 700	28 500	7 700	900	240 000
Plant and machine operators and assemblers	4 400	17 100	19 700	24 300	28 400	34 200	24 700	11 900	4 200	500	169 300
Elementary occupations	252 900	203 000	128 000	82 000	52 400	29 700	13 000	5 000	700	*	766 800
Other occupations	600	600	600	*	500	500	400	*	*	*	3 500
<b>Industry</b>											
Manufacturing	4 900	9 700	15 100	14 200	14 800	13 100	13 500	12 100	11 300	9 100	117 800
Construction	5 800	19 100	28 700	33 900	40 600	52 200	51 900	45 400	32 300	18 400	328 400
Import/export trade and wholesale	10 400	20 800	40 200	49 200	52 800	54 400	60 400	59 300	63 400	54 400	465 400
Retail	31 500	44 200	58 700	49 700	40 400	32 900	28 900	20 500	16 000	10 600	333 200
Accommodation and food services	26 500	41 100	42 700	44 800	41 600	38 700	24 400	13 500	7 300	5 700	286 300
Transportation, storage, postal and courier services, information and communications	14 500	31 100	42 400	51 600	58 200	60 100	55 500	52 300	44 200	39 800	449 800
Financing, insurance, real estate, professional and business services	24 700	72 800	87 500	71 000	65 600	66 800	74 100	81 500	92 500	125 700	762 200
Public administration, social and personal services	259 100	138 100	61 000	62 400	61 900	57 800	66 300	90 500	109 200	111 700	1 018 100
Other industries	1 200	1 700	2 500	1 900	2 800	2 800	3 600	3 700	2 500	3 200	26 000

Notes:

\* Compiled based on a small number of observations, the figures are not released owing to very large sampling errors.

Figures less than 3 000 persons are compiled based on a small number of observations and have relatively large sampling errors. They should be interpreted with care.

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

**GOVERNMENT BILLS****First Reading of Government Bills**

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

**STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2017****CHINESE MEDICINE (AMENDMENT) BILL 2017****PROTECTION OF ENDANGERED SPECIES OF ANIMALS AND PLANTS (AMENDMENT) BILL 2017**

**CLERK** (in Cantonese): Statute Law (Miscellaneous Provisions) Bill 2017  
Chinese Medicine (Amendment) Bill 2017  
Protection of Endangered Species of Animals and Plants  
(Amendment) Bill 2017.

*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 Government Bills**

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

**STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2017**

**SECRETARY FOR JUSTICE:** President, I move that the Statute Law (Miscellaneous Provisions) Bill 2017 ("the Bill") be read the Second time.

It has been the practice of the Department of Justice to introduce, at regular intervals, to the Legislative Council a Statute Law (Miscellaneous Provisions) Bill, proposing minor amendments that are largely technical and non-controversial to various Ordinances for the purpose of updating or further enhancing the relevant legislation.

The last Statute Law (Miscellaneous Provisions) Bill was enacted in 2014. The Government finds it necessary to introduce another omnibus Bill so as to make miscellaneous amendments to various Ordinances. The amendments are set out in Parts 2 to 9 of the Bill. The key elements can be outlined as follows:

Part 2 of the Bill seeks to amend the Criminal Procedure Ordinance and the Live Television Link and Video Recorded Evidence Rules to give the Court discretion to permit complainants of specified sexual offences to give evidence in proceedings by way of a live television link in order to enhance the protection for such complainants.

Part 3 of the Bill seeks to clarify the powers of temporary registrars of different ranks appointed to the High Court, the District Court and the Competition Tribunal. The amendments concerned are proposed by the Judiciary for the sake of clarity. Through the amendments, temporary registrars appointed to such courts and tribunal will be given the same jurisdiction and powers of the registrars at the respective ranks.

Parts 4 and 8 of the Bill seek to amend the District Court Ordinance. The amendments are also proposed by the Judiciary. Part 4 seeks to provide for representation of the Secretary for Justice at the District Court Rules Committee, while the amendment in Part 8 seeks to enable the jurisdiction limit of the amount of claim for costs in "costs-only proceedings" may be amended by resolution of the Legislative Council. Both these amendments aim to align the practice in question with other similar arrangements.

Part 5 of the Bill seeks to clarify the reference point for the calculation of the period of residence for the purpose of admission as a solicitor in Hong Kong in response to the proposal of The Law Society of Hong Kong. With this amendment, a person is required to have resided in Hong Kong for at least three months immediately before the date on which the person applied for a certificate of eligibility for admission, but not the date of the applicant's admission as a solicitor as it currently stands.

Part 6 of the Bill amends the English text of the Mainland Judgments (Reciprocal Enforcement) Ordinance by replacing the references to "Basic



People's Court(s)" in the Mainland therein by "Primary People's Court(s)" so as to maintain consistency with the English usage of the same term in the Mainland, and thereby avoiding confusion of the meaning of the relevant term.

Part 7 of the Bill amends the Laws (Loose-leaf Publication) Ordinance 1990 and the Legislation Publication Ordinance to streamline laws compilation and editorial amendment work.

Part 9 of the Bill contains miscellaneous and technical amendments to various legislative provisions for different purposes, including to reinstate consequential amendments that were omitted in previous legislative amendment exercises, to formally repeal legislation that has ceased to have effect, to remove obsolete references to repealed provisions from certain legal provisions, to achieve consistency in certain expressions, to update a reference to the title of an item of subsidiary legislation and to make provisions for correcting other minor errors.

President, as I pointed out at the beginning of this speech, the Bill deals with a number of amendments to various areas in a consolidated manner, which is part of the continuing efforts of the Government to collate Hong Kong's legislation. By dealing with the amendments in one go by way of the Bill, the relevant legislative provisions can be further improved in an efficient manner.

With these remarks, I urge Members to support the Bill.

Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Statute Law (Miscellaneous Provisions) Bill 2017 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.

**CHINESE MEDICINE (AMENDMENT) BILL 2017**

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I move the Second Reading of the Chinese Medicine (Amendment) Bill 2017 ("the Bill"), in order to implement the legislative proposal for conferring statutory power on the Director of Health ("the Director") to issue a Chinese medicine safety order.

In March 2014, the Department of Health ("DH") instructed a licensed wholesaler of proprietary Chinese medicines to recall two unregistered proprietary Chinese medicines from the market on grounds of public health. The wholesaler concerned subsequently applied for leave to challenge by way of judicial review the legal power of the Director to issue the instruction to recall. The judgment of the judicial review handed down by the Court of First Instance, in May 2015 concluded that there was no lawful power under the Chinese Medicine Ordinance (Cap. 549) ("the Ordinance") for the Director to instruct the wholesaler concerned to recall the two unregistered proprietary Chinese medicines in question and ruled that the Director's decision to issue the instruction to recall was made without lawful power and thus ultra vires.

Despite the fact that relevant licensed traders of Chinese medicines have already been required by law to set up and maintain a system of recall of Chinese herbal medicines or proprietary Chinese medicines, the judgment of the above judicial review ruled that the Director does not have the lawful power to instruct licensed traders of Chinese medicines to recall Chinese herbal medicines or proprietary Chinese medicines. On the other hand, the Administration has also reviewed the Ordinance and found that there is currently no provision under the Ordinance or its subsidiary legislation that an unlicensed trader must carry out recall action regarding Chinese herbal medicines or proprietary Chinese medicines which may pose threats to public health.

In this connection, the Administration considers it necessary to amend the Ordinance and its subsidiary legislation to strengthen the control by conferring statutory power on the Director to order any person to recall from the market any Chinese herbal medicine or proprietary Chinese medicine which may pose threats to public health.

To this effect, we propose to amend the Ordinance, so that under the circumstance where the Director has reasonable cause to believe that the Chinese herbal medicine, proprietary Chinese medicine and/or intermediate product generated in the course of manufacturing a proprietary Chinese medicine may pose threats to public health, the Director is empowered to, by way of a Chinese medicine safety order, prohibit the sale of the Chinese medicine or related product and direct the recall of the Chinese medicine or related product that has been sold from the market.

Meanwhile, to ensure the fair and just handling of all cases, we propose to introduce an appeal mechanism whereby a person bound by a Chinese medicine safety order may appeal against the decision of the Director. Moreover, we also set out clearly the forms and effects of a Chinese medicine safety order, variation order and revocation order, with a view to facilitating traders' understanding of their responsibilities and the operational details of the orders. To enable effective and smooth enforcement of Chinese medicine safety orders, we also propose to amend the relevant provisions, including the amendment of provisions in the Ordinance and its subsidiary legislation on service of notices and orders, such as by delivering them personally, sending them by post and leaving them at the relevant address, and the amendment of the provisions in the Chinese Medicines Regulation (Cap. 549F) on setting up and maintaining a system of recall, in order to enable rapid and complete recall of, as far as practicable, any proprietary Chinese medicine or Chinese herbal medicine and/or intermediate product.

We propose that a person who is bound by a Chinese medicine safety order and fails or refuses to comply with any requirements set out in the order commits an offence, and is liable to a fine at level 6 (i.e. \$100,000) and to imprisonment for two years. The proposed penalty is broadly the same as the existing penalty for not complying with other regulations under the Ordinance.

In respect of consultation, DH has consulted the public and the trade on the proposed legislative amendments for seven weeks between January and February 2017. During this period, DH has held a meeting with 16 Chinese medicines traders associations and six sessions of briefing forums for licensed Chinese medicines traders. Both the public and the trade generally agreed to the need to amend the Ordinance and supported the legislative proposals.

We attended the meeting of the Legislative Council Panel on Health Services on 28 February 2017 to give an introduction on the legislative amendments proposed by us. Members of the Panel generally supported the proposed legislative amendments.

President, I implore Members to support the Bill, in order for us to improve the regulatory mechanism for Chinese medicine in Hong Kong early to enable the public to be afforded better protection.

I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Chinese Medicine (Amendment) Bill 2017 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.

## **PROTECTION OF ENDANGERED SPECIES OF ANIMALS AND PLANTS (AMENDMENT) BILL 2017**

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I move the Second Reading of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Amendment Bill") to amend the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance"), in order to effect the plan announced by the Government some time ago of phasing out the local ivory trade in three steps and imposing heavier penalties on smuggling and illegal trading of endangered species.

There are growing and intensive calls in the international community for strengthened measures to control the ivory trade to ensure that the survival of elephants is not threatened, particularly the African elephants which are under imminent threat of extinction due to ivory smuggling activities and illegal poaching. In the 17<sup>th</sup> meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") held during September and October last year, the Parties adopted a resolution recommending that all Parties and non-Parties, in whose jurisdiction a legal

domestic market for ivory exists that is contributing to elephant poaching or illegal ivory trade, should take all necessary measures to close their domestic ivory markets as a matter of urgency. Various governments, including the Central People's Government, have taken actions to phase out the ivory trade. Hong Kong should also react promptly to fulfil our obligations under CITES and respond to aspirations of the international community.

The 2016 Policy Address has undertaken to kick-start legislative procedures as soon as possible to ban the import and export of elephant hunting trophies and phase out the local ivory trade while imposing heavier penalties on the smuggling and illegal trading of endangered species. At the end of December last year, the Government announced a three-step plan to phase out the local ivory trade. The Amendment Bill which I have moved to be read the Second time is precisely intended to give effect to this plan.

Step 1 of the plan, which will take effect on the first commencement date of the Amendment Bill, seeks to ban the import and re-export of all elephant hunting trophies and those remaining post-Convention ivory items, the import, export and re-export of which are currently permissible under CITES. This step is directly related to the survival of elephants as it would discourage killing of live elephants, for example, through sport hunting.

Step 2 will ban the import and re-export of pre-Convention ivory and subject pre-Convention ivory in the local market to licensing control in line with the existing control on post-Convention ivory three months after the commencement of the ban in Step 1. This step will further prevent possible laundering of illegal ivory and thus contribute to the conservation of wild elephants.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

Step 3 will ban the possession for commercial purposes of all ivory by restricting the issue of a Licence to Possess ("PL") to only cases of extremely exceptional circumstances. This step will take effect on 31 December 2021 at the expiry of a grace period of five years from the Government's announcement of the three-step plan at the end of last year. After the implementation of this step, the local trade of all ivory will be completely closed down. The length of

the grace period has adequately taken into account the need for the ban to take effect on a date after all PLs already issued before the Government's announcement have expired and to allow a reasonable period of time for the ivory traders to undergo business transformation. To pave the way for a total ban on the local ivory trade in Step 3, we propose in the Amendment Bill that any application for an PL will not be approved for post-Convention ivory upon commencement of Step 1 and pre-Convention ivory upon commencement of Step 2, unless the ivory is covered by a valid PL issued before the commencement of the respective steps.

Under all the three steps mentioned, the current exceptions permitted under CITES which are limited to specific and stringent circumstances will continue to be given exemption. These exceptions include scientific studies, education, law enforcement as well as personal or household effects (except for tourist souvenirs). In addition, under Steps 2 and 3, the trade of "antique ivory" will continue to be allowed. The proposed arrangement is in line with international practice and will not affect the original intent of the Amendment Bill in curbing elephant poaching and conserving elephants.

In order to provide a sufficiently strong deterrent against smuggling and illicit trade of wildlife including ivory, and to send a clear message to the international and local communities that the Government is committed to the protection of endangered species and to combating wildlife trafficking, we propose to increase the penalties for all scheduled species in addition to elephants under the Ordinance by the Amendment Bill. We propose that a maximum fine of \$5,000,000 and two years of imprisonment be imposed for summary offences concerning Appendix I species; and a maximum fine of \$500,000 and one year of imprisonment for summary offences concerning Appendices II and III species. For offences convicted on indictment, we propose that a maximum fine of \$10,000,000 and imprisonment for 10 years be imposed for indictable offences concerning Appendix I species; and a maximum fine of \$1,000,000 and imprisonment for seven years be imposed for indictable offences concerning Appendices II and III species.

Deputy President, here, I wish to state expressly that the Government considers that no compensation should be made to ivory traders. First of all, many ivory traders have already undergone business transformation or switched to the trading of other commodities not under CITES control, such as mammoth ivory. Moreover, we have given advance alert to the trade regarding the

proposed measures as early as in March 2016. By the time when the total ban on local ivory trade takes effect on 31 December 2021, a grace period of five years will have been provided to allow the traders to undergo business transformation. Besides, as far as we understand it, other countries or regions currently do not provide any compensation following enhanced control of the ivory trade. If Hong Kong does not follow the international practice and provides compensation, illegal elephant poaching would most likely be aggravated and ivory in larger quantities would be smuggled to Hong Kong in exchange for compensation. This will entirely defeat the original intent of the new regulatory regime and greatly undermine the efforts of the international community in conserving elephants under threat of extinction, not to mention dealing a severe blow to the image of Hong Kong. Separately, re-employment training may be provided to affected craftsmen who are skillful workers specialized in ivory crafting. Meanwhile, the Agriculture, Fisheries and Conservation Department is carrying out a survey to ascertain the assistance and training needs required by the ivory craftsmen.

Deputy President, we consider that the proposed ivory trade ban is justified on the grounds that it aims to address the international and public concerns over the survival of elephants which are under imminent threat of extinction. These measures are indeed necessary in light of the latest trend of elephant poaching and ivory smuggling. We need to send a strong signal to the international community, including the people involved in illegal elephant poaching, that Hong Kong is determined to close its local ivory market in support of actions taken by the international community, in order to stop illegal elephant poaching at source and combat smuggling and illicit trade of wildlife.

With these remarks, I implore Members to support the Amendment Bill. Thank you.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 be read the Second time.

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

**Resumption of Second Reading Debate on Government Bill**

**DEPUTY PRESIDENT** (in Cantonese): We resume the Second Reading debate on the Arbitration (Amendment) Bill 2016.

**ARBITRATION (AMENDMENT) BILL 2016****Resumption of debate on Second Reading which was moved on 14 December 2016**

**DEPUTY PRESIDENT** (in Cantonese): Mr Martin LIAO, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

**MR MARTIN LIAO** (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Arbitration (Amendment) Bill 2016 ("Bills Committee"), I report on the deliberations of the Bills Committee.

First of all, arbitrability of the subject matter of a dispute ought to be clear before the commencement of arbitration. However, the Arbitration Ordinance (Cap. 609) ("AO") does not have any specific provision dealing with the question of arbitrability of disputes over intellectual property right ("IPR"). In Hong Kong, there has been no authoritative judgment concerning the arbitrability of disputes over IPR either. Hence, the law as it now stands is not entirely clear in this respect.

To put the matter beyond doubt, the Administration has proposed to make it clear that disputes over IPR are capable of settlement by arbitration, and that it is not contrary to the public policy of Hong Kong to enforce the ensuing award. The effect is that enforcement of an arbitral award under Part 10 of AO would not be refused in Hong Kong on the ground that the subject matter is not capable of settlement by arbitration or it is contrary to the public policy merely because the award concerns IPR disputes.

The Bills Committee generally supports the Arbitration (Amendment) Bill 2016 ("the Bill"). In the course of the scrutiny, the Bills Committee has focused



on several areas in its discussion, which mainly include: Firstly, definition and arbitrability of IPRs; secondly, enforcement and registration of arbitral awards; thirdly, the implications, if any, of the Bill on assuring competition; and fourthly, the time and cost saved in using arbitration instead of litigation. I will now briefly explain them.

The Bills Committee notes that the proposed section 103B defines the term IPR by a non-exclusive list of examples of IPRs. Some of the terms in the non-exclusive list, such as "patent", "trade mark", "copyright", and "know-how", etc., are specifically defined in different Ordinances in Hong Kong. In this connection, the Bills Committee has sought clarification from the Administration regarding the legislative intent and the justification of adopting a non-exclusive list of examples of IPRs.

The Administration has advised that a non-exhaustive list of some common examples of IPRs is provided under the proposed section 103B(1) for the purpose of providing more guidance to users of intellectual property ("IP") arbitration. These examples are added to the Bill in light of the suggestions collected from some stakeholders in the consultation exercise. The Administration has also taken into account the broad definition of "intellectual property" under a World Trade Organization agreement. The Bills Committee further notes that the Administration anticipates that the disputes that will be arbitrated in Hong Kong will cover not only IPRs that are registered or subsisting in Hong Kong but also those that are registered or subsisting in other jurisdictions. Given that IPRs in other jurisdictions may be referred to by different names or protected in a different way, and since IP is a developing area, the Administration has defined IPRs by referring to a non-exhaustive list of examples so as to provide flexibility in the definition to accommodate new types of IPRs which may arise in the future.

The Administration has advised that the broad definition of "intellectual property rights" in new section 103B is in line with the policy intent of facilitating the wider use of IP arbitration in Hong Kong. Moreover, the Administration has clarified that the terms set out in paragraphs (a) to (j) of the proposed

section 103B(1) are used in a generic sense and their meaning is not restricted by the respective definitions contained in other Ordinances in Hong Kong.

The Bills Committee has asked whether, after passage of the Bill, the parties would be required to register their arbitral awards under the relevant registry of the Government. The Administration has advised in the negative and said that arbitral awards would only bind the parties to the arbitration, but not any other third parties who did not participate in the proceedings, and that owing to the inter partes effect of an arbitral award and the confidential nature of arbitration, there would not be any requirement as to the registration of arbitral awards.

Besides, the Bills Committee has also taken note that arbitration is just one of the methods for resolving disputes and that arbitration may be a favourable choice for parties who are disputing on large-scale IP projects involving several jurisdictions. The Administration has explained that arbitration can provide the parties with a single platform to resolve the disputed matters and the parties will also have the freedom to appoint their own arbitrators with the relevant expertise. The parties can also make use of the mechanism under the New York Convention to enforce the arbitral awards in over 150 countries around the world that are parties to the New York Convention.

The Administration has further emphasized that confidentiality is, whether locally or internationally, one of the common features of arbitration and it is also one of the key reasons why parties often prefer to use arbitration to resolve their disputes (as opposed to court litigation). Confidentiality has special importance in Hong Kong's arbitration regime in that Hong Kong has seen fit to incorporate an express provision on confidentiality in its arbitration legislation. Any erosion of confidentiality may prejudice Hong Kong's position as a leading international arbitration centre. The Administration has also conducted research on the practice of 30 jurisdictions concerning arbitrability of IPR disputes and the disclosure or non-disclosure of arbitral awards. It is noted that the general practice of those jurisdictions in which IPR disputes are arbitrated does not require the mandatory disclosure or recordal of IPR arbitral awards with inter partes effect. For the aforementioned reasons, the Administration considers that

it is not appropriate to require mandatory disclosure of IPR arbitral awards and their recordal with IPR registries in Hong Kong.

The Administration added that parties to IP transactions are generally business players who have knowledge of the market and they can be expected to conduct investigation and/or due diligence process before entering into commercial transactions with the owner of an IPR. They may also seek to protect their interest by contractual arrangements. Importantly, arbitral awards, which have inter partes effect, do not affect the rights of third parties. They remain free to pursue their rights against a party to the arbitration, e.g. the IP owner, in court proceedings or before the Registrar of the relevant IPR. The proposed IP arbitration regime is also "competition neutral" and does not affect the rights of third parties, competition authorities or the courts under the competition laws of Hong Kong.

The Bills Committee has raised concerns about the adequacy of the Bill in safeguarding competition in view of the confidentiality of the arbitration agreement and arbitral award and has requested the Administration to seek the views of the Hong Kong Competition Commission ("Competition Commission").

The Administration considers that the Bill will not give rise to any real competition law concerns; nor will it affect the investigative and enforcement powers of the Competition Commission. The Administration reiterates that arbitration is a competition-neutral procedure. The use of arbitration or the confidentiality of arbitration and arbitral awards is not, in itself, anti-competitive; nor does it, in itself, raise any issue of anti-competition under the Competition Ordinance (Cap. 619) ("CO"). In any event, under the arbitration and competition law regimes, there are sufficient safeguards to address competition concerns arising in the context of arbitration.

The Administration has further explained that if the Court finds that an arbitral award gives effect to an underlying anti-competitive agreement contrary to CO, it may set aside the award or refuse to enforce it on the ground of public policy. Besides, the Administration has sought the written views of the Competition Commission and the Competition Commission shares the

Government's view that the Bill and its implications for the arbitration process is "competition neutral".

The Administration has further clarified that in line with the IP laws of other jurisdictions, under Hong Kong law, an IPR owner may generally license its IPR freely and is not obliged to license its IPR to all persons on the same terms, or at all. It is stressed that while there should be a "level playing field" in that market competition should be fair, this "level playing field" does not generally impose a "duty of candour" on an IPR owner such that it must disclose all information to all persons to the same extent or require it to confer same treatment on all business partners/licensees.

The Bills Committee notes that one of the legislative intents of the Bill is to enhance Hong Kong's status as a leading centre for international legal and dispute resolution services and a premier hub for IP trading in the Asia-Pacific Region. The Bills Committee is concerned about the amount of time and cost saved in using arbitration instead of litigation to resolve IPR disputes.

The Administration has explained that according to the results of a survey conducted by the World Intellectual Property Organization in 2013 with regard to resolving disputes on technology transactions, the average time spent in resolving the disputes by court proceedings was 3 to 3.5 years while that for resolving disputes by arbitration was on average about slightly more than one year. In terms of legal cost, the average cost of litigation was US\$475,000 to slightly over US\$850,000 while the cost for arbitration (including the cost for arbitrators) was slightly over US\$400,000.

The Bills Committee notes that the Administration will move Committee stage amendments ("CSAs") to the Bill to the effect that the new Part 11A of AO (Arbitrations Relating to Intellectual Property Rights) (except new section 103J) will commence on the first day of the seventh month immediately following the month in which the Amendment Ordinance is published in the Gazette.

Moreover, in view of the accession of Angola to the New York Convention, the Administration intends to propose an CSA to amend clause 9(2) of the Bill in order to add Angola to the Schedule to the New York Convention

Order. The Bills Committee has raised no objection to these proposed CSAs. The relevant details are set out in the report. The Bills Committee will not propose any CSAs to the Bill.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Justice to reply. The debate will come to a close after the Secretary for Justice has replied.

**SECRETARY FOR JUSTICE**: Deputy President, the Arbitration (Amendment) Bill 2016 ("the Bill") has been examined in detail by the Bills Committee chaired by Mr Martin LIAO. I would like to take this opportunity to express our gratitude to Mr Martin LIAO and all other members of the Bills Committee for their hard work in scrutinizing the Bill. I would also like to express my gratitude to the relevant bodies for their valuable opinions and support.

The main objective of the Bill is to amend the Arbitration Ordinance (Cap. 609) ("the Ordinance") so as to clarify that disputes over intellectual property rights ("IPR disputes") can be resolved through arbitration and that it is not contrary to the public policy of Hong Kong to enforce arbitral awards involving IPRs. The Bill also proposes to amend the Schedule to the Arbitration (Parties to New York Convention) Order (Cap. 609A) to update the list of parties to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("the New York Convention").

As I pointed out when introducing the Bill into the Legislative Council last December, the Ordinance presently does not have any specific provision dealing with the arbitrability of IPR disputes and there is no authoritative judgment in Hong Kong on the subject. We believe that the amendments on arbitrability of

IPR disputes will help attract more parties to resolve their IPR disputes through arbitration in Hong Kong and facilitate the enforcement of related arbitral awards in Hong Kong.

During the discussion of the Bills Committee, some members raised the question of whether confidentiality of arbitration process and of arbitral awards would give rise to competition concerns. The Government has since explained in detail the relevant issues to the Bills Committee, taking into full account the views of members of the Bills Committee, stakeholders and the Competition Commission of Hong Kong.

In short, the Competition Commission agrees that the Bill and its implications on the arbitration process are "competition neutral", and that confidentiality of arbitration is unlikely by itself to be inconsistent with the Competition Ordinance (Cap. 619). Moreover, it also considers that the Bill is consistent with the Competition Ordinance from an enforcement perspective. I wish to take this opportunity to reiterate that the Bill seeks to amend the Ordinance so as to clarify that IPR disputes can be resolved through arbitration for the purposes of facilitating the conduct of intellectual property ("IP") arbitration and the enforcement of related arbitral awards in Hong Kong. The Bill does not seek to alter the substantive legal rights of the parties to any arbitration or any third parties, the position of competition law in Hong Kong, or the power of the Courts or competition authorities in relation to competition issues under the laws of Hong Kong.

Since confidentiality of arbitration is not by itself anti-competitive, whether disclosure or recordal of IPR arbitral awards should be required must be considered carefully in light of relevant wider public policy considerations. These include: first, the importance of confidentiality in Hong Kong's arbitration regime. Confidentiality is, whether locally or internationally, often one of the key reasons why parties prefer to use arbitration (as opposed to court litigation) to resolve disputes. In the case of Hong Kong, such confidentiality is expressly provided for in section 18 of the Ordinance. Any erosion of confidentiality may prejudice Hong Kong's position as a leading international arbitration centre.

Second, arbitral awards, in general, only have inter partes effect, which means that the legal rights of third parties will not be affected. There are safeguards for third party interests under the existing arbitration and legal

regimes. Third parties may also seek to protect their interests by conducting investigation or due diligence or by negotiating suitable contractual provisions. Further, we have considered the practice of 30 jurisdictions. Based on our survey, we note that the general practice in these jurisdictions is that mandatory disclosure or recordal of IPR arbitral awards with inter partes effect is not required. Having taken into account all relevant factors, the Government considers it not necessary or appropriate to require mandatory disclosure of IPR arbitral awards or their recordal with IPR registries in Hong Kong.

Deputy President, I shall be moving a number of Committee stage amendments ("CSAs") later. The Bills Committee has examined the proposed CSAs and did not raise any objections. I shall briefly explain the proposed CSAs as follows.

According to clause 1(3) of the Bill, the amendments concerning IP arbitration (i.e. Part 2 of the Bill (except the new section 103J)) are to come into operation on 1 October 2017, rather than on the day of publication of the Amendment Ordinance in the Gazette. The underlying policy intent of this deferred commencement provision as originally drafted is to allow the IP arbitration community a period of around six months after the passage of the Bill to prepare for commencement of the relevant amendments. To give effect to this policy intent, I will move CSAs to clause 1(3) and related CSAs to clause 7 of the Bill to the effect that the relevant amendments will commence on the first day of the seventh month immediately following the month in which the Amendment Ordinance is published in the Gazette. In other words, if the Amendment Ordinance is passed by the Council and gazetted within this month (i.e. June 2017), the above mentioned legislative amendments relating to IP arbitration will come into operation on 1 January 2018.

Separately, since the Government introduced the Bill, Angola has recently acceded to the New York Convention with effect from 4 June 2017. Therefore, I will move another CSA to amend clause 9(2) of the Bill in order to add Angola to the Schedule to the Arbitration (Parties to New York Convention) Order. By virtue of clause 1(2) of the Bill, the relevant amendment will come into operation on the day of gazettal.

The established policy of the Department of Justice is to encourage the use of arbitration to resolve civil and commercial disputes. To further consolidate Hong Kong's status as a leading centre for international legal and dispute resolution services in the Asia-Pacific Region, the Department of Justice has been reviewing the arbitration regime of Hong Kong from time to time and will also consider improvement to the Ordinance. The Government believes that the relevant amendments to the Bill will further consolidate Hong Kong's competitiveness as a leading international arbitration centre and reinforce Hong Kong's edge over other jurisdictions in the region in resolving IP disputes.

Deputy President, with these remarks, I urge Members to support the Second Reading of the Bill and the amendments that I will move at the subsequent Committee stage.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Arbitration (Amendment) Bill 2016 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Arbitration (Amendment) Bill 2016.

Council went into committee.



**Committee Stage**

**DEPUTY CHAIRMAN** (in Cantonese): Council is now in committee.

Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

**ARBITRATION (AMENDMENT) BILL 2016**

**DEPUTY CHAIRMAN** (in Cantonese): I will first deal with the clauses with no amendments. I now propose the question to you and that is: That the following clauses stand part of the Arbitration (Amendment) Bill 2016.

**CLERK** (in Cantonese): Clauses 2 to 6 and 8.

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

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 2 to 6 and 8 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 1, 7 and 9.

**SECRETARY FOR JUSTICE:** Deputy Chairman, I move the amendments to the clauses read out just now. The amendments to those clauses are set out in the paper distributed to Members. I have already explained the purposes of the amendments earlier today. The Bills Committee has examined the above amendments and did not raise any objections. I urge Members to pass these amendments.

Thank you, Deputy Chairman.

*Proposed amendments*

**Clause 1 (see Annex I)**

**Clause 7 (see Annex I)**

**Clause 9 (see Annex I)**

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

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Justice be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the amendments passed.

**CLERK** (in Cantonese): Clauses 1, 7 and 9 as amended.

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1, 7 and 9 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**DEPUTY CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Government Bill**

**DEPUTY PRESIDENT** (in Cantonese): Government Bill: Third Reading.

### **ARBITRATION (AMENDMENT) BILL 2016**

**SECRETARY FOR JUSTICE**: Deputy President, the

Arbitration (Amendment) Bill 2016

has passed through the Committee stage with amendments. I move that this Bill be read the Third time and do pass.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Arbitration (Amendment) Bill 2016 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Arbitration (Amendment) Bill 2016.

### **Resumption of Second Reading Debate on Government Bill**

**DEPUTY PRESIDENT** (in Cantonese): We resume the Second Reading debate on Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016.

### **ARBITRATION AND MEDIATION LEGISLATION (THIRD PARTY FUNDING) (AMENDMENT) BILL 2016**

#### **Resumption of debate on Second Reading which was moved on 11 January 2017**

**DEPUTY PRESIDENT** (in Cantonese): Mr Dennis KWOK, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

**MR DENNIS KWOK:** In my capacity as the Chairman of the Bills Committee on Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016, I report on the deliberations of the Bills Committee.

The Bills Committee supports the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016 ("the Bill") which seeks to amend the Arbitration Ordinance and the Mediation Ordinance to ensure that third party funding of arbitration and mediation is not prohibited by the common law doctrines of maintenance and champerty, and to provide for related measures and safeguards.

The Bills Committee generally supports the Bill. In the course of scrutiny, the Bills Committee has examined the meaning of third party funding of arbitration, the meaning of funding agreement and third party funder, safeguards to be provided by the Code of Practice and consequences of non-compliance, and application of the new Part 10A of the Arbitration Ordinance to mediation to which the Mediation Ordinance applies. The deliberations of the Bills Committee are summarized in the ensuing paragraphs.

The Bills Committee noted that under the new section 98G(2), third party funding of arbitration excludes the provision of arbitration funding directly or indirectly by lawyers and persons providing legal services. Hence, the Bills Committee has requested the Administration to explain the relevant policy considerations.

The Administration has advised that lawyer funding of a party's participating in arbitrations or litigation proceedings may occur through the use of fee arrangements under which a lawyer agrees to represent a party at a discounted fee or for no fee, but with a success fee payable in the event of a favourable outcome. The case will therefore be fully or partly funded out of the working capital of the lawyer's firm.

The Administration has explained that it agreed to the Law Reform Commission's recommendation that it was in the public interest that lawyers should focus on their provision of professional services to their clients and should not place themselves in a conflict of interest position by engaging in the business of third party funding.

Most members of the Bills Committee, however, do not subscribe to the Administration's views, and consider it unfair and over-stringent to apply the exclusion solely to third party funding for arbitration provided by persons practising law or providing legal services in Hong Kong or elsewhere. The Bills Committee has agreed that it would propose a Committee stage amendment ("CSA") to delete the new section 98G(2). The Bills Committee also invited, in late March 2017, views on the said CSA to be proposed by it to delete the new section 98G(2) from the Hong Kong International Arbitration Centre, the Hong Kong Bar Association and The Law Society of Hong Kong, as well as members of the public. A few weeks later, the Administration introduced in mid-April 2017 a new set of CSA, on which the Administration confirmed that stakeholders had been consulted.

The Administration has advised that, having considered the views of the Members of the Bills Committee on the new section 98G(2) and with a view to striking a proper balance by ensuring that legitimate concerns over possible conflict of interest are sufficiently addressed, it is minded to propose CSAs to delete the new section 98G(2) from and to add a new section 98NA to the new Part 10A.

The Bills Committee notes that the proposed CSAs operate to the effect that the common law doctrines of champerty and maintenance remain applicable to arbitration funding provided by a lawyer, if such funding is provided to a party to an arbitration by a lawyer who, in the course of the lawyer's practice, acts for any party in relation to the arbitration.

The Bills Committee has examined all the proposed CSAs from the Administration and raised no objection thereto. The Bills Committee will not propose any CSA to the Bill.

Deputy President, next, I would like to give my personal views on the Bill.

First of all, I would like to declare my interest as a legal practitioner who handles arbitration cases from time to time.

Deputy President, it is with pleasure and with delight to see two Bills on arbitration coming to the Legislative Council today, which seek to improve the body of law in relation to arbitration in Hong Kong. It is also a welcoming

development for Hong Kong as an international legal and dispute resolution centre, and I commend the Secretary for Justice's work in this area in the past five years.

The most debated issues during the deliberation of the Bills Committee is whether a lawyer is allowed to fund an arbitration case in which he or she is involved. Of course, the real question is whether conditional fees or contingency fees are permitted for arbitration in this jurisdiction, that is to say, whether lawyers can provide services in return for an agreed sum conditional upon the winning of the case or share a portion of the award that the arbitration tribunal may award in due course.

The experience of other common law jurisdictions in this regard would be helpful. That experience tells us that, as long as there are sufficient and adequate safeguards in place, for example, a requirement for minimum capital assets by the relevant law firm in question and appropriate measures to avoid conflict of interest, the interest of litigants can be protected.

We understand the Administration's position, which is to take the issue of contingency fee and conditional fee arrangements with caution and to take a step-by-step approach in this area. Members of the legal profession understand and respect that approach. However, it must be urged that this question of conditional fee and contingency fee can no longer be left on the shelf and not be properly discussed in the Legislative Council. As one could see in many other jurisdictions, lawyers are allowed to engage in conditional and contingency fee arrangements, the existing practice is making Hong Kong less and less competitive as an international legal and dispute resolution centre. The legal profession must keep up with the developments in other jurisdictions as Hong Kong lawyers are competing with lawyers from other jurisdictions, especially in the area of international arbitration.

Deputy President, members of the legal profession greatly welcome the passage of the Bill today, and we hope to see further promotional efforts and further resources be put into the promotion of the arbitration and legal services in Hong Kong.

Thank you.

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

**MR HOLDEN CHOW** (in Cantonese): Deputy President, I welcome the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016 ("the Bill"). Honestly, I believe the passage of the proposal for third party funding will help promote the arbitration business or related industries in some measure.

Deputy President, I would like to put forth some simple views on the Bill here. First, I recall one point which I raised at the early stage of discussion on the Bill at the Bills Committee, which is a concern of the general public. The public are concerned that if third party funding of arbitration is allowed, will the funder (the third party) has a greater say in the course of arbitration, or even has influence in some measure on both parties to the arbitration. Deputy President, the general public may consider these issues.

Yet, I am glad that the Bill this time around has stipulated clearly that a funding agreement in writing is required under section 98H for a third party funding arrangement, where the terms and conditions therein should set out unequivocally that the arrangement is made to not proactively influence the decision made in the course of the arbitration. This arrangement is helpful to removing doubts in this connection, and I think it is right to do so. Nonetheless, I must also point out that when the Bill is introduced in future, the authorities should remind the public of the rights to which they are entitled. Though the third party does not have the final say in an arbitration case despite its funding, and the third party may not necessarily be able to decide the direction of the case, the requirements for third party funding should be stipulated clearly in the funding agreement in writing to protect both parties to the arbitration. This is my first suggestion.

Second, Deputy President, the present Bill adopts a "light touch" regulatory approach, an approach now adopted by other common law jurisdictions. In my view, it is acceptable and reasonable to try the "light touch" regulatory approach first. During the initial period of three years, I hope the authorities will pay close attention to the implementation, particularly on the practice and integrity concerning third party funding. Close monitoring is a must. Barring the worst case scenario, or if no illegal activity or violation takes place after implementation, I think this "light touch" regulatory approach may continue in



future. However, I hope that during the implementation, particularly in the first three years, the authorities will pay close attention to and closely monitor the relevant situation.

Lastly, Deputy President, during the discussions at the Bills Committee, there was a relatively long debate over the following point, that is, whether or not practicing lawyers and barristers in the legal sector should be allowed to engage in third party funding business. I can tell Members here that during the discussions at the Bills Committee, there had been heated debates over this point. In fact, from the perspective of the legal sector, we are inclined to considering that practicing lawyers or barristers possess the experience and knowledge in some degree in engaging in third party funding business. Yet, we must strike a balance. There should never be any potential conflicts of interest.

This time around, in making the decision on the final amendments, the Government has heeded the many views expressed by Members. According to the final amendments, if a lawyer is not acting for any party to the arbitration, his engagement in third party funding will be acceptable and not in violation of the regulation against champerty. However, if the lawyer is acting for a party to the arbitration, he certainly should not be the third party funder or engage in the related business to avoid conflicts of interest. Members have expressed repeatedly that if not in the abovementioned scenario, practicing lawyers or barristers should be allowed to engage in third party funding business. In this connection, the Government has made corresponding amendments and I welcome the Government's amendments.

Lastly, Deputy President, I hope the commencement of the Bill will further enhance the development of arbitration business in Hong Kong, so that we can continue to promote Hong Kong as an international arbitration centre and consolidate our status on this front.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Justice to reply. Thereafter, the debate will come to a close.

**SECRETARY FOR JUSTICE:** Deputy President, first of all, I would like to express our gratitude to the Honourable Dennis KWOK, the Chairman of the Bills Committee of the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016 ("the Bill"), and all other members of the Bills Committee for their hard work in completing the scrutiny of the Bill. I am also grateful to the relevant stakeholders in the legal, arbitration, mediation and related professional sectors<sup>1</sup> for their valuable comments and support.

As I pointed out when introducing the Bill into this Council in January this year, the main objective of the Bill is to amend the Arbitration Ordinance (Cap. 609) ("AO") and the Mediation Ordinance (Cap. 620) ("MO") to clarify that third party funding of arbitration, mediation and related proceedings is permitted under Hong Kong law.

The proposed amendments were formulated on the basis of the recommendations made in the Report on Third Party Funding for Arbitration published by the Law Reform Commission of Hong Kong ("LRC") in October 2016 and the outcome of consultation with the Steering Committee on Mediation. The Bill will reflect in our legislation the latest developments in the dispute resolution sector and further enhance Hong Kong's status as a leading centre for international legal and dispute resolution services in the Asia-Pacific Region.

I shall move two Committee stage amendments ("CSAs") at a later stage. CSAs have all been endorsed by the Bills Committee and can be briefly outlined as follows.

Under the proposed section 98G(2) of AO in clause 3 of the Bill, "third party funding of arbitration" does not include "the provision of arbitration funding

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<sup>1</sup> These include the Hong Kong Bar Association, The Law Society of Hong Kong, the Hong Kong Institute of Arbitrators, the Chartered Institute of Arbitrators (East Asia Branch), the Hong Kong International Arbitration Centre, the China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center, the China Maritime Arbitration Commission Hong Kong Arbitration Center and the Hong Kong Construction Association.

directly or indirectly by a person practising law or providing legal services, whether in Hong Kong or elsewhere". Some members of the Bills Committee have suggested to delete the proposed section 98G(2), so that the clarification to permit the provision of arbitration funding will also apply to all qualified lawyers and other legal services providers. The Government has carefully considered the request and the views of members. We take the view that a proper balance should be struck by ensuring that legitimate concerns over potential conflicts of interest are sufficiently addressed. Safeguards ought to be put in place to ensure that a lawyer should not be allowed to provide arbitration or mediation funding if the lawyer concerned acts for any party in the relevant proceedings. Therefore, we now propose CSAs to:

- (a) delete the proposed section 98G(2); and
- (b) add a new section 98NA so that the new third party funding regime under the proposed Part 10A of AO will not be applicable to lawyers acting for parties in the arbitration.

In putting forward the above proposal, we fully agree with LRC that it would be in the public interest for lawyers to focus on their provision of professional services to their clients and that they should not place themselves in a conflict of interest position by engaging in the business of third party funding. By virtue of the new section 98NA, lawyers who put themselves in such a conflict of interest situation will not be protected by the proposed Part 10A of AO.

Clause 4 of the Bill proposes to add a new section 7A to MO. The new section 7A of MO extends, among others, the application of the new section 98S of AO, with the necessary modifications, to mediation to which MO applies. Under this original proposal, despite the confidentiality requirements provided in section 8(1) of MO, mediation communication referred to in that section may be disclosed by a party to mediation to a person for the purpose of having or seeking third party funding of mediation from that person.

We now propose CSAs to the new section 7A. For the purpose of MO, the original proposed section 98S will be substituted by a new section 98S. The effect of CSAs is as follows:

- (a) a person who intends to mediate a dispute or is in the course of mediating a dispute may disclose mediation communication for specified purposes;
- (b) the disclosure must be for the purpose of having or seeking third party funding for mediation or obtaining professional advice in this connection;
- (c) with the leave of the relevant court or tribunal, a funded party and a third party funder may disclose mediation communication for the purpose of protecting, pursuing or enforcing rights or interest in relation to the third party funding of mediation in legal proceedings in or outside Hong Kong; and
- (d) the above disclosure requirements apply to a professional adviser to whom mediation communication is provided.

The Department of Justice has been making every effort to consolidate the status of Hong Kong as a leading centre for international legal and dispute resolution services in the Asia-Pacific Region. We will consider improvements to the provisions of AO and MO as and when appropriate, so as to ensure that the latest developments in the dispute resolution community can be promptly and appropriately reflected in our legislation.

As I have mentioned when introducing the Bill into this Council, third party funding of arbitration and other dispute resolution proceedings has since become increasingly common in numerous jurisdictions, including Australia, England and Wales, various European countries and the United States. We believe that the passage of the Bill and CSAs would enable Hong Kong's dispute resolution regime to stay at the forefront among major dispute resolution and financial centres around the world.

With these remarks, Deputy President, I urge Members to support the Bill and the amendments that I will move at the subsequent Committee stage.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016.

Council went into committee.

### **Committee Stage**

**DEPUTY CHAIRMAN** (in Cantonese): Council is now in committee.

Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

### **ARBITRATION AND MEDIATION LEGISLATION (THIRD PARTY FUNDING) (AMENDMENT) BILL 2016**

**DEPUTY CHAIRMAN** (in Cantonese): I will first deal with the clauses with no amendments. I now propose the question to you and that is: That the following clauses stand part of the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016.

**CLERK** (in Cantonese): Clauses 1 and 2.

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

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1 and 2 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 3 and 4.

**SECRETARY FOR JUSTICE**: Deputy Chairman, I move the amendments to the clauses read out just now. The amendments to those clauses are set out in the paper distributed to Members. I have already explained the purposes of the amendments earlier today. The Bills Committee has discussed and expressed support for the above amendments. I urge Members to pass these amendments.

Thank you, Deputy Chairman.

*Proposed amendments*

**Clause 3 (see Annex II)**

**Clause 4 (see Annex II)**

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

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Justice be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the amendments passed.

**CLERK** (in Cantonese): Clauses 3 and 4 as amended.

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 3 and 4 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**DEPUTY CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Government Bill**

**DEPUTY PRESIDENT** (in Cantonese): Government Bill: Third Reading.

### **ARBITRATION AND MEDIATION LEGISLATION (THIRD PARTY FUNDING) (AMENDMENT) BILL 2016**

**SECRETARY FOR JUSTICE**: Deputy President, the

Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016

has passed through the Committee stage with amendments. I move that this Bill be read the Third time and do pass.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)



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

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016.

### **Resumption of Second Reading Debate on Government Bill**

**DEPUTY PRESIDENT** (in Cantonese): We now resume the Second Reading debate on Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill.

### **CROSS-BOUNDARY MOVEMENT OF PHYSICAL CURRENCY AND BEARER NEGOTIABLE INSTRUMENTS BILL**

#### **Resumption of debate on Second Reading which was moved on 1 March 2017**

**DEPUTY PRESIDENT** (in Cantonese): Dr Elizabeth QUAT, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

**DR ELIZABETH QUAT** (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill ("the Bills Committee"), I now report on the deliberations of the Bills Committee.

The purpose of the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill ("the Bill") is to establish a declaration and disclosure system to detect the cross-boundary movement of a large quantity of

currency and bearer negotiable instruments ("CBNIs") into or out of Hong Kong; to provide for the powers to restrain the movement of CBNIs suspected to be related to money laundering and terrorist financing; and to provide for related matters. The declaration and disclosure requirements respectively apply to the import or export of CBNIs in the possession of individuals and on cross-boundary conveyances.

The Bills Committee approves of the establishment by statute a declaration and disclosure system to detect the cross-boundary movement of a large quantity of CBNIs into or out of Hong Kong so as to comply with the recommendations of the Financial Action Task Force ("FATF"). I will now give a brief account of the issues which are of particular concern to members.

Regarding the declaration and disclosure requirements for travellers, under the Bill, any traveller (including Hong Kong residents) in possession of CBNIs the total value of which is more than HK\$120,000 is required to make a written declaration when he arrives in Hong Kong and a disclosure when he leaves Hong Kong. Members generally hold that the declaration threshold for arrivals should not be too stringent to avoid causing inconvenience to travellers. Some members have thus enquired whether consideration can be given to allowing a frequent traveller to make a declaration prior to his arrival in Hong Kong, or allowing a traveller who often needs to carry a large quantity of CBNIs to be exempted from having to make a declaration on each occasion. Moreover, some members have pointed out that many inbound travellers, particularly those from the Mainland, prefer using cash for payment. For this reason, these members have raised whether the declaration threshold of HK\$120,000 should be relaxed.

The Administration has advised that since the purpose of the Bill is to detect the cross-boundary movement of a large quantity of CBNIs, it is necessary to require travellers to make declarations or disclosures at the time of their actual arrival in Hong Kong. The amount required to be declared or disclosed is based on the threshold of USD/EUR15,000 as recommended by FATF. Moreover, compared with other member jurisdictions of FATF, the threshold of HK\$120,000 is largely comparable and even more relaxed.

Regarding a traveller's responsibility for declaration and disclosure, the Administration has explained that a person in possession of CBNIs the total value of which is more than HK\$120,000 is required to make a declaration or disclosure

on each occasion he arrives in or departs from Hong Kong, irrespective of whether he is the owner of CBNIs and whether he is travelling alone or accompanying other people.

Members have noted that the Secretary for Security may, through the negative vetting procedure, amend the declaration or disclosure threshold for the possession of a large quantity of CBNIs. Some members are concerned about the circumstances under which an amendment will be made. The Administration has envisaged that any amendment required in future should be necessitated by the adjustment made to the threshold by FATF.

Members have also scrutinized the proposed penalties for non-compliance in detail. Most of the members consider that lower penalties may be imposed on travellers who did not comply with the declaration or disclosure requirements inadvertently. Some other members have proposed that a grace period should be introduced before penalties are imposed on the offenders.

The Administration has responded that statutory defences to the offences of false declarations or disclosures are available under the Bill. Moreover, for a first-time offender who has not previously committed any money laundering or terrorist financing offences, if the CBNIs involved are not suspected to be crime proceeds or terrorist property, he may pay a fine of HK\$2,000 as a substitution for prosecution, but other cases will be subject to criminal prosecution. At the same time, the Administration has also advised that comprehensive and extensive publicity of the new system will be launched before the new declaration and disclosure requirements under the Bill are put into actual operation.

The Bills Committee supports the resumption of the Second Reading debate of the Bill and will not propose any amendment to the Bill.

Deputy President, this is the report of the Bills Committee. On behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong, I hereby support the Bill. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Security to reply. Thereafter, the debate will come to a close.

**SECRETARY FOR SECURITY** (in Cantonese): First of all, Deputy President, I would like to thank the Chairman of the Bills Committee on Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill ("the Bill"), Dr Elizabeth QUAT, members and the staff of the Secretariat for their detailed examination of the Bill in the past few months which has facilitated the smooth completion of the scrutiny work.

As I mentioned in introducing the Bill to the Legislative Council in March, the main objective of the Bill is to implement Recommendation 32 of the Financial Action Task Force ("FATF"), which is to establish a declaration and disclosure system ("the R32 System") to detect the physical cross-boundary transportation of currency and bearer negotiable instruments ("CBNIs") to ensure that terrorists and other criminals cannot finance criminal activities or launder crime proceeds through physical cross-boundary transportation of CBNIs. FATF has emphasized that the R32 System is not currency control and should not restrict trade payments between countries or jurisdictions for goods and services or the freedom of capital movement in any way.

Being a member of FATF, Hong Kong needs to implement the recommendation of FATF on the establishment of the R32 System so as to fulfil Hong Kong's international obligations in combating money laundering and terrorist financing, thus protecting Hong Kong's reputation as an international financial centre.

From designing the R32 System to drafting the Bill, we have upheld several major principles, including: first, the System has to meet the standards recommended by FATF, and at the same time take the local situation into account; second, the System is, as far as practicable, based on the existing customs clearance arrangements for travellers and cargoes for easy compliance; and third, the efficient operation of the existing control points will not be compromised by the implementation of the System.

The Bill provides for the detailed requirements of the declaration and disclosure arrangements, penalties, enforcement, etc. necessitated by the implementation of the R32 System in Hong Kong. The Bill requires declaration

or disclosure of physical cross-boundary transportation of a large quantity of CBNIs the total value of which is more than HK\$120,000. The threshold of HK\$120,000 has taken reference from the recommendation of FATF, which is USD/EUR15,000. Compared with those of many members of FATF, including the Mainland, the United Kingdom, the United States, Australia, Canada, Japan and Singapore, this threshold is more relaxed. In drafting the requirements, we have struck a full balance among various considerations, including travellers' need for carrying CBNIs, the immigration procedures for travellers, the actual law enforcement operation and international standards.

As far as travellers are concerned, travellers in possession of a large quantity of CBNIs arriving in Hong Kong via specified control points will be required to use the Red Channel under the existing Red and Green Channel System and make a written declaration to the Customs and Excise Department ("C&ED"). Travellers arriving in and departing from Hong Kong not via specified control points will be required to disclose, upon the request of C&ED, whether they are in possession of a large quantity of CBNIs, and if the answer is in the affirmative, they shall make a written declaration of the relevant information. The scope of information to be declared has taken reference from the guidelines of FATF and is similar to that required by other members of FATF, such as the United Kingdom, the United States, Australia, New Zealand and European countries. The Bill also stipulates that if an adult knows that a young person under the age of 16 years whom he is accompanying is in possession of a large quantity of CBNIs, he must make a declaration or disclosure on the young person's behalf so as to prevent criminals from using young people to circumvent the declaration or disclosure requirements.

During the scrutiny of the Bill by the Bills Committee, some Members were concerned that travellers might circumvent the declaration procedure by adopting what is commonly known as the "ants moving home" tactic, making multiple entries into and departures from Hong Kong on the same day and carrying CBNIs of less than HK\$120,000 on each occasion. I need to point out that according to the Bill, even if the amount of CBNIs carried by a traveller is less than HK\$120,000, law enforcement officers have the power to search, seize and detain CBNIs reasonably suspected to be crime proceeds or terrorist property, and conduct investigations in accordance with the existing laws against money laundering and terrorist financing, including the Organized and Serious Crimes Ordinance (Cap. 455) and the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).

Regarding cargoes, the customer, carrier or forwarder is required to make an advanced electronic declaration to C&ED in respect of a large quantity of CBNIIs imported or exported in a cargo consignment. The relevant arrangements have drawn reference from the existing electronic Road Cargo System established by C&ED to facilitate the import and export of cargoes in various modes of transportation for the sake of easy compliance by the industries.

To cater for travellers inadvertently failing to observe the declaration or disclosure requirements for the very first time, the Bill has put in place a procedure for these people to be discharged from liability by paying HK\$2,000, provided that they have never committed any money laundering or terrorist financing offences, and the CBNIIs in their possession are not reasonably suspected to be crime proceeds or terrorist property. People handled through this procedure will not carry any conviction record. Other cases will be subject to criminal prosecution.

Deputy President, the R32 System has been widely implemented in the world. Other advanced member jurisdictions of FATF such as the United States, the United Kingdom, Australia, Canada, Singapore and European Union countries have implemented the System. Macao, which is near Hong Kong, has also passed the legislation to launch the R32 System this year. According to FATF, no jurisdiction has indicated that the R32 System has affected the legitimate flow of funds and commercial activities. As a matter of fact, the fight against money laundering and terrorist financing at a place has got to do with its determination and ability to uphold the rule of law and social stability and is also closely related to its competitiveness. It has drawn the attention of the international community. Besides, the sound development of the Hong Kong banking and financial services, coupled with the rapid expansion of the global credit card and electronic payment markets, can sufficiently support cross-boundary commercial transactions and tourist spending. Hence, we believe the R32 System can enhance Hong Kong's ability to combat money laundering and terrorist financing and fulfil its international obligations. It will not affect tourist spending and cross-boundary cash transactions in large amounts. Neither will it undermine Hong Kong's competitiveness.

A number of members of the Bills Committee are concerned about the publicity on the R32 System. There is also a view about setting a grace period during the initial launch of the System. We fully understand that the R32

System is a new measure to both the people of Hong Kong and tourists. We will conduct extensive publicity in different ways so that members of the public, tourists and the industries will have a clear understanding of the declaration and disclosure requirements. We will also consider rolling out appropriate transitional arrangements to facilitate adaptation and compliance with the new measure.

Deputy President, I implore Members to support the Bill to facilitate early implementation of the R32 System, with a view to working with the international community to combat money laundering and terrorist financing, and fulfilling Hong Kong's obligation as a member.

Deputy President, I so submit.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill.

Council went into committee.

**Committee Stage**

**DEPUTY CHAIRMAN** (in Cantonese): Council is now in committee.

**CROSS-BOUNDARY MOVEMENT OF PHYSICAL CURRENCY AND BEARER NEGOTIABLE INSTRUMENTS BILL**

**DEPUTY CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill.

**CLERK** (in Cantonese): Clauses 1 to 33.

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

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1 to 33 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedules 1 to 6.



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

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That Schedules 1 to 6 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**DEPUTY CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Government Bill**

**DEPUTY PRESIDENT** (in Cantonese): Government Bill: Third Reading.

### **CROSS-BOUNDARY MOVEMENT OF PHYSICAL CURRENCY AND BEARER NEGOTIABLE INSTRUMENTS BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, the

Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill

has passed through the Committee stage without amendment. I move that this Bill be read the Third time and do pass.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill.

## **MOTIONS**

**DEPUTY PRESIDENT** (in Cantonese): Motions. Proposed resolution under the Public Bus Services Ordinance.

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

I call upon the Secretary for Transport and Housing to speak and move the motion.

**PROPOSED RESOLUTION UNDER THE PUBLIC BUS SERVICES ORDINANCE**

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Deputy President, I move that the motion under my name and proposed pursuant to the Public Bus Services Ordinance ("the Ordinance"), as printed on the Agenda, be passed.

The Chief Executive in Council granted a new 10-year franchise to the Kowloon Motor Bus Company (1933) Limited ("KMB") on 28 March 2017. The new franchise will commence on 1 July 2017. In keeping with the established practice that all new bus franchises granted since 1992 are not subject to the Profit Control Scheme ("PCS"), we propose that the motion on the Agenda be passed to exclude the application of PCS to KMB's new franchise.

In this regard, I would like to thank the Subcommittee formed by the Legislative Council for scrutinizing the motion. The Subcommittee completed its work and had no objection to the motion.

Under section 5(3)(b) of the Ordinance, a franchise shall be subject to PCS under the Ordinance unless the Legislative Council by resolution excludes the application of the related provisions.

Under PCS, the bus fares of a franchised bus company are to be set at a level which allows cost recovery plus a predetermined level of profit. This in effect links the level of bus fares directly with the profit level of the franchise. Bus fares would accordingly have to be adjusted according to the predetermined level of profit.

In the past, the then Legislative Council and the community had strongly criticized that PCS would guarantee the franchised bus companies a profit level irrespective of their performance, thereby reducing the operators' incentive to enhance cost-effectiveness and reduce expenditure. This in effect encouraged the franchised bus companies to over expand and inflate their asset values. In view of this, the then Executive Council decided in 1992 that PCS would not be applicable to new bus franchises granted thereafter. Since then, the Government would, after granting each new franchise, move a resolution in the then Legislative Council and the current Legislative Council upon our return to China

to exclude the application of PCS to the franchise. A total of 22 such resolutions have been passed in respect of franchises granted since then.

The Government concurs that legislative amendments should be made to these legal provisions which no longer serve any practical needs. The Government will consider doing so altogether as and when an opportune opportunity arises, such as when amendments are also required to other provisions of the Ordinance. In the meantime, the Government will continue the practice of moving a resolution to achieve the purpose of disapplication of PCS to a new franchise.

Since PCS is no longer applicable to any bus franchises, the Government has made it clear during discussion with KMB on the new franchise that there would not be any arrangements on permitted return; neither does the new franchise contain any such arrangements. When briefing the Legislative Council Panel on Transport on the progress of discussion on the new franchise with KMB some time ago, we stated clearly that should KMB be granted a new franchise, the Government would move a resolution in the Legislative Council to disapply PCS to the new franchise.

Deputy President, I move that the motion to disapply sections 27, 28, 29 and 31 of the Ordinance to the new franchise of KMB be passed so as to exclude the application of PCS to that franchise.

Deputy President, I so submit.

**The Secretary for Transport and Housing moved the following motion:**

"RESOLVED that the franchise granted on 28 March 2017 under section 5 of the Public Bus Services Ordinance (Cap. 230) to The Kowloon Motor Bus Company (1933) Limited (九龍巴士(一九三三)有限公司) and published in the Gazette as G.N. 1773 of 2017 is not subject to sections 27, 28, 29 and 31 of that Ordinance for the entire period of the franchise."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Transport and Housing be passed.

**MR CHARLES PETER MOK** (in Cantonese): Deputy President, I will now report to this Council in my capacity as Chairman of the Subcommittee on Proposed Resolution under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230) ("the Subcommittee"). The Subcommittee has held one meeting with the Government to examine the proposed resolution and raised no objection to the motion.

The proposed resolution seeks to disapply the Profit Control Scheme ("PCS") by excluding the application of sections 27, 28, 29 and 31 of the Public Bus Services Ordinance ("the Ordinance") to the new 10-year franchise granted by the Chief Executive in Council to the Kowloon Motor Bus Company (1933) Limited ("KMB"), commencing on 1 July 2017.

Under section 5(3)(b) of the existing Ordinance, a franchise shall be subject to PCS under the Ordinance unless the Legislative Council by resolution excludes the application of the related provisions. The Subcommittee noted that all new bus franchises granted since 1992 were no longer subject to PCS. Since then the Administration would, after granting each new franchise under the Ordinance, move a resolution in the Legislative Council to exclude the application of PCS to the franchise. The new franchise granted to KMB does not consist of any PCS arrangements. The Government has also made it clear to KMB that the new franchise will not contain any arrangements on permitted return.

Members of the Subcommittee are aware that the proposed resolution is technical in nature and indicate that they will not object to it. Nevertheless, members consider that the Administration should consider amending the Ordinance by repealing the provisions concerning PCS to exclude the application of PCS to a new franchise. The Administration explains that the Government will consider amending the Ordinance by repealing the provisions concerning PCS as and when an opportunity arises, i.e. when amendments are also required for other provisions of the Ordinance.

The Subcommittee has also taken this opportunity offered by the meeting to suggest the Administration to review the fare adjustment arrangement for franchised buses ("FAA"). A member has suggested the Administration to consider requiring bus companies not to retain any return exceeding the 9.7% threshold. Some members hold that there is a need for public transport operators to earn a reasonable return so as to sustain service enhancement. The

Administration advises that it has commenced a review of FAA to explore if there will be any room for improvement regarding the individual factors of the current FAA basket with a view to ensuring that public interest will continue to be best protected and healthy development of bus services can be sustained. Progress of the review will be set out in the Final Report of the Public Transport Strategy Study. On the other hand, a member has suggested that, besides the existing arrangement whereby half of the return exceeding the 9.7% threshold will be rewarded to passengers, the Administration may also study whether bus companies should share part of the profits exceeding the threshold with their employees as a bonus. The Administration has undertaken to convey members' views to KMB for study.

The Subcommittee hopes that under the new franchise, KMB can continue to upgrade its service quality, including providing more bus-bus interchange ("BBI") concession schemes and district-based BBIs at existing large-scale bus termini (such as Cheung On Bus Terminus at Tsing Yi), offering more fare concessions (such as enhancing the fare concessions for full-time students and introducing monthly passes), exploring additional measures to enhance the accessibility of bus service for Persons with Disabilities, strengthening training for frontline staff, and so on. The Administration has undertaken to convey the views of the Subcommittee to KMB for consideration.

Furthermore, since various overseas cities are opening up their Big Data in the transport sector for public use, Hong Kong is actually lagging behind in this respect. Moreover, the opening up of Big Data is for the benefit of the general public. The Subcommittee is thus of a strong view that the Administration should step up its effort in requiring bus companies to fully open up their bus service Big Data. The Administration explains that KMB is not yet ready to open up its Big Data for use by third party for free. Unlike other places, franchised bus services are provided by private operators in Hong Kong in accordance with commercial principles without government subsidies. As such, the opening up of transport data will involve the issue of private ownership. Meanwhile, KMB has in fact made available its real-time arrival information of all regular routes to passengers through various channels. The Administration is also subsidizing, on a matching basis, the installation of around 1 300 display panels at bus shelters with electrical installations across the territory.

Deputy President, the following are my views on the proposed resolution.

As Members are aware, the proposed resolution is a purely technical amendment. Nevertheless, Members really have a lot of views on KMB services and have taken this opportunity to voice their aspirations in various aspects. Just now, I have already reported on them.

We all think that it is indeed the best opportunity to strive for improvement of services by franchised bus operators when bus franchises are due for renewal. Therefore, the public do not want to see us let the operators off lightly. I have been told by many friends of mine that they have expectations for the services provided by franchised bus operators in every aspect. If the request is not made when the franchise is about to be renewed, should we wait for another 10 years before improvements can be made? Moreover, under the existing system, the Legislative Council basically has no power to examine the franchise after the Chief Executive in Council has examined and approved it. This is why Members hold that, under the existing system, they can only put forward their views through the Subcommittee, and many colleagues have indeed made valuable suggestions.

I have noted in particular that the Government mentioned the opening up of Big Data in its response to our aspirations. I have time and again repeated my views in this respect, so I will not spend too much time commenting on this issue here. Nevertheless, bus companies are actually not opening up Big Data to truly give convenience to people with interchange needs if these Data are kept for use by their own Apps or Government Apps. Moreover, tourists from overseas will not specially download the Apps provided by the Hong Kong Government, for they will find it inconvenient to use such Apps. Now Hong Kong often says that it is determined to become a smart city, but its policy is lagging far behind others on this front.

I would also like to respond briefly that it is actually not the case that, as the Government mentioned, the Data involve the issue of private ownership. On the one hand, the franchise is granted by the Government to be renewed continuously for bus companies and, on the other, roads are public facilities built with public money. Actually, the places where vehicles are travelling can be seen by everyone. Nevertheless, we cannot save such information. Over the years, bus companies have handed such information to the Government, and the latter has tilted its policy in varying degrees towards these franchised companies. This is why I find the comment that such information involves private ownership unacceptable. Furthermore, there are many precedents in overseas countries of

introducing legislation to require such information to be made public. Such being the case, why can Hong Kong not do the same?

As I pointed out in my report just now, the Government has, on the contrary, provided subsidies amounting to millions or even tens of millions of dollars to major franchised companies for the installation of display panels at bus stops. Honestly, this money should not have been spent. It would have been more useful for bus companies to open up such data. I even hold that it is unreasonable for the Government to subsidize bus companies in installing these display panels.

In any case, we hope that the Government can refrain from saying that it cannot possibly open up the data. Actually, it has no intention to do so. I can tell the Secretary that, during the tenure of the Government of the current and next terms, I will continue to make such requests whenever the opportunity arises until the Government dares not use this as an excuse to refute us. Just as the debates held recently on shared-ride vehicles, car-hailing Apps, etc., the public should be able to see everything clearly if we really have to move forward, be innovative and know how the policy should be formulated.

With these remarks, Deputy President, I support the passage of the motion.

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

**MR ALVIN YEUNG** (in Cantonese): Deputy President, the Civic Party supports the proposed resolution, yet I would like to briefly discuss the question of opening data and make some brief comments.

Regarding the present question, as far as I understand it, members have passed four motions at the relevant Panel to support urging the Kowloon Motor Bus Company (1933) Limited ("KMB") to adopt a number of measures, including the provision of monthly passes, fare concessions and student fare concessions for all routes, and so on. Yet, I would like to take this opportunity to make some suggestions on public transport to KMB and the Transport and Housing Bureau specifically, including proposals for franchised bus operators to open up their data to enhance quality monitoring and smart travel, and so on.



Deputy President, first, I would like to point out that in handling applications for new routes and licence renewals from public transport operators, the Government should consider introducing an additional requirement of adopting formatted data called General Transit Feed Specification ("GTFS"). The merit of this format is that information on maps of various sections, road maps, locations of the means of transport, information of stops, sectional fares and interchange concessions can be set out in detail. Once the application is approved, the Government and the operators should open the data for access by the public. At present, in the United Kingdom and Singapore, if bus services are mentioned in press releases issued by the governments, the official press releases or news webpages will show a link for users to click into the relevant websites to browse the relevant data direct. In Taiwan, such a practice has become increasingly mature.

Deputy President, I wish to point out that the practice is adopted worldwide. It is definitely feasible in technical terms, and I trust the Hong Kong Government will definitely be capable of implementing such a practice. In fact, in Sydney, Australia, real time announcements can be made. If we can implement this, the general public will ultimately benefit from it. According to our observation, in Hong Kong, the public, reporters or providers developing transport Apps have to go through government papers and press releases and input the relevant data into computers word by word manually. If the implementation of a smart city is the ultimate goal of the Government, the present practice is obviously lagging far behind the ultimate goal.

Deputy President, when we check the information of the Transport Department and the data shown on the website <<https://data.gov.hk>> against that on the latest Apps of KMB, we will find out that much information relating to bus stops and fares is incorrect. We notice that the Apps of KMB is providing real time locations of buses, bus stops and sectional fares. By logical deduction, KMB should be using GTFS in updating its information released. In other words, if KMB is willing to open up such data, the public can receive such data in a simple way.

Regarding the data of KMB, Deputy President, I have the following proposals. At present, KMB only provides information of sectional fares. If the request of showing information on interchange and fare concessions is included in the present resolution, it will definitely benefit the public by enabling

them to have access to concession information within a short time. Deputy President, in my view, transport is the most direct aspect where the public can feel the benefits of a smart city. Since we have to go out every day, when we can read the relevant information at different times and places, we will certainly feel a sense of ease in daily life. Hence, I hope that in the negotiation with KMB and other large operators of transport on similar motions in future, the Government will consider introducing this proposal to truly implement the concept of smart city.

I so submit.

**MS TANYA CHAN** (in Cantonese): Deputy President, to date, the franchised bus services in Hong Kong have a history of over 80 years. All along, the Government has regulated the service standard and profits of franchised bus companies through concluding franchise agreements with these companies. Hence, every time we discuss whether a bus franchise should be renewed, it is the best opportunity to demand the bus company to enhance its services, set the fares at a reasonable level and formulate a fare adjustment mechanism. Today, this opportunity which appears only once every 10 years has come again. I certainly need to seize the opportunity to raise my suggestions to the Government and the Kowloon Motor Bus Company (1933) Limited ("KMB") concerning the latter's services and fares. I also hope that the Secretary will help with the persuasion.

The first issue I need to speak on is certainly bus fares. Owing to the faulty planning in Hong Kong's new towns and new development areas in the past, many people living in the remote areas in the New Territories still need to go to work in the urban area, so buses have become their main mode of transport between workplaces and homes. According to the latest figures, the daily average patronage of KMB exceeds 2.71 million passenger trips. That is to say, the number of people affected by movements in the bus fares of KMB is definitely more than 1 million. In recent years, KMB has raised its fares year on year. Inevitably, residents in the New Territories are in great distress.

For example, the fare for a single journey on Route No. 960 from Tuen Mun to Wan Chai is already over \$20. It is \$20.8. Leaving aside the traffic congestion problem in Tuen Mun, suppose a Tuen Mun resident working in Central works five days a week, his monthly transport expense on travelling to

and from his workplace exceeds \$900. If the bus fare increases by 5%, his monthly expense will increase by nearly \$50. Many a little makes a mickle. It is absolutely no light burden to members of the public and their families in the long term.

If we leaf through the annual report of the parent company of KMB, i.e. Transport International Holdings Limited, we will find that in 2016, the net profit of KMB was over \$600 million, 25% higher than its net profit of about \$488 million in 2015. Should this splendid performance not be shared with the passengers? It was pointed out in the annual report that the profit of the bus company had risen mainly because the fuel price had dropped, thus lowering the cost of operation. However, someone has used this as an excuse, claiming that once the fuel price rises again, the profit of KMB will be substantially reduced, so there is no room for fare reduction. However, according to members of the financial sector, it turns out that KMB has signed a purchase agreement with the fuel supplier for the next three years. That is to say, it has already fixed the fuel cost. The cost of operation of KMB will not greatly increase unless the fuel price abnormally surges. Hence, there is absolutely room for KMB to adjust the fares downward and share its profit with the passengers.

Regrettably, KMB seems to have turned a deaf ear to the people's demand for a downward adjustment of fares. Seeing that its franchise is about to expire, KMB has worked out a series of fare concessions which are more like gestures than practical arrangements, with the intention of handing out sweeteners to passengers to relieve the pressure for fare reduction. Regrettably, these concessions can be regarded as putting on an act. Let me cite two examples.

Deputy President, the first concession which is a bit laughable is that passengers taking the cross-harbour routes of KMB may change for the tram. It sounds a great concession, but if we look carefully at the network of the cross-harbour routes of KMB, it is not difficult to find that the existing cross-harbour routes have almost covered all the tram routes. In addition, cross-harbour interchange arrangements are available at the bus stops at the exits of the three cross-harbour tunnels. How many passengers will really change for the tram after taking the bus? As a mere concession which is better than nothing, it has obviously revealed that the bus company seems to lack any sincerity in addressing the passengers' demands.

The second concession which is even a bit disgusting is that KMB will provide full-time students with a same day return half-fare concession for routes the fare of which is over \$12. However, according to the information, these are mostly routes plying between the New Territories and the urban area. How can students who usually go to school in the local districts enjoy this concession? MTR has already launched fare concessions for full-time students for years. If KMB really wishes to relieve the students' financial burden, should it not consider providing comprehensive fare concessions for full-time students? Now it provides a concession which cannot be used most of the time. Actually what is the point of doing so?

Deputy President, apart from fare concessions, KMB has indeed put forward some new ideas regarding its facilities in order to garner public support for franchise renewal. Examples are providing information about the number of vacant seats on the upper deck, increasing the number of buses with Wi-Fi service, and retrofitting the compartments so that each bus can simultaneously accommodate two wheelchairs. Although these new measures are good, it seems there is still much room for improvement with regard to the passengers' genuine needs.

For example, KMB stated that it would install seats at bus stops for the convenience of passengers. This was originally a nice arrangement, but KMB had not consulted wheelchair users and visually impaired passengers beforehand. Eventually, these seats turned out to be barriers for physically disabled or visually impaired passengers. Subsequently, it was only after a number of groups for persons with disabilities ("PWDs") had relayed their views that KMB stopped the installation works and consulted afresh the views of physically disabled passengers. This example has precisely illustrated the failure of KMB to fully consider the needs of different passengers before the introduction of new facilities.

As a matter of fact, KMB has a lot of room for improvement in the provision of barrier-free facilities. For example, the next stop announcement system installed on many buses would stop operating for no reason, or the bus captain had simply forgotten to press the button to broadcast the information about the next station. What vexes the visually impaired passengers even more is that the sound volume of the next stop announcement system is sometimes high and sometimes low. Sometimes the sound is even inaudible. Despite the

relevant groups having relayed the problem many times, there is still no improvement. I hope the Administration can work with the management of the bus company to seek improvement of these situations.

Another example is that the visually impaired passengers have all along striven for the installation of the next stop announcement system outdoor at bus stops so that they can distinguish the routes of the buses arriving at the bus stop without the need to hail each bus at the bus stop and enquire of the bus captain about the route number and destination. As a matter of fact, the Mainland and many overseas countries have already introduced such a system which has been proven technically feasible. The remaining question is simply whether the bus company has the resolution and resources to introduce such a system.

Regrettably, it is only natural that the bus company which only cares about business will try to save as much money as possible. It will not do anything which is not urgent. If the Government did not make any request and the pressure from public opinion is not great, there is actually no reason, incentive or impetus for the bus company to provide appropriate barrier-free facilities. For this reason, I very much agree with the request made by many PWD groups for including a specific timetable on the provision of barrier-free facilities in the terms of the franchise agreement. Regrettably, the Administration did not accept this suggestion. Once again, it has let slip the opportunity of enhancing barrier-free facilities on buses. How many decades do we have in our lifetime? This is an opportunity which comes once every 10 years. How many PWDs will have to suffer in the next decade before they can take buses conveniently?

Next, Deputy President, I would like to talk about the problem of frequent delays and lost trips of buses. Actually, this is not the problem of KMB alone. Basically, it can be said that delay and lost trips are common shortcomings of the bus companies in Hong Kong. A member of the public once rang up my office and said that delays and lost trips of buses was the direct reason for his refusal to choose to take buses again. He also mentioned that suppose according to the bus schedule, a bus would come every 15 minutes, if a passenger had already waited at the bus stop for 20 minutes, how should he make this important choice in his life? Should he continue to wait, or should he leave? We have faced many such dilemmas in our daily life. If the situation of lost trips or delay of buses can be improved, coupled with the estimated time of arrival provided by the mobile application of the bus company, and even display panels are installed to provide the relevant information so that passengers waiting at bus stops will know

the situation, passengers will definitely be able to grasp their travelling time more accurately. They will be more willing to take buses and may not switch to take MTR or even taxis because the waiting time is too long. Only then can the bus companies have the basis for competing with the MTR Corporation Limited ("MTRCL") in the market.

To increase the efficiency of the bus company in dealing with the problem of lost trips, the Administration should really introduce a more stringent penalty mechanism, impose fines for serious situations of lost trips or poor services and use these fines to repay the passengers. In fact, we have discussed the problem of lost trips a number of times. We certainly understand that recruitment of bus captains seems not easy, but if the problem of lost trips recur, actually penalties should be imposed. Although the penalty mechanism of MTRCL is not a perfect system, the Administration should make more efforts in this regard and urge the bus company to improve its services. Regrettably, this time the new franchise agreement does not include this kind of penalty mechanism.

In closing, I would like to take this opportunity to raise my views to the Government on the Comprehensive Transport Study which was recently announced. The plan and direction of the study proposed by the Government this time only focuses on the operation of different public transport operators. It does not touch on the overall strategy which has been a social concern for years. A most obvious example is the transport strategy of "revolving around a rail-based network complemented by bus services" formulated in the last Comprehensive Transport Study. Yet over the past decade or so, the adverse consequences of this strategy kept emerging, leading to endless criticisms by the petty masses. Be it at the meeting of the Panel on Transport, the Public Works Subcommittee or even the Finance Committee, various Members have severely criticized that the services of MTR seem to deteriorate year after year, but the management fees it charges for the works projects are as rigid as an iron plate. To put it crudely, such money is just easy meat. I also find it a bit offensive, but what it means is that even if there is any cost overrun, MTRCL will not be punished at all.

However, every time a new rail line was commissioned, the overlapping bus or minibus routes would be butchered ruthlessly. For example, after the commissioning of the West Island and South Island Lines and the Kwun Tong Line Extension, there were widespread grievances among the local residents against the bus route rationalization package. The situation after the

commissioning of the West Island Line can be regarded as a bitter experience. The bus company promptly cut the routes. Some members of the public tried to take MTR instead, but they found that it did not seem to suit them. So they wished to take the bus again, but the bus frequency had already been reduced, and they were unable to take the bus again. Worse still, many en route bus stops outside the scope of the new rail line were also affected by the bus route rationalization resulting from the new rail line. For example, after the commissioning of the South Island Line, even Pok Fu Lam Road which was not yet covered by the rail line was seriously affected. If the Government still does not face up to this problem squarely, it will only become increasingly serious as the scope of the new rail lines becomes more and more extensive. Hence, I hope that in the new Comprehensive Transport Study, the Government will touch on these problems which the community has long criticized.

Deputy President, it is true that in Hong Kong, bus service is a private business regulated by the Government and investors deserve reasonable returns, but we should also bear in mind that bus service is at the same time an important livelihood issue. The Government absolutely cannot just care about the investors' interests to the neglect of the social responsibilities which the bus companies should fulfil and the well-being of the community at large. The Government really needs to make better use of each opportunity of franchise renewal to represent the public in demanding the bus companies to provide reasonable and quality services. It absolutely cannot castrate its own functions before the consortiums.

I so submit.

**DEPUTY PRESIDENT** (in Cantonese): I remind Members that their discussion should focus on the question of this motion, that is, the new franchise of KMB is not subject to the Profit Control Scheme.

**MR SHIU KA-FAI** (in Cantonese): Deputy President, I basically support this motion but I wish to briefly speak on two points which are of particular concern to me. Other Members have also mentioned these two points earlier on. First, is it possible to install display panels to provide the public with information on bus arrival at bus stops? I understand that display panels are already provided at some bus stops, but in some other countries or cities, display panels are installed

at bus stops across the board. Why is it that Hong Kong, being small in size and a developed metropolis, still does not have this system? I think the bureau and the department should seriously examine this issue.

When it comes to technological development, from the mobile phone that we use daily we can find out the location of cars because our mobile phones are installed with GPS (Global Positioning System) which enables us to tell the location of cars. Why can we not find out the location of buses? When the public know how much longer they have to wait before a bus arrives, they can choose whether to take a bus or go to a MTR station to take MTR. Although MTR is a faster means of transport and some people may like to travel by MTR, many members of the public may prefer travelling by bus, for it can save them a long walk as they can sit down right after boarding a bus. Particularly, elderly people with mobility problem prefer buses, but they often do not know for how long they have to wait for a bus to arrive because the traffic conditions in Hong Kong are hardly predictable and in times of traffic congestion, which can happen anytime, bus trips would be delayed instantly, thus making people wait for 20 minutes, half an hour and even one hour, and I have often received these complaints. In this connection, I think the bureau should expeditiously make the utmost effort to install these display panels at bus stops all over Hong Kong and particularly, as negotiation on franchise with the bus company is underway, I think the authorities must specifically include this point and request the bus company to get this done expeditiously.

The second point that I wish to bring up is frequent delays of bus trips. It is often the case that bus arrivals are late. Of course, as I have just said, traffic congestion on the road may not be controllable but that does not happen every day. I always receive from many people complaints about delayed bus trips and when I rang up the bus companies or the Transport Department to make complaints, they found from their records that the bus trips were delayed probably because some bus drivers were on leave that day and no replacement drivers could be engaged, or the delays were due to breakdown of buses, heavy rainfall, and so on. In those cases, the public might have waited for 30 minutes or an hour but still, no bus had come. I once asked the Transport Department what it would do to pursue these cases. Deputy President, the answer was that nothing could be done. The authorities will neither impose a fine nor suspend the franchise of the bus company. So there is simply no way to pursue the matter. Every time a complaint is lodged, it is merely a complaint lodged.



In the face of frequent bus delays, sometimes the residents have already been fed up, and when they lodged complaints with me and I subsequently conveyed them to the bus companies, I myself was fed up too. In the absence of penalties, I think after the grant of this 10-year franchise, the situation in the next 10 years will remain all the same in that there is still no way for us to lodge a complaint or all we can do is merely to make a complaint, and in the end, they will only be telling us that everything is fine.

I just wish to make these two points in order not to take up too much time. Thank you, Deputy President.

**DR CHENG CHUNG-TAI** (in Cantonese): Deputy President, concerning the discussion on profit control relating to the franchise of the Kowloon Motor Bus Company (1933) Limited ("KMB"), I think it is absolutely linked with safe driving and the operational cost, and in other words, the salaries and fringe benefits of its employees are absolutely related to profit control. In this connection, Deputy President, in my following discussion I will focus on the relationship between the safety of the employees of KMB and profit control.

To begin with, I would like to cite a case to reflect the problems involved. I believe Members will still recall that early this year in January, a bus of Route No. 681 had an accident at the Eastern Harbour Crossing ("EHC") because a bus captain aged over 60 and exceeding the current retirement age was reported to have taken medication and passed out in the course of driving. The bus then crashed into a works vehicle near EHC, resulting in a serious accident in which many people were injured.

This incident has brought forth several problems that warrant discussion. First, a clear standard is lacking for the use of drugs by professional drivers under ordinances relating to bus services or relevant transport ordinances. What does it mean? At present, given the restrictions in the company's wage systems (such as the appraisal system or bonus system), many bus captains cannot take leave to see a doctor even though they have fallen sick, for it may affect their attendance records. Such being the case, many bus captains can only buy and take proprietary medicines. But will these medicines cause drowsiness or affect their performance in driving or even constitute dangerous driving? There is not a clear list of drugs. After this accident that occurred early this year, I think KMB and the Administration should conduct a review and look into whether a clear list

of drugs can be drawn up for professional drivers, so that the management or the employees can act in accordance with this list to provide safer services.

Earlier on many Members raised the issue of the timing or punctuality of bus arrivals, which has to do with the service quality. But I think the most fundamental point is the safety of driving, especially with respect to the many long-haul bus routes in New Territories East and New Territories West. Therefore, firstly, for the sake of the health of bus drivers, it is imperative to mend the loopholes in the policies.

Secondly, the accident has aroused a point of contention because the bus driver in question took a physical examination in September last year. But the bus company, unwilling to disclose whether the driver passed the physical examination, let him perform his driving duties all the same. Did his health check results meet the requirements for driving? Nobody knows. In this connection, I hope the authorities can seize this opportunity to properly review the health check system for bus drivers in the future. This is another loophole of relatively great significance in the current policies, especially in respect of the protection of safety of passengers. I think this is very clear. A few years ago the bus company might have introduced the compulsory requirement for bus captains to take an electrocardiogram, but with regard to the health conditions of bus captains on long-haul routes (especially buses departing from New Territories West), it seems that the management has not provided health check programmes for these drivers. I think the Administration can exercise its powers to require bus companies to put in place a more comprehensive health check system to protect the safety of passengers and bus drivers. Meanwhile, this can also enable bus companies to save unnecessary costs of risk, right?

These two points aside, many other aspects are also relevant to this discussion here. One of these aspects, which also relates to profit control, is employees' salaries and fringe benefits. Just now I talked about the health conditions of bus drivers, and some people may say that every person may have some hidden health conditions not known to other people, but in the current system there are some requirements which, I think, are open to question. For example, the current retirement age for bus captains is 60 but in reality, when many bus drivers are forced to retire at 60, KMB or other bus companies will continue to employ these drivers on a part-time basis until they are 65, just that these drivers will be paid at an hourly rate. In other words, this points to a major loophole. If the bus captain is physically fit but as he must retire at 60, it means that for the period from his retirement at 60 until he reaches 65, the bus company

can actually exploit him by hiring him at an hourly rate. In the meantime, during this period, while he should have enjoyed the benefits for full-time employees, including health checks, the company will not arrange health checks for him because he is employed on an hourly basis during these five years, resulting in the accident early this year in which that bus of Route No. 681 ...

**DEPUTY PRESIDENT** (in Cantonese): Dr CHENG Chung-tai, you have spent almost five minutes discussing the company's policy on its employees. Please point out how this policy is related to the question of this motion.

**DR CHENG CHUNG-TAI** (in Cantonese): I got it.

**DEPUTY PRESIDENT** (in Cantonese): Will Members please focus on the question of this motion in their discussion.

**DR CHENG CHUNG-TAI** (in Cantonese): Alright, Deputy President. I understand your point. They are related in that I hope the Secretary and the Administration can follow up the issue through this negotiation on profit control as it involves the discussion on cost and the so-called "guaranteed profit", and employees' salaries are part of the cost. The problem now is that the management is employing this means to suppress employees' salaries and at the same time, seeking to increase the fares to reap profits by all means. This is where the problem lies. But when things go on like this, as I said in my discussion earlier, changing the employment terms and withholding employees' benefits will only take toll on the safety of service users.

Therefore, I wish to add one last point. The problem now is not only about salaries. Rather, we should at the same time review from the perspective of the employees how the company can, in the course of making profits, enable its employees to meet the basic requirements or standards, so that service users and the community at large can enjoy bus services of a standard that ensures safety, comfort and greater efficiency.

I so submit. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I remind Members again that in their discussion, they should focus on the question of this motion, that is, the new franchise of KMB is not subject to the Profit Control Scheme.

**MR LAU KWOK-FAN** (in Cantonese): Many Members have spoken on this resolution earlier and talked a lot about bus services and the role of the Government. I did not intend to speak initially, for the meeting to be held by the panel on Friday will include an agenda item on Public Transport Strategy Study and I have planned to put forth some views on that. But since Members are talking about this, I will also take this opportunity to make my remarks.

To the general public, buses as a means of transport are extremely important. Let us look at the report on Public Transport Strategy Study issued by the Government. According to the report, at present, passengers taking railway account for around 37% of the local public transport patronage. However, it should be noted that the 37% patronage is a result of the sole dominance of railway and the Government's policy of using railway as the backbone of public transport. What will be the situation by 2030? By then, 40% of passengers will be taking railway and the relevant services may have reached capacity, whereas these passengers will be afforded favourable treatment by the Government.

However, various modes of public transport on road, such as buses and minibuses, and so on, are serving 48% of the public overall, of which half are taking buses. Hence, this proposed resolution relating to the franchise of bus services will have extremely significant impact on the daily life of the public or people's livelihood.

As I said at the panel, apart from vetting and approving the franchise, the Government should also identify areas requiring improvement by the bus company granted the franchise, including ways to alleviate the problem of lost trips. As for the concessionary half fare for students, the current haphazard arrangements should be improved to provide concessionary half fare for students across the board. Certainly, the bus company has already undertaken to conduct a review or will try out the arrangement for a certain period of time.

In the report on Public Transport Strategy Study which I mentioned earlier, franchised bus services are certainly mentioned. Yet, I have to point out that for

a means of transport patronized by half of the citizens of the territory every day, should not the Government have a role to play? Some Members have earlier raised the concern about lost trips which warrant criticisms. Sometimes, I also receive complaints from residents about the lost trips of buses. I had rung up the bus company to inquire about those cases. In some cases, it was because the drivers concerned had taken sick leave or there were some problems with the drivers. Yet, among the replies I received, the causes of lost trips in most cases were attributed to traffic conditions or congestion.

Regrettably, in the latest report on Public Transport Strategy Study, the Government is silent on any solution for easing traffic congestion. The designation of bus-only lanes is mentioned, yet it is confined only to the pilot scheme in Connaught Road Central and a certain section of road in Yuen Long. In view of the large number of passengers served by buses, will the Government face the problem of traffic congestion squarely by setting a target for solving the problem, designating additional bus-only lanes and stepping up promotion? This is the due role of the Government.

Moreover, I will talk about the only strategy mentioned in the report, and that is, interchange. In the past, in the rationalization of bus routes, it is true that bus companies had made interchange their goal and exerted a lot of effort to attain the greatest efficiency. However, according to the report, the interchange arrangements at the district level and those made by bus companies were unsuccessful. I think this idea of interchange proposed by the Transport and Housing Bureau will be applicable to railways only. Interchange is convenient for railway passengers. If they have to change to another line, they need only get off the train, walk across the platform to the other side and board another train arriving in one minute. Why do passengers of buses not prefer interchange? First, it is because of lost trips from time to time. Second, passengers arriving at interchange stations cannot board another bus immediately but have to wait for a few minutes or even tens of dozens of minutes, whereas the frequency of feeder buses in the district is low. Hence, if the Government hopes to promote interchange, it should examine if the conditions allow, or it should consider providing better support. I think the Government has a significant role to play in this aspect.

Let me cite another example. The report mentions the provision of higher-quality bus services. The Government says that higher-quality bus services may be achieved by reducing the number of stops and offering

guaranteed seats. Honestly, the income of bus companies now relies on the number of passengers, if the capacity for standees is reduced, how can bus companies provide the relevant services? As a result, they will either increase bus fare or be reluctant to provide such services. Mere encouragement by the Government does not work. I suggest the Government offer some incentives to promote this. For instance, the Government should lower or standardize the tunnel tolls of all public transport. The Government has already recovered the Eastern Harbour Crossing ("EHC") but it has not standardized the tunnel tolls of public transport for EHC and the Cross-Harbour Tunnel in Hung Hom. Next year, the Government will recover the Tate's Cairn Tunnel. Yet it has no plans to standardize the tunnel tolls. If the Government does not introduce any promotion measures or lower the tunnel tolls of public transport, yet requires bus companies to provide various higher-quality bus services, it seems to be a bit unrealistic.

In fact, during the negotiation on the franchise this time around, the bus company can do much better for the public theoretically, but why can this target not be achieved? I think the greatest problem lies in the Transport and Housing Bureau. For the Bureau is merely paying lip service in claiming that it will strive for the interest of the public in the negotiation and will convey the views of the public and the legislature to the bus company. I have to give the matter its fair deal here. Since the change of the management of the bus company in recent years, the company has shown an intent to introduce changes to many of its services and practices. The bus company has not proposed any fare increases in the past three years. Maybe the company has benefited from the drop in oil prices, or because it has managed to control its costs effectively or it has made better proceeds.

Actually, the bus company also wishes to do more. For instance, it may introduce a monthly pass scheme to benefit long-haul passengers. The relevant arrangement could have been discussed during the negotiation on the franchise. Yet, I learnt about a most disappointing message that the Transport and Housing Bureau has imposed a lot of hurdles and obstacles under the mainstream transport policy to discourage the bus company from introducing a monthly pass scheme. Recently, when I said that the bus company planned to submit the implementation plan to the Transport and Housing Bureau, the Bureau said it welcomed such submission. Yet, will this really be the case? I know that the Transport and Housing Bureau will continue to hinder the bus company in introducing a monthly pass scheme. I would like to take this opportunity to ...

**DEPUTY PRESIDENT** (in Cantonese): Mr LAU Kwok-fan, please speak on the question of this motion and point out in what way the content of your speech is relevant to it.

**MR LAU KWOK-FAN** (in Cantonese): I would like to point out that when the Transport and Housing Bureau negotiated with the bus company on its franchise, the Bureau should strive for the most favourable terms for the people and society of Hong Kong. Regrettably, more often than not, the Government has failed to give full play to its role as the bridge. I do not know what the Government is afraid of. Is it afraid of affecting the competitiveness of railways? Is it because the Government does not want to see intense competition between buses and railways? Is the Government still maintaining the mindset of sole dominance of railway? During the negotiation on franchise renewal, it is obvious that the bus company could be pressed to do better in many areas. Indeed, the bus company was prepared to introduce more concessions, yet the Transport and Housing Bureau was unwilling to allow them to implement those schemes.

Hence, I have to make use of the opportunity today to tell the Secretary that he should stop hindering the progress of the introduction of monthly passes for bus fares. I will line up bus companies and minibus companies to provide interchange arrangements and additional services in the future. I will make an announcement later. All of you can wait and see. However, I hope the authorities can approve the relevant schemes as soon as possible and do not obstruct it. I hope the Secretary will ask his subordinates whether or not the bus company has submitted a proposal for the monthly pass scheme and when it will be approved. If the authorities have a lot of worries, will it consider introducing a long-haul ticket scheme first?

Certainly, I support the motion. Yet, I wish to take this opportunity to express my disappointment with the Transport and Housing Bureau. For the Government has condoned the sole dominance of railway under its public transport strategy, failing to perform its role in formulation policy overall. Though the Government claims that it is maintaining the balance, so to speak, it is really disappointing. As I watch Members talk about this fervently, and as I know I will not have so much time to speak during the discussion on the subject

at the meeting to be held on Friday, I have taken this opportunity to express my dissatisfaction with the public transport strategy to the Transport and Housing Bureau. Thank you, Deputy President, I so submit.

**MR HO KAI-MING** (in Cantonese): Deputy President, I support the Government's granting of a new franchise to the Kowloon Motor Bus Company (1933) Limited ("KMB"). But we certainly hope that KMB can improve its service quality every day. We hope that KMB's fares can be competitive to those of the MTR Corporation Limited ("MTRCL"), so as to enable bus services to stand on an equal footing with rail services in public transport and hence bring forth positive competition to the Hong Kong community. But as we know, KMB currently enjoys no obvious competitive edge over MTRCL when it comes to service stability and fare levels, with the result that its passengers have been drawn to MTRCL persistently.

Deputy President, we hope KMB can introduce more concessions for passengers as a means of attracting patronage and offering more choices to the people, thus enabling them to choose between travelling by MTR or by bus. That way, Hong Kong's public transport can progress further.

(THE PRESIDENT resumed the Chair)

First, we hope the Transport and Housing Bureau can do a better job. For instance, can interchange concessions be provided at some major bus stops? At present, interchange concessions are already provided at the interchanges of various tunnels. But in the case of some major bus stops, such as those on Lai Chi Kok Road and Kwun Tong Road in West Kowloon and Kowloon East respectively, can certain interchange concessions be also provided, so as to enable long-haul bus passengers alighting at such major interchanges to interchange for other same-fare bus routes or even feeder bus routes free of charge in order to return home, and thus give people more freedom in choosing their desired bus routes?

Recently, we met with KMB's representatives and came to learn that KMB intended to launch a monthly pass initiative, one which, however, would be



confined to certain bus routes only. It is actually different from the kind of monthly pass scheme in our or public perception. To our understanding, a monthly pass costing us, for example, \$400 should be one which allows us to travel on various bus routes for an unlimited number of journeys rather than only one bus route within one month. I do not believe anyone will only take, for example, the Route No. 968 bus repeatedly back and forth every day. This kind of monthly pass scheme in our mind is rather the kind of scheme which people want the bus company to introduce. Such schemes can increase the competitiveness of KMB relative to MTRCL. We hope the Transport and Housing Bureau can urge KMB to launch such monthly pass schemes, so that people can benefit from the renewal of the franchise agreement with KMB. In particular, wage earners may also have to go out to meet with their clients or do something else apart from commuting between their homes and workplaces every day. So, can a monthly pass cover their transport expenses for a whole month? I hope the Government can do so, so as to enable wage earners to better estimate their expenses.

The second point concerns the real time bus arrival system. We hope the Government can step up its efforts of urging KMB and other bus companies to open up their data or encouraging them to launch other new applications. With various applications, people can look up bus route information and learn of the arrival time of buses. This is rather the usual practice adopted by people. When we need to travel by bus, we naturally do not want to take all the trouble of launching a navigation application to look for the bus routes we should take and then launch KMB's application to check their arrival time. This is undesirable. While it is true that display panels at bus stops and mobile telephone applications these days have greatly improved when compared with those a few years ago, we can see bus delays all the same and even "ghost buses". As the Government has already got some data, can it continue to deploy personnel to monitor KMB? The reason is that there have been way too many "ghost buses" and frequent lost trips. For example, a bus initially scheduled to arrive in 3 minutes does not show up even after the passage of 15 minutes, very much to people's frustration. I hope the Government can continue to monitor KMB's services with the use of data and urge KMB to improve its services persistently.

Besides, the installation of support facilities at certain bus stops can only be completed in 2020. The time needed for their completion is much too long indeed. Particularly, the retrofitting of seating and the installation of display

panels are actually no major works as such. I hope the Government can allocate additional resources to facilitate the expeditious installation of such support facilities at bus stops. We know that not much manpower is deployed for these tasks. With more resources, more manpower can be recruited for the expeditious completion of all such works. This can in turn enable people to travel by bus more conveniently and enhance the competitiveness of bus companies.

Another point is about the remuneration of bus captains. At present, many retired bus captains are actually still fit to work. KMB has engaged them to work as part-time bus captains during the peak hours in the morning and evening on a part-time contract basis. But will this violate the "4-18" requirement under a continuous employment contract? Has KMB provided them with corresponding fringe benefits? We find all these questionable. We hope KMB will also make proper work arrangements for part-time bus captains and provide them with remunerations on par with their full-time counterparts. I also hope that bus termini can be equipped with more pantries, rest rooms and washrooms for bus captains, along with the enhancement of occupational safety. This is the only way to provide people with safe transport services. We hope the Government can urge KMB to do more in these areas.

Furthermore, can the Government set up a public transport fare stabilization fund under the fare adjustment mechanism? With this stabilization mechanism in place, we can avoid adding too much to people's burden even if KMB intends to increase its fares. The Transport International Holdings Limited to which KMB belongs is the owner of other individual businesses. Can the Government also take into account the revenues from such businesses when examining the renewal of KMB's franchise? I hope the Government can take account of this factor when considering KMB's application for fare adjustments. This is our proposal, and we hope the Government can urge KMB to do better, so as to enable it to compete with MTRCL and in turn bring more benefits to the people.

Thank you, President.

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

**DR FERNANDO CHEUNG** (in Cantonese): We are discussing the resolution on renewing the franchise of the Kowloon Motor Bus Company (1933) Limited ("KMB"). This resolution is about the Government approving on behalf of the public the continued operation of this bus company by way of franchise. Franchise means a business with an exclusive market. Therefore, we should first examine whether the services delivered by this company is deficient and what improvement it will make. Speaking of the services of KMB, over the years, we have been concerned about several points and of course, these concerns do not relate only to KMB as the services of other public bus companies are important, too.

First, on the service front, do the services meet the needs of persons with disabilities ("PWDs"), especially people who have mobility problems? When we pushed the Government to provide concessionary transport fares to PWDs and the elderly, the Government commissioned the University of Hong Kong to conduct a survey to find out whether the means of public transport more often used by PWDs was bus, minibus or MTR. The findings clearly show that the means of public transport most preferred by PWDs with mobility problems is bus, for it is a "point-to-point" mode of transport. To PWDs, especially those with mobility problems, "point-to-point" services can spare them a lot of walking and it is indeed more convenient to travel by bus. Therefore, we cannot neglect bus services, and despite the increasingly robust development of MTR as its network has covered more and more places nowadays, buses remain the most important means of public transport to people who have mobility problems.

In respect of services provided for PWDs, we have seen that improvements have been made, though with extremely slow progress. This is particularly so in the replacement of existing buses with low-floor buses because the bus company only procures a new bus of low-floor design after an old one is eliminated. We hope that the entire bus fleet will be equipped with low-floor models next year, which is long awaited by us.

Low-floor buses aside, many PWDs also have different needs. Earlier on several Members have mentioned these needs, so I will not repeat them. But with regard to opening up the Big Data to enable all members of the public to make use of popular software—especially as it is so convenient to use mobile phones nowadays—to clearly find out the arrival time of a bus of a certain route, this is very important. For people who are visually impaired, they can obtain these data through audible mobile phones; and for other people who have

mobility problems, these data can tell them in advance the time of bus arrival, so that they can make suitable arrangements in terms of time as it often takes them a longer time to get on and off public transport. Over the years, we have continuously appealed to the Government for this cause and still, the Government is only saying today that each bus company should be given a free hand to develop their own Apps but some of these Apps are more comprehensive and some have more deficiencies. I think this approach is most undesirable. The Government can actually make use of the opportunity of renewal of bus franchise to require various bus companies to meet the same standard. But much to our regret, the Government has neither a standard nor position in this respect so far.

It has been a practice for the Transport Department and various public transport service providers, including the MTR Corporation Limited and bus companies, to meet with organizations representing PWDs every six months. At these meetings, discussions are held for two hours and after various parties made their representations, the meetings will come to an end. This is far from satisfactory. We consider that the Government is duty-bound to take the lead to draw up benchmarks for various modes of public transport or public transport services that meet the international standards in consultation with PWDs and stakeholders. After obtaining the consent of various parties, the Government should apply these standards to all public transport service franchisees, rather than allowing them to negotiate with PWDs on their own. This is not what the Government should do and what is more, this will often make implementation difficult.

President, the most complaints that I have received concern the wheelchairs used by disabled children. While this kind of wheelchairs does not look like the standard wheelchairs but more like baby strollers, they are specially made for children with mobility problems, and President, my daughter is also using one now. If this wheelchair is brought onto a bus and as the PWD sitting in it is a child or looks like a child, the bus driver will often ask the parents to collapse and fold up the wheelchair for safety reasons. This is actually quite ridiculous because the wheelchairs used by some PWDs are specially designed to support the body of the disabled child and so, they cannot leave their wheelchairs; nor can their wheelchairs be taken away from them casually. Therefore, a lot of problems may often arise in these circumstances, and I have received so many complaints that I cannot possibly deal with them. Is the Government not duty-bound to raise this issue with the bus companies in renewing their franchise?

Moreover, many blind people have conveyed the view that there is no way for them to learn about changes in bus routes. Although some bus companies may notify the public through their Apps, some companies have not done so. Besides, many deaf people may not necessarily have a smart phone, especially as those who are older in age may not know how to use one. Therefore, when they arrive at the bus stop and although the stop may have been cancelled, no notification is given or no one is there to tell them and so, they are made to wait pointlessly for a period of time. In fact, regarding the dissemination of simple information, such as changes in service, the Government can impose requirements on these companies. Concerning the bus stop announcement system at bus stops or on buses, we have put forward views many times and I will not make any repetition here.

In this connection, I hope that the Government will take on board the suggestion that I made earlier and draw up, as the first step, a set of standards for services for PWDs in tandem with the renewal of the bus franchise and then apply these standards to various public transport service operators.

Besides, in respect of safety, just now I noticed that Dr CHENG Chung-tai mentioned ...

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG, pause for a while, please. The Deputy President has repeatedly reminded Members that in this debate, their discussion should focus on the question that the Profit Control Scheme is not applicable to the new franchise of KMB, and that they should not discuss issues relating to the operation of the bus company. Although a number of Members have mentioned these issues earlier, I remind Members that this proposed resolution is only about the exclusion of the application of the Profit Control Scheme to the new franchise of KMB. Will Members please focus on the question in their discussion and do not digress from it.

**DR FERNANDO CHEUNG** (in Cantonese): I understand it, President. I was about to say that as the Profit Control Scheme is not applicable to the franchise of KMB and as we are talking about renewing its franchise for 10 years, therefore, for the purpose of renewing KMB's franchise for another decade, it is necessary for us to consider the services provided to the public by this company in the past.

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG, the Chief Executive in Council has already approved the renewal of the franchise of KMB, and this proposed resolution is only about the exclusion of the application of the Profit Control Scheme to the new franchise of KMB. The proposed resolution under debate has a very limited coverage and please speak on the question of the resolution.

**DR FERNANDO CHEUNG** (in Cantonese): I understand your point. This is actually also related to the profit of KMB. When KMB can do better in terms of safety and accord better treatment to its employees, the cost may increase and its profit may decrease.

As several Members also mentioned earlier, the employees of KMB, especially the bus captains, have very short rest time. Last year, an organization conducted some surveys and found that an overwhelming majority or as many as 97% of bus captains worked overtime. Over 75% of bus captains outrageously worked 50 to 60 hours per week. The Transport Department has issued "Guidelines on Bus Captain Working Hours, Rest Times and Meal Breaks" in which bus companies are allowed to require bus captains to work as long as 84 hours a week. How is this calculated? The guidelines stipulated that the maximum duty in a working day should not exceed 14 hours and driving duty should not exceed 11 hours. This is most bizarre. Assuming a bus captain works a six-day week, and it means that he can sit in front of the steering wheel for 66 hours. Imagine: The bus captains work in such a narrow space and have to stay alert to the surrounding traffic conditions. Such long working hours will wear them out and the overall safety will hence be compromised.

Therefore, I think that when we give consideration to excluding the application of the Profit Control Scheme ("PCS") to the bus companies, this is also a factor for consideration. Should we, for safety considerations, impose a requirement that bus companies cannot make their bus captains work for long hours? According to the standard of the European Union, a driver should drive for no more than nine hours per day, comparing to 11 hours in Hong Kong and this aside, we have no stipulation on how many consecutive days a driver can work per week so long as the drivers have one rest day. President, I do not know if you consider that this is truly a digression from the question but this concerns the safety of public transport, and when we discuss the exclusion of the

application of PCS to a franchise bus company, should we not also consider these factors?

Therefore, here, I once again urge the authorities to reconsider the quality and safety of services of bus companies, and whether bus companies can provide services for various types of people in need in the community. These should also be taken into account in considering this resolution today.

President, I so submit.

**MR CHAN HAN-PAN** (in Cantonese): President, the proposed resolution put forward this time around seeks to resolve that the new franchise granted to Kowloon Motor Bus Company (1933) Limited ("KMB") shall not be subject to the Profit Control Scheme ("PCS").

Actually, this proposed resolution will be tabled at a regular interval. I very much hope that the Government can consider amending the legislation because the purpose of proposing the relevant resolution on each occasion is to exclude the application of PCS to the new franchise. Given that such a resolution has been proposed for so many times, it is time for the Public Bus Services Ordinance to be amended.

Certainly, many Honourable colleagues will incidentally talk about bus services in discussing this subject. In my opinion, they cannot help getting grievances about bus services off their chest. In fact, the Government is now representing the public to negotiate with bus companies over the provision of bus services in Hong Kong, hoping to help the public fight for more concessions. Nevertheless, during the negotiation over the new franchise this time around, on how many items has consensus been reached? Just now, Mr LAU Kwok-fan mentioned that his greatest concern was the issue of monthly passes. Nevertheless, under the new franchise, we cannot see at the present stage KMB will introduce any monthly pass scheme.

Neither have we seen the introduction of fare concessions for students, as mentioned by Mr LAU Kwok-fan just now. Actually, under PCS, a bus company may pocket the entire amount of pre-set profits. Under the new franchise, however, KMB has to share its profits with the public according to the rate of return, which is currently set at 9.7%. The Public Transport Strategy Study newly published by the Government also provides that there are chances

that the 9.7% threshold may be further adjusted downward. In my opinion, this threshold is somewhat like the permitted rate of return. Adopting the model of PCS, it is not an arrangement made under the franchise. Nevertheless, I hope the Government will not forget that the rate of return of bus companies can rarely reach 9.7%. Over the past several years, it was due to falling oil prices that bus companies could make profits.

The public hopes to have options. At present, public transport relies on the railway as the mainstay, though buses also play a very important role. The Mass Transit Railway ("MTR") is crowded with people. In the past, the public would probably take MTR to go to work earlier. Now, bus commuters hope to enjoy comfortable, point-to-point transport service, so that they can reach the ground floor of their offices and then go to work direct without walking up and down. Therefore, whether or not bus companies can maintain quality bus services matters much to the public. Furthermore, although the existing transport policy is using railway as the backbone of our transport system, the number of bus commuters accounts for more than 30%. Therefore, in formulating bus franchises, the Government should consider the public expectation for good bus services.

The Government has also pointed out in the Public Transport Strategy Study that the 9.7% threshold can be lowered slightly. I hope the Government will not forget that, though it sounds appealing, members of the public can actually not benefit from it. When can bus companies make so much profit nowadays? Therefore, the Government had better change its strategy by discussing with bus companies the introduction of a monthly pass scheme and concessions for students, whereby students can enjoy concessions once they board the bus rather than on their second bus journey. Furthermore, people living in remote areas also hope to enjoy better services as well as a monthly pass scheme. The introduction of a monthly pass scheme can not only enhance the competitive edge of bus companies, so that they can compete with the railway company, but also make them improve their services constantly.

During a visit to KMB with a group of Members yesterday, we learnt that a new batch of beautiful buses would be commissioned. We are pleased to see a company's willingness to make investment to procure new vehicles and make some improvements under the new franchise. Certainly, we consider there is still much room for bus services to make continuous improvements. In the past, however, the Government emphasized the railway at the expense of bus services.



Hence, I hope that, after the passage of the Government's proposed resolution today to replace PCS with the new franchise, more measures can be launched to assist bus companies in operating effectively. For instance, when the MTR Corporation Limited make enormous profits every year, it should put aside some money to subsidize other modes of public transport, including buses, because members of the public really need more quality public transport services and more options.

Since this proposed resolution per se is not controversial, I will support excluding the application of PCS to the new franchise granted to KMB.

President, I so submit.

**DR KWOK KA-KI** (in Cantonese): President, I speak in support of the abolition of the Profit Control Scheme ("PCS").

In the present-day society, I consider it unrealistic to set the profit control cap at such a high level. Thanks to various factors, the bus company has not raised its fares this year because its profits have exceeded \$800 million. Nevertheless, this situation might only be short-lived. When oil prices or other operating costs rise, the bus company is very likely given the conditions to raise bus fares, because of the concessions offered by the Government.

Given that the Government's long-term policy is to maintain railway services at roughly the current level, the room for development and operational potential of buses and other modes of transport in the future will be enormous.

If we examine the profits of several bus companies, in particular the Kowloon Motor Bus Company (1933) Limited ("KMB"), the largest share of their profits comes from the billions of dollars of profit derived from bus depots and other property projects rather than the operation of bus services. Operating a bus company is not an unprofitable business. However, the company might have to wait until the existing bus depot has become fully developed before it can apply to the Government for a site for the construction of a new depot one day, and then the old depot can be converted into luxury flats. This practice has been frequently repeated. This is why I feel that these bus companies have exhausted various channels to milk the people of Hong Kong, almost to the extent of mugging us.

Now that they have been granted franchises by the Government, although the Government has abolished their profit cap and granted them exemption this time around, every time when a franchise agreement is to be signed, support has to be sought from the Legislative Council to prevent bus companies from making fixed profits. In my opinion, we had better come up with a new method to resolve this problem once and for all.

First of all, the cap is exceedingly high. Although the Government has in the review of public traffic and transport policy this time around mentioned that the cap might be lowered, I do not have much confidence in the Government's ability to implement any plans. I believe Members will still recall that, before the signing of agreements with the two power companies, the Government asserted that the profits would be capped at 6% to 8% (previously being 9.9%). While these words were still ringing in our ears, the Government was seen falling to its knees before the consortia again. Despite its pledge that profit control on franchised buses would be reviewed, it may just be another case of all thunder but no rain. In the end, the rich and powerful will exploit their influences and bring the Government to its knees.

As we all know, every cent of profit made by the franchised bus companies comes from members of the public. Actually, bus companies can now make profits by many other means, such as advertisements, broadcasting, and so on. However, these profits are very often not shared with passengers. In my opinion, except imposing a profit cap, why does the Government not link the profit cap on KMB to its performance which is the most effective measure?

For instance, we still find the Government's profit cap on the MTR Corporation Limited and penalty mechanism unacceptable because the penalty can hardly be enforced, but it is at least a beginning. For instance, if the lost trip rates of KMB or the other two bus companies, namely the New World First Bus Services Limited and the Citybus Limited, are found to be high, their profit caps will be further lowered immediately. If passenger surveys reveal that their services have failed to fulfil their initial promises, their profit cap may again be lowered.

Why must these bus companies be allowed to make profits come what may? No matter how terrible their lost trip situation or how poor their performance is, the Government is always subjected to their "imperial sword", that is, profit control. Despite the exemption proposed by the Government this time around, I still feel that a sword is always hung over the people's heads.

Unfortunately, the Government has again granted a franchise, which can only be revised in eight or 10 years. Nevertheless, I believe there must be a beginning for everything. I do not think that setting a percentage arbitrarily can help resolve the problem. On the contrary, we should adopt a new mindset, such as encouraging bus companies to save energy, making service pledges, sharing the information of bus companies, and so on, so that standards that can be specifically set out and consented by the public and commuters can be used as criteria, which can then be turned into the most crucial element in profit control under the new PCS in future.

Given their franchises, bus companies can really enjoy guaranteed profits. Since the interest rate for savings is close to zero at present, it is already a myth to many businessmen to be able to make a profit capped at 6%, 7%, 8% or 9%. Many small and medium enterprises cannot make such an envious rate of profit of close to 9% even though they have worked extremely hard.

Given the exceedingly low interest rates nowadays, I consider the mindset adopted by the Government absolutely outdated. Certainly, the current-term Government has less than one month to go before it retires. Nevertheless, I believe the Government should review afresh PCS or the "imperial sword" of exempting profit control for new projects in dealing with the development of bus companies, the new role played by bus services or the introduction of quality or long-haul bus services, so as to give bus companies incentives to meet requirements.

For instance, even the newly introduced quality taxi service, which is under discussion at the moment, has a franchise tenure. In other words, such service cannot be operated indiscriminately, or allowed to continue despite its unsatisfactory performance. New services should be subject to a fixed tenure. Likewise, operation rights should not be granted to the existing several franchised bus companies only. I propose that, even if new bus services are developed in the future, more competition should be introduced to enable other companies with relevant strengths of operation to join the competition, with the ultimate goal of enabling the public to benefit from various services. But most importantly, we cannot accept an exceedingly high rate of permitted profit.

I hope the Government or the Secretary can in their response present to us visions of how profit control can be formulated in the future. With these remarks, I support this resolution.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): This is actually a mere ritual because in 1992, many Legislative Council Members and the petty masses considered the Profit Control Scheme ("PCS") as merely nominal, in that the Government told the bus company by how much it was allowed to increase its fares, and the tactic of the bus company was to keep expanding its net fixed assets. As we all understand, the bigger the denominator, the bigger the numerator. So the Government stopped this approach, freezing PCS. Now what we are doing is to add more ice cubes, renewing its franchise for 10 years. The previous control scheme is not adopted now. Instead, the bus company is allowed to have a certain rate of return. Certainly, this is a more flexible approach which enables the bus company to make better adjustments to its operation at different times.

However, today I would like to say that in my view, be it PCS or the approach of allowing it to have a certain rate of return, there is one problem, which is the problem of bus franchise. Now the three bus companies are too big to fail, especially the Kowloon Motor Bus Company (1933) Limited ("KMB"), right? We cannot live without it. Now if it says that the return rate permitted by the Government is too small and thus it decides to quit, we will beg it to continue to operate. This is precisely the problem. Every 10 years or every now and then in the Legislative Council, we will continue to freeze this cold "corpse" and adopt a new method to impose control. This is in fact a great problem.

In my view, our discussion on the resolution under the Public Bus Services Ordinance is not sufficient because we have not made any full consideration. The bus service is a public utility which must be in operation. We operate it through a private enterprise. Is it a correct approach? Now we all say that it is difficult to run a bus company. Certainly, when the Mass Transit Railway Corporation Limited ("MTRC") (now known as the MTR Corporation Limited ("MTRCL")) had not yet come into being, the bus service was indeed an exclusive business. People who are old enough must have experienced the era when MTR was not yet available. If the bus service in a certain district or a certain bus company broke down, the whole territory would really collapse, especially when most people went to work by bus at that time. That was the industrial age. The

majority of workers went to work by bus. It was similar to the present situation at the Admiralty Station where we can see many white-collar workers bustling about every day. Without them, Hong Kong will be unable to operate.

However, when we let the railway play the leading role, that means when the first MTR line was commissioned in 1979, we had already planned to use the railway to link up the whole territory. In fact, the development of the bus service began to be subjected to restriction. Members should still remember that in the initial period upon the commissioning of MTR, no bus route could run parallel to the MTR line. That means if the MTR line went straight along Nathan Road, no bus could take a parallel route travelling along Nathan Road. That is why, as Members should remember, many cross-harbour buses or other buses would unreasonably make a detour into Shanghai Street. The reason was the restriction imposed by the relevant law.

We have created another giant which cannot fall. It is MTRCL, that means the former MTRC and Kowloon-Canton Railway Corporation ("KCRC"). There were two separate corporations in the past. What happened back then was that the Government privatized the railway which it had established. MTRC became MTRCL. The reason was that MTRC was privatized, and then it acquired KCRC which was wholly owned by the Government. For this reason, regarding the whole transport policy ...

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, the scope of this proposed resolution is quite limited. It is only about the new franchise of KMB not being subject to PCS. Please do not stray away from the question. You need not elaborate on the relevant history in detail either.

**MR LEUNG KWOK-HUNG** (in Cantonese): Yes, I got it. The President is sharp. He could tell that I was talking about history. I will stop talking about history. But if I do not talk about history, no one will get what I am saying. My proposition is that we need not discuss the permanent abolition of PCS once every 10 years. We need not do so. We should have a brand new mindset. Hence, I oppose such an approach.

The reason is that when we discuss why PCS is not feasible—I have already explained it, so I will not make any repetition. Anyway, the business of the bus company grows bigger and bigger. It does not matter if its performance becomes increasingly poor because the Government allows it to make a fixed rate of return. After it has bought buses, it can leave them unused, or there can be buses loitering like ghosts—as we all know, those are "zombie buses" which will be counted as long as they have travelled on the road. It is a great waste, especially when the roads are so narrow and the air quality is so poor. Hence, I do not support this approach. I think we should study this matter in light of the overall traffic condition in Hong Kong.

In my view, we should work in the other way round. President, I have my justifications. I oppose this. I hope Honourable colleagues will oppose, together with me, the resolution for renewing the franchise which is not subject to PCS. My point is, the bus company is now crying out for help. Although it has made \$800 million in profit, it is still crying out for help. It considers that it has made a huge investment but earned only \$800 million, which is a very low profit in the market. Actually, it is not true. President, being a businessman, you should know that a business with a guaranteed profit cannot be regarded as yielding a low profit. Nevertheless, I will leave this issue aside at the moment. The bus company says that MTRCL has seized all the profits. It is in dire straits. For this reason, it has even grumbled about the permitted rate of return. Hence, in my opinion, if we do not pass the resolution today, there will be a new opportunity for us to review the whole transport policy. As pointed out by both Mr LAU Kwok-fan and Mr CHAN Han-pan of the Democratic Alliance for the Betterment and Progress of Hong Kong just now, MTRCL has been raking in huge profits. It has reaped profits from the transport business. It even manages railways in foreign countries to make money and charges railway management fees. MTRCL is in fact a cash cow which keeps raking in loads of money.

My point is, we negotiate with the bus company about its permitted rate to return once every 10 years. As though it is having a toothache, it always says it wants to quit, but the Government cannot let it stop operating. In my view, Hong Kong is a small place. The criss-crossing railway and bus networks linking up the whole territory should be operated by the Government, rather than adopting the past practice of privatizing the public utilities which were originally run by the Government. The entire investment scheme should aim at serving members of the public and set appropriate prices based on the median wage. What I mean is that if the main railway in Hong Kong is transferred to public

ownership, that means being operated by the Government, the problems of the bus service will be readily resolved. What are the reasons? Since the railway has reaped such a large amount of profits, firstly, after the transfer to public ownership, the train fares can be reduced; secondly, if the railway and the bus service are run by the same company—President, you may not understand it. When we discussed the development of new areas by the Government, the residents often felt unhappy and said, "Buddy, I need to go to work by MTR, but the bus company did not provide near my home any bus route travelling to and from the MTR station, so I have got to walk to the MTR station from my housing estate." Bus service of the so-called K routes are not available now. It will not be available unless it is doled out with mercy because the bus company, considering that the number of passengers is too small to yield a profit, will not operate it, while MTRCL does not find such a need.

Hence, on this point, I have deliberately come into the Chamber to speak. I understand the Secretary's argument. I will not talk too much. I just wish to raise a point of view. Once every 10 years, the Government tells different bus companies that it will grant a permitted return rate. This is negotiable if they wish to quit. The staff of the bus companies will then come to lobby us. I believe the President must have been lobbied by them, too. In particular, the staff of KMB are good at lobbying. They will seek help from Members, saying that the railway has made their operation difficult.

In my view, the existing 20-odd% of shares of MTRCL should be bought back so that MTR will become wholly owned by the Government and operate for the people of Hong Kong. In this way, we will be able to resolve the existing problems step by step. We can tell the bus company to sell the business to the Government and let the Government take it over if the operation is so difficult. In that case, it will obviate the need for Members to listen to their lobbying about the operational difficulties, the increase in fuel prices, etc., during each negotiation with KMB since 1992. If the Government acquires KMB, all of its assets will become the Government's assets.

Under the system of public ownership, the monthly and quarterly pass schemes as well as the "elderly life pass" scheme exclusively designed for the elderly as proposed by Mr CHAN Han-pan and Mr LAU Kwok-fan can be implemented. President, I do not know your age. I am already 61. I hope that five years later, the following will come true: all Hongkongers aged 65 or above will be entitled to an all-inclusive privilege for travelling anywhere by

MTR. This may be a dream, but it is one we should cherish because the traffic in Hong Kong has already reached the full capacity, and privatization of Hong Kong's railway has rendered us incapable of dealing with the problems of the bus service at this critical juncture.

President, the KMB's claim is not entirely unreasonable. Operating a business with risks, it has to do this and that, but MTRCL can do whatever it wants. If I wish to make improvement, why should I ask an enterprise which has earned \$800 million to resolve the bus passengers' problems? The people of Hong Kong can switch to take the MTR. Be it connecting to a railway station by bus or going home by bus after leaving an MTR station, it is actually a game of chess. Are we supposed to stay in the rut today and say, since the resolution has already been tabled like last night's leftover, why not reheat it and eat it together? I have spoken exactly against this point. I think we need to have a brand new mindset.

On this point, if we do not pass this resolution today, it will definitely give rise to a political and management crisis, in that the continued operation of KMB will become impossible. This will certainly trigger a problem, which is the need to find another operator. It will certainly be MTRCL. No other company will be able to do it. In retrospect, we will recall that when the China Motor Bus Company Limited ceased operation, the business was taken over by the Citybus Limited ("Citybus"). Citybus is run by a large enterprise. Now the New World First Bus Services Limited is owned by the NWS Transport Services Limited, while KMB is run by another group. The shareholding of bus companies, having changed hands many times, is still held by big enterprises—I mean literally, they are "big enterprises"—it is one of the businesses of those very big enterprises. The railway in Hong Kong should be owned by the Government. It can serve as a lever. A transport network led by the railway and complemented by bus services with additional support from minibuses can work better.

Many Members have said that Hongkongers live a hard life. President, suppose half of the median wage is \$17,000. If a worker spends 10% or 8% of his wage on buying a pass, then he will have no worries about the transport expenses for travelling to and from his workplace and during his leisure time. Or if he gives 2% to his children for buying a pass, they will have no problem with attending tutorial classes or going out for fun. This is in fact a kind of welfare. It can also raise our living standard and reduce the pressure on



individual manufacturers which lack competitiveness. The crux of this problem is that an enterprise doing a definitely profitable business funded and underwritten by the Government is controlled by the private market, and it cannot use its revenue of over \$10 billion to help improve another public utility which is crying out for help despite having earned a profit of \$10 billion.

Hence, President, with these remarks, I oppose performing a mere ritual and object to freezing PCS.

**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 Transport and Housing to reply. Thereafter, the debate will come to a close.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as you and the Deputy President said earlier on, the theme of the motion debate today is about the disapplication of the existing provisions on the Profit Control Scheme ("PCS") in the Public Bus Services Ordinance ("the Ordinance") to the new franchise. As Mr Charles Peter MOK, the Chairman of the relevant Subcommittee, also pointed out earlier, the motion today is purely technical. Of course, we can invariably see in any such motion discussions that certain Members may wish to take the opportunity to also talk about their views on certain issues which may not be quite so relevant. But I think Members' speeches today honestly covered a very wide range of issues, so wide that I can hardly give a reply on all of their views in this concluding speech on this occasion.

Just now, Mr LEUNG Kwok-hung questioned why PCS should not be retained as a means of fostering greater changes. I hope the community and also the legislature can exercise great caution. Has he thought about the situation in detail? Does he think that if Members oppose this motion on excluding the application of PCS from the new franchise today, the relevant services can be immediately improved tomorrow? The arrangement concerned has existed for a quarter of a century since 1992. At that time, owing to strong public opinions and the views of the then Legislative Council, the Government indicated that

despite the PCS-related provisions in the Ordinance, PCS should no longer be applied to a franchise as morbid changes in PCS had turned it into a means of guaranteeing profits for bus companies. Can we say optimistically that everything will change for the better if we now hasten to formulate details on PCS without giving any consideration or thoughts whatsoever to the consequences of its retention? Certainly, I do not think Mr LEUNG meant anything like this. Perhaps, he wanted to stimulate more thinking in the legislature and the community. From this angle, I think we will definitely be able to come up with many more ideas.

Members have put forth many views on the services of the Kowloon Motor Bus Company (1933) Limited ("KMB"). After listening to their views, I found that some of their views share some common points. I will give a brief reply.

It looks like various Members hold many divergent views. Some Members dismissed KMB's services as being worthless and talked about the lost trip problem as an example. Speaking of lost trips, if we look at certain evaluations and statistics compiled by the Transport Department ("TD") concerning KMB's franchise, we will notice a gradual decline in KMB's overall lost trip rate from 8% at its peak in 2011 to 1.5% last year and an ongoing amelioration in the problem. The lost trip problem is caused by many factors. Certainly, it may be ascribed to unsatisfactory management, bus captains' problems as mentioned by certain Members just now, or even road traffic conditions as we have heard more often. Some Members asserted that the Government should resolve traffic congestion. But when the Government puts forth any proposals in a bid to resolve traffic congestion, some Members will instead say that the Government should not try to resolve traffic congestion if it cannot resolve the parking space problem. In that case, these problems will remain all the same if we are continually caught in this "cycle".

Since 1999 when the Third Comprehensive Transport Study was completed, the Government's transport policy has been public transport-oriented with railways as the backbone of public transport, rather than emphasizing the predominance of railways or even the predominance of one railway corporation. Earlier on, Members talked about the Public Transport Strategy Study Report ("the Report") published by the Government just last week. Actually, we will discuss the Report at the meeting of the Panel on Transport ("the Panel") this Friday, so President, I do not intend to go into the details here. But the Report offers some simple figures and points out that even by 2031, the share of railways

in public transport will merely stand at around 40%, and the share of franchised buses will remain at 30%. The rates of other modes of public transport will remain more or less the same as their present proportions. For these reasons, the assertion that bus companies will be unable to operate is basically out of the question. Certainly, buses have to face competition not only from railways but also from other modes of transport such as minibuses. There is bound to be competition if the bus company fails to do a good job. We cannot ask the bus company to maintain its services all the same despite zero or very low patronage after the commissioning of new railways. The reason is that the costs will be transferred to the fares borne by general passengers in the end.

Earlier on, Mr LAU Kwok-fan dismissed the Transport and Housing Bureau as a hindrance to KMB's introduction of monthly pass schemes. I wish to correct his misconceptions. I do not know how much influence has been exerted by KMB on Mr LAU. The Government's attitude towards the issue of monthly pass schemes has been very proactive all along. In 2013, the Government asked the MTR Corporation Limited ("MTRCL") to introduce more Monthly Pass schemes because we thought that monthly pass schemes in certain forms were important to long-haul passengers living in remote areas. At the time, MTRCL introduced the MTR City Saver covering designated urban stations. All these schemes were a result of the promotion efforts made by the current-term Government. Therefore, it is groundless to say that the current-term Government has refused to request the bus company to introduce any monthly pass schemes. The point is that as we have told KMB clearly, and also as we have explained clearly at the Panel's previous meetings, we apply three criteria: first, such monthly pass schemes must not be too limited in coverage and merely applicable to one or two bus routes, and the bus company must show a serious and genuine intention to introduce monthly pass schemes; second, the prices of such monthly passes must not be too high, and concrete concessions must be offered; and third, the bus company must put forth a feasible proposal and explain how it will practically implement a monthly pass scheme.

I am aware that a practical monthly pass scheme should not be one which exists in name only—just as Mr HO Kai-ming emphasized just now—and the bus company must not seek to increase bus fares on the ground that the introduction of monthly pass schemes has imposed an additional burden on it. Will this do any good to those bus passengers who are unable to enjoy such monthly pass schemes? So, we will not pose any hindrance whatsoever to the introduction of monthly pass schemes by the bus company, as long as it can meet the three

criteria mentioned. In our view, the three criteria mentioned are reasonable, and we will render it our support if they are fulfilled. Of course, KMB is still studying its idea even today and has not yet submitted a formal proposal to TD for the latter's consideration. Hence, I hope Mr LAU Kwok-fan can cease thinking, as a matter of course, that the Government or TD has hindered the introduction of any monthly pass schemes by the bus company. If the bus company casually introduces a monthly pass scheme which is actually unable to benefit passengers or infeasible, I do not think the Commissioner for Transport as the regulatory authority should accept it casually.

Members have brought up many issues relating to bus services and public transport today. I wish to leave those issues relating to public transport until this Friday when the Panel discusses the Report.

At this juncture, I mainly wish to give a reply on two points. The first point concerns real time information, and it is related to the opening up of Big Data. A comparison between Hong Kong and other major cities—major cities where people have visited during leisure or business trips—will show that we honestly lag behind others in some areas. We in the Government admit this. One can hardly draw a direct comparison between the public transport system in Hong Kong and the systems in other cities because the public transport systems in many other cities are basically operated by their governments (including municipal governments). Therefore, the relevant data are actually held by their owners (namely, the governments concerned), and their governments may decide what to do with the data. In many other cities, including some Mainland cities, their governments' subsidies for public transport are very heavy.

In the case of actual operation, such as profit computation and determination of the value of the data concerned, some data which are owned by the bus company as a service operator in Hong Kong and must be provided to the public have actually been opened up through certain avenues under TD. If the bus company is to be required to share the relevant data at no cost with a third party (such as a third-party software developer also in commercial operation) for the latter to use or make profits, the bus company may put up resistance or show strong reactions. This is naturally understandable to us. Of course, we wish to urge service operators to realize that in the present-day world, both the opening up of data and the maximum dissemination of real time information are the prevailing development trend. The Government hopes that service operators can be more proactive, and the Government is likewise well aware that Hong Kong is

moving towards the goal of developing itself into a smart city equipped with a smart transport system. In the past, we might be unable to offer adequate support through any policies or concrete measures. We now see the need to catch up as a matter of urgency.

Some issues or proposals may be good to one's thinking when they are brought up as they can facilitate one's thinking. But when it comes to actual implementation, things will not always be that easy. One example is the enactment of legislation stipulating the opening up of data. What data are to be opened up? Should the legislation concerned be confined to bus companies only? What about other organizations? We must give thorough consideration to all such issues. That said, the premise of opening up data is agreeable to me, as this should be materialized as much as possible.

Some Members said that the renewal or otherwise of KMB's franchise was a matter which must be dealt with once every 10 years, so the authorities should take the opportunity to strive for more. And, these Members also said that passengers had likewise put forth this request. Actually, the Government also thinks this way. But Members must understand and realize that not everything has to be stated in a franchise as rigid terms and conditions. This was not the case in the past; neither will it always be the case in the future. Certain arrangements are stipulated in the terms and conditions of the franchise, while some are promises made by the service operator during franchise discussions. The relevant promises are written promises put on record. Some other arrangements have been improved continuously based on the directions acceptable to people and recognized by society as set out in previous franchises. This is the same case with fare concessions.

Some Members mentioned the fare concession scheme for full-time students and considered that it was not sufficient. The idea of introducing a long-haul route fare concession scheme for full-time students was put forth by KMB during our discussions on its franchise this time around. As for the possibility of enhancing the scheme, the Government has promised the Panel, and the bus company has likewise agreed, that a review of the scheme will be conducted after around half a year of implementation. This is also the case with monthly pass schemes. Therefore, it is not true to say that we will not follow up anything without any conclusion or express stipulation in the franchise. The Government or the service operator will continue to follow up the matters of fare concessions, monthly pass schemes, and also opening up Big Data.

President, since the theme of the motion today is about neither the services of KMB and franchised bus companies nor the various problems with other public transport services, I do not intend to give a long speech.

President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Transport and Housing 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 of the Members present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Motions. Five proposed resolutions under section 34(2) of the Interpretation and General Clauses Ordinance to amend the Smoking (Public Health) (Notices) (Amendment) Order 2017.

Members who wish to speak on the five motions will please press the "Request to speak" button

The Secretary for Food and Health and Dr Fernando CHEUNG have given notice to respectively move a proposed resolution to amend the Order. Mr SHIU Ka-fai has also given notice to move three proposed resolutions to amend the Order.

Council will proceed to a joint debate on the five motions and then the voting. The purposes and the debate and voting arrangements of the motions are set out in the Appendix to the Script.

I will first call upon the Secretary for Food and Health to speak and move the motion, and then call upon Mr SHIU Ka-fai and Dr Fernando CHEUNG to speak, but they may not move the motions at this stage.

Upon the conclusion of the debate, Council will first vote on the Secretary's motion. Irrespective of whether the Secretary's motion is passed or not, Mr SHIU Ka-fai may move his first motion.

As Mr SHIU Ka-fai's and Dr Fernando CHEUNG's motions are interrelated, subject to the result of the voting on Mr SHIU Ka-fai's first motion, Dr Fernando CHEUNG may be called upon to move his motion, and Mr SHIU Ka-fai may be called upon to move his other two motions.

The joint debate now begins. I call upon the Secretary for Food and Health to speak and move the motion.

## **FIVE PROPOSED RESOLUTIONS UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Food and Health Bureau tabled the Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Amendment Order") before the Legislative Council on 26 April 2017 to amend the requirements of the health warning and indication of tar and nicotine yields on packets or retail containers of tobacco products under the Smoking (Public Health) (Notices) Order (Cap. 371 sub. leg. B). I move that the Amendment Order be amended.

Since submitting our proposal to the Panel on Health Services ("the Panel") of the Legislative Council for amending the legislation on 18 May 2015, we have been attending various meetings to meet with the relevant deputations (including the trade), with a view to finalizing feasible legislative proposals in detail. We attended a special meeting of the Panel held on 6 July 2015, at which we met with about 100 deputations. Also, we issued a letter to the trade setting out the detailed specifications of the proposals in May 2016, and held a briefing on the technical issues relating to the implementation of the legislative proposals for the trade in November 2016. Subsequently at the meetings of the Panel held on 19 December 2016 and 17 January, 28 February and 20 March 2017, we respectively reported the progress and met with more than 70 deputations.

The Subcommittee of the Legislative Council scrutinizing the Amendment Order has also held five meetings to discuss the policy objectives and provisions of the Amendment Order, and conducted a public hearing to receive views of more than 100 deputations and individuals from various sectors. Here I wish to extend my gratitude to members of the Subcommittee and all the deputations and individuals taking part in the discussions and providing input. The Subcommittee has put forward its views and various suggestions in respect of the requirements for health warnings on the packaging of various tobacco products. After careful examination, the Government has put forward a number of proposed amendments and secured the support of the Subcommittee.

Next, I am going to give a brief introduction on the amendments proposed by the Government.

First of all, as regards the amendments related to "soft packs", transparent seals are already used on "soft pack" tobacco products in the market. Nevertheless, given the views of the Subcommittee, without compromising the content of the health warnings, we have introduced some technical amendments, drawing up a set of specific health warning images catering for "soft pack" cigarette packets with seals, with specific size and positioning restrictions for the seal. The seal must be affixed to the top part of the two surfaces that bear the health warning and the surface that adjoins the top of those two surfaces. The detailed restrictions are set out in sections 2 and 3 of the resolution submitted by the Government.

As for health warning images of landscape orientation, in view of the concerns expressed by members of the Subcommittee, the Government has provided an additional set of health warning images of landscape orientation to cater for the retail containers of tobacco products with different designs. The details and relevant images are set out in section 7 of the resolution submitted by the Government.

As regards the adaptation period, with amendments being proposed by the Government to the Amendment Order, we propose extending the adaptation period by two months, i.e. starting from 21 December 2017 instead of 21 October 2017, during which we will allow tobacco products carrying the present form or the new form of health warnings to be put on sale. And from 21 June 2018 instead of 21 April 2018 onwards, the packets and retail containers of all tobacco



products put on sale in Hong Kong should only carry the new form of health warnings. The trade will have a full 12-month adaptation period following the formal endorsement of the Amendment Order. The details are set out in sections 1 and 6 of the resolution submitted by the Government.

Now I wish to respond to a Member's motion relating to the coverage of a health warning. The Hong Kong Government has been adopting a multi-pronged and progressive approach on tobacco control. The current proposal for increasing the coverage of a health warning from 50% to 85% of the two largest surfaces of tobacco product packets or retail containers has taken into account the actual local situation, including the public expectation of a more stringent tobacco control measure first introduced in 2007, and the need to update and enlarge the health warning images with a view to sustaining and enhancing their impact. International experience and evidence demonstrate that the effectiveness of graphic health warnings increases with their prominence. In many countries, more smokers reported getting information about the health risks of smoking from health warnings than most other means. Also, according to a local survey, the majority of the public supported that the health warnings about the smoking-induced diseases should be displayed more clearly and the graphic health warnings should be made more threatening.

In fact, the World Health Organization already appealed to all countries to prepare for the adoption of plain packaging (also known as standardized packaging, i.e. 100% coverage of designated design with health warnings) for tobacco products in 2016. More and more countries have adopted or are working to adopt plain packaging. We hope the proposal for 85% coverage can be implemented expeditiously, and we will also evaluate in due course the planning for further tobacco control measures locally, including the introduction of plain packaging.

President, the proposed amendments set out in the motion proposed by me have been endorsed by the Subcommittee. I wish to extend my heartfelt gratitude to the Chairman, Dr KWOK Ka-ki, and other members of the Subcommittee for their invaluable input in the course of scrutiny. I implore Members to support the amendments proposed by the Government.

I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): Secretary, please move your motion.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I move that the motion on the Smoking (Public Health) (Notices) (Amendment) Order 2017 proposed by the Government be passed.

**The Secretary for Food and Health moved the following motion:**

"RESOLVED that the Smoking (Public Health) (Notices) (Amendment) Order 2017, published in the Gazette as Legal Notice No. 66 of 2017 and laid on the table of the Legislative Council on 26 April 2017, be amended as set out in the Schedule.

### Schedule

#### Amendments to Smoking (Public Health) (Notices) (Amendment) Order 2017

**1. Section 1 amended (commencement)**

Section 1—

**Repeal**

"October"

**Substitute**

"December".

**2. Section 5 amended (paragraph 2A added)**

(1) Section 5—

**Renumber new paragraph 2A as paragraph 2A(1).**

(2) Section 5, Chinese text, new paragraph 2A(1), definition of *surface*, paragraph (b)—

**Repeal**

"分。"

**Substitute**

"分；".

(3) Section 5, new paragraph 2A(1)—

**Add in alphabetical order**

*"specified seal"* (指明封條), in relation to a packet of cigarettes, means an affixture to the packet that is affixed to—

- (a) the top part of the 2 surfaces that bear the health warning; and
  - (b) the surface that adjoins the top of those 2 surfaces;"
- (4) Section 5, after new paragraph 2A(1)—  
**Add**  
"(2) For the purposes of paragraph 3, a packet is a specified packet with seal if—
  - (a) the packet does not have a lid any part of which forms, when the lid is closed, part of a surface that bears the health warning;
  - (b) the packet bears one specified seal that partially obscures any health warning appearing on any surface of the packet; and
  - (c) the area of the warning so obscured does not exceed 23 mm in width and 14 mm in length."

**3. Section 6 amended (paragraph 3 amended (health warning and indication of tar and nicotine yields on packet or retail container of cigarettes))**

- (1) Section 6, new paragraph 3(4)—  
**Repeal sub-subparagraph (a)**  
**Substitute**  
"(a) it must conform to—
  - (i) for a container and a packet other than a specified packet with seal—either version A or version B of one of the forms prescribed in Part 2 of the Schedule; and
  - (ii) for a specified packet with seal—version C of one of the forms prescribed in Part 2 of the Schedule;"
- (2) Section 6, new paragraph 3(4)—  
**Repeal sub-subparagraph (d)**  
"(d) Subject to sub-subparagraph (a), the 2 surfaces must respectively bear the Chinese version and English version of version A, version B or version C of the same warning."
- (3) Section 6, new paragraph (3)(4)(e), after "each"—  
**Add**  
"Chinese or English".

- (4) Section 6, after new paragraph 3(8)—  
**Add**  
"(8A) Subparagraph (8) is not contravened in relation to a specified packet with seal by reason only of the affixture of a specified seal to the packet."
- 4. Section 7 amended (paragraph 4A amended (health warning on retail container of cigar, pipe tobacco or cigarette tobacco (other than retail container containing one cigar)))**
- (1) Section 7, new paragraph 4A(4)(a),—  
**Repeal**  
"be in"  
**Substitute**  
"conform to either version A or version B of".
- (2) Section 7, new paragraph 4A(6)—  
**Repeal sub-subparagraph (a)**  
**Substitute**  
"(a) subject to subparagraph (4)(a), the 2 surfaces bearing the warning must respectively bear the Chinese version and English version of version A or version B of the same warning; and".
- (3) Section 7, new paragraph 4A(6)(b), after "each"—  
**Add**  
"Chinese or English".
- 5. Section 8 amended (paragraph 4AA amended (health warning on retail container containing one cigar))**  
Section 8, English text, new paragraph 4AA(4)(a)—  
**Repeal**  
"be in"  
**Substitute**  
"conform to".
- 6. Section 11 amended (new paragraph 9 added)**  
Section 11, new paragraph 9—  
**Repeal subparagraphs (1) and (2)**  
**Substitute**  
"During the period between 21 December 2017 and 20 June 2018 (both dates inclusive), compliance with

paragraph 3, 4A or 4AA as in force immediately before 21 December 2017 is, for the purposes of sections 8 and 9 of the Ordinance, taken to be compliance with paragraph 3, 4A or 4AA, as may be appropriate."

**7. Section 12 amended (Schedule amended)**

Section 12(1)—

**Repeal new Part 2**

**Substitute**

**"Part 2**

**Forms of Health Warning on Packet of Cigarettes or  
Retail Containers of Tobacco Products (Not in Cylindrical  
Drum Shape, Not Containing One Cigar)**

Form 1

Chinese Version of Version A



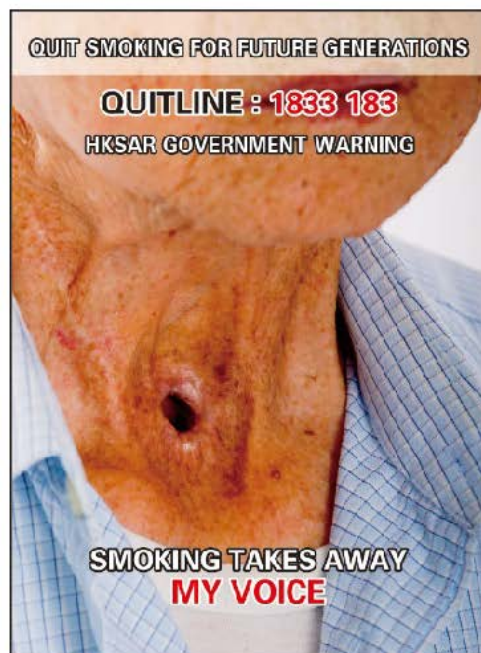
Chinese Version of Version B



Chinese Version of Version C



English Version of Version A



English Version of Version B



English Version of Version C



Form 2

Chinese Version of Version A



Chinese Version of Version B





Chinese Version of Version C



English Version of Version A



English Version of Version B



English Version of Version C

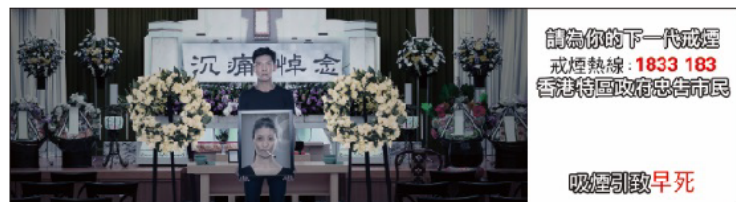


Form 3

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version CEnglish Version of Version A

English Version of Version B



English Version of Version C

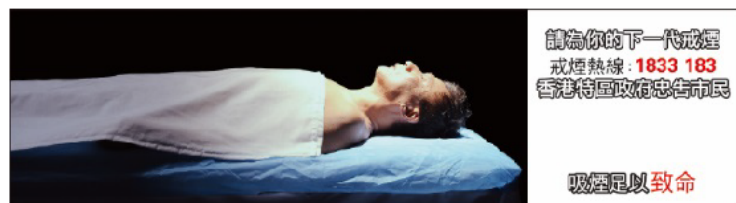


Form 4

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version C



English Version of Version A



English Version of Version B



English Version of Version C





Form 5

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version CEnglish Version of Version A

English Version of Version B



English Version of Version C

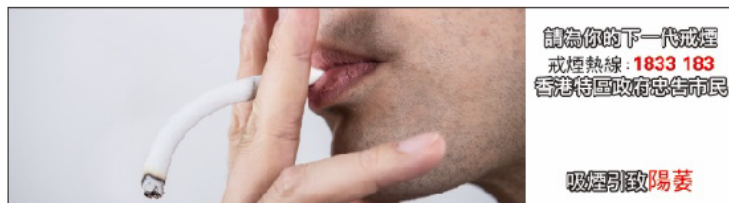


Form 6

Chinese Version of Version A



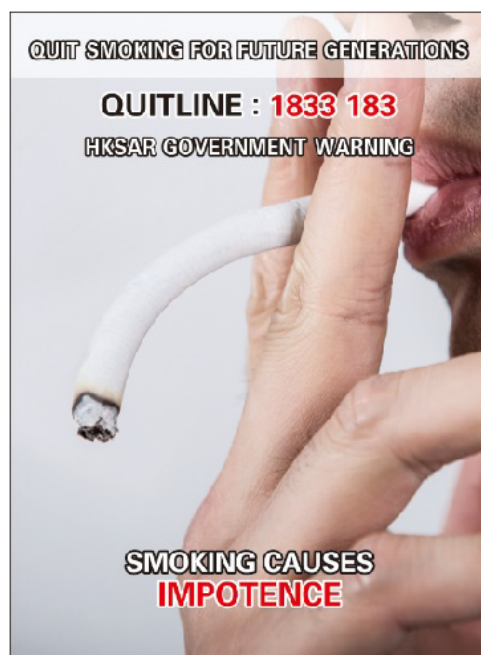
Chinese Version of Version B



Chinese Version of Version C



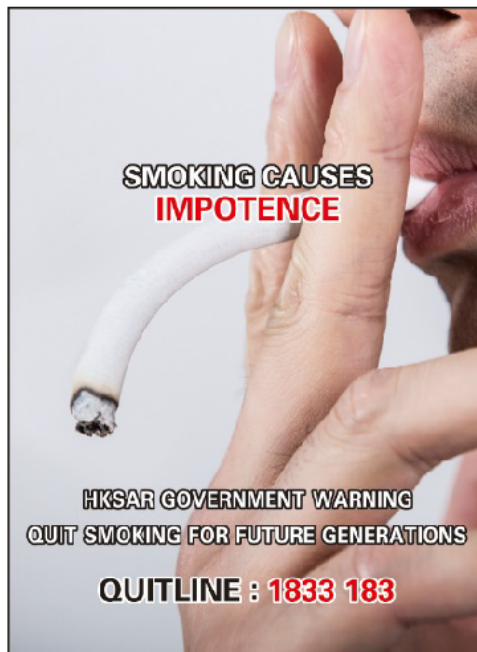
English Version of Version A



English Version of Version B



English Version of Version C



Form 7

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version C



English Version of Version A





English Version of Version B



English Version of Version C



Form 8

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version C



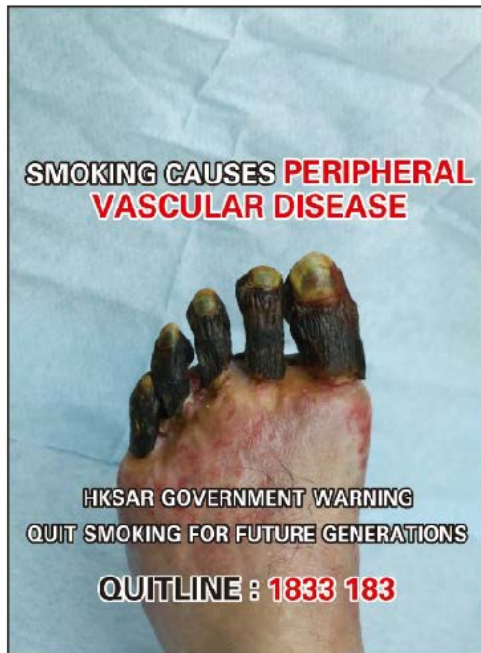
English Version of Version A



English Version of Version B



English Version of Version C



Form 9

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version C



English Version of Version A



English Version of Version B



English Version of Version C



Form 10

Chinese Version of Version A



Chinese Version of Version B

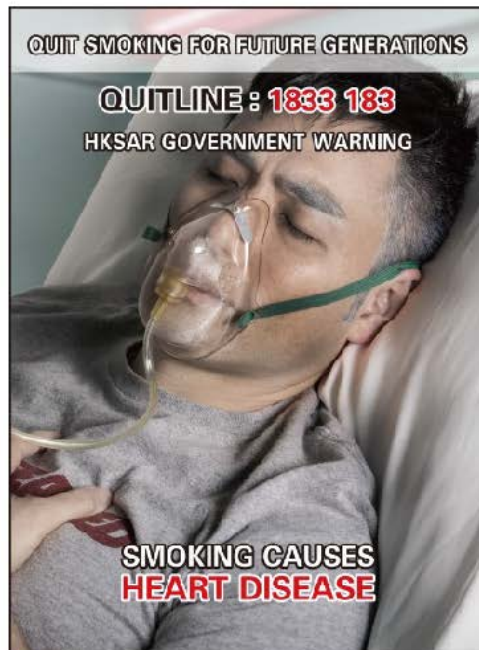




Chinese Version of Version C



English Version of Version A



English Version of Version B



English Version of Version C



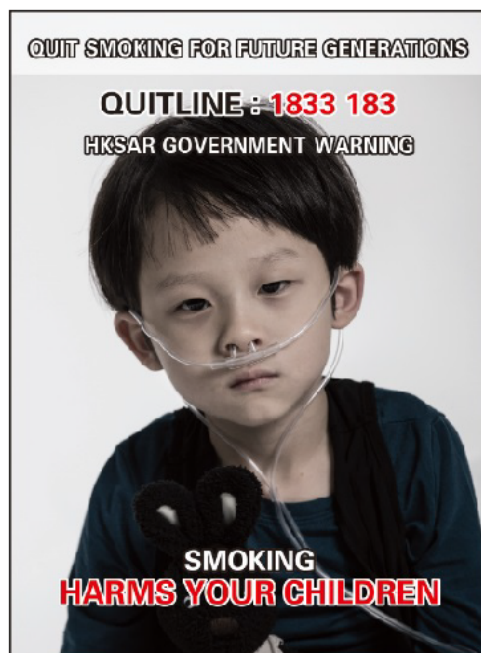
Form 11

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version CEnglish Version of Version A

English Version of Version B



English Version of Version C

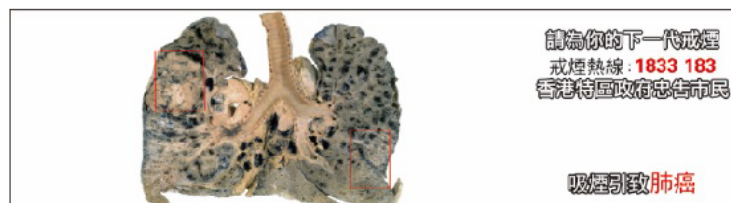


Form 12

Chinese Version of Version A



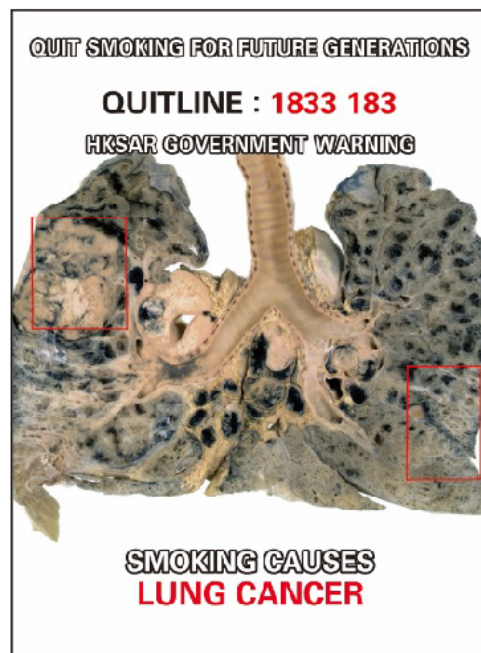
Chinese Version of Version B

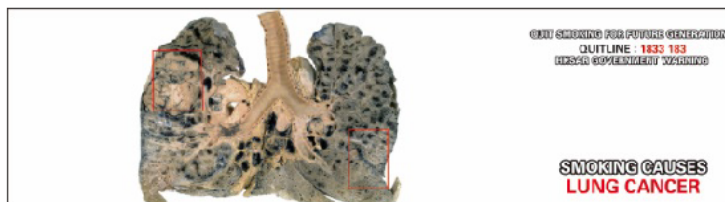
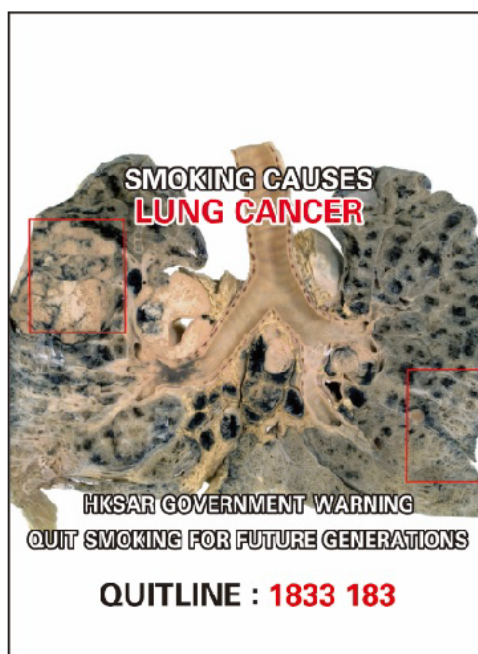


Chinese Version of Version C



English Version of Version A



English Version of Version BEnglish Version of Version C

## Specifications—

1. Each form is rectangular in shape and surrounded by a black line as demarcation.
2. The characters, letters and numbers are surrounded by either a black line or white line.
3. For the Chinese version, the characters and numbers are printed in "中黑體" typeface. For the English version, the letters and numbers are printed in Univers Bold typeface.
4. The graphic, characters, letters and numbers are printed by 4-colour printing with a minimum resolution of 300 dpi."



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

**MR SHIU KA-FAI** (in Cantonese): President, the Liberal Party absolutely neither supports nor encourages smoking by Hong Kong citizens. I believe it is definitely a good thing for smokers to decrease in number because smoking is hazardous to health and this, I believe every citizen knows. But why should I propose amendments to this piece of subsidiary legislation on this occasion? President, what I wish to say is that unless the SAR Government imposes a total ban on the sale of cigarettes, otherwise Hong Kong citizens should have the right to choose. Is smoking good or bad to health? I have talked about this just now, and I think everyone knows. But if people still choose to smoke, they probably have many different reasons to do so, and in this free society of Hong Kong, we have to respect them.

With regard to the Government's resolution, the main reason of the Government in proposing the amendments is that the 50% coverage of health warning on a cigarette packet has not been increased over the years and those 12 forms of health warning are outdated and may no longer be new to the public and hence may not have much influence on them. Certainly, the question of whether the indication of tar and nicotine yields should continue to be included was also discussed in the course of the deliberations.

What I wish to say is that the World Health Organization ("WHO") recommends that it is best to use plain packaging with regard to health warning on cigarette packets, which means that the logos of tobacco companies will all disappear. As far as I understand it, WHO has a Framework Convention on Tobacco Control which stipulates that the health warning images should cover no less than 35% of the surface of a cigarette packet but it is best for the coverage to be over 50%. As a matter of fact, in Hong Kong, the health warning images already cover 50% of the surface of a cigarette packet now. The Government's resolution proposes that the coverage of graphic health warnings be increased to 85%.

Why should I propose the amendments? President, it is because I am the representative of the wholesale and retail industries, and one of the trade associations in my constituency is the tobacco trade association. Many members of the industry told me that if the health warning occupies an area of 85%, their trademarks would become very small on cigarette packets. How small would

they become? Members can see it here. Assuming the health warning is of a size covering 85% of the packet, the trademark would only be this tiny spot here. I think even the cigarette vendors would find it very difficult to distinguish them. When the health warning on the packet is enlarged, will it catch the attention of more people? President, I agree that it will. Could it be that it will catch the attention of less people? That would be illogical. Having said that, the question is at what rate it should be enlarged. Should it be enlarged to 65%, 75% or 85%, or even 90% as suggested by Dr Fernando CHEUNG? In fact, when the coverage of the health warning is enlarged, will people refrain from smoking then? Members should think about the rate to which it should be enlarged.

What I wish to say is that in Europe and the United States that we always long for, and say, in the United States, there is no such requirement except for a few words printed on the packet of cigarettes as a reminder, because the United States Government trusts that its people should be literate enough to understand the warning. We, of course, will not follow the practice of the United States and as repeatedly pointed out by the Secretary, many tobacco companies actually come from the United States and so, their Government will protect them, but I have no idea if this is the case. But even in European Union ("EU") countries, the coverage of the health warning is only 65%, leaving just this much of space here. Members can see if a warning of this size should be sufficient.

President, those 12 forms of health warning have been in use for many years and so, it is necessary to replace them with new versions. This, I agree, for the health warnings will be a novelty to the people and hence attract more attention from them. Representatives of the tobacco industry also agreed to this point. But the question is: Must the health warning images be so large as to make the company's trademark not clearly seen?

According to a paper provided by the Government earlier, Thailand, Indonesia and Nepal are among countries requiring cigarette packets to bear a health warning which covers over 85% of the surface of a cigarette packet. But President, I wish to point out that the current smoking prevalence among Hong Kong citizens is 10.5%, making us almost one of the places with the smallest smoker population in the world. For countries cited just now by the Government where there is or will be the requirement for cigarette packets to bear a health warning covering 85% of the surface of the packet, say, in Thailand where the coverage of health warning on a cigarette packet is as much as 85%, the smoking prevalence is 21.3%, while that in Nepal is 23.2%. So, the Bureau,

in an effort to talk us into supporting it, always said that an expansion of the coverage of health warning on a cigarette packet will cause the smoking prevalence to come down. President, numbers do not lie. These are the facts that the numbers are telling me.

Yet, does it mean that I oppose the expansion of the coverage of health warning and consider an expansion totally unnecessary? No. Actually I agree that changes be made to the health warning and its coverage be enlarged a little bit to attract more public attention, just that a consensus has yet been reached on this point of contention, particularly in respect of cigars.

Concerning cigars, as I have told the Bureau repeatedly at meetings, even in countries where an 85% coverage of health warning on cigarette packets is accepted and even plain packaging is adopted, the health warning on a packet of cigars will not cover so large an area and may probably take up only 35% or 50% of the surface of a packet. Why? The reason is that cigars are more of a high-end product and the unlawful elements certainly want to have a share of this "fat piece of pork" by making counterfeit cigars. Therefore, cigar producing factories or countries will affix special authenticity labels to their products. Apart from the factories having their authenticity labels, the governments of these countries also have their authenticity labels, and I have shown these labels to Members at several meetings before. The Government's current proposal for requiring the health warning to cover at least 70% of the surface on the front and 100% of the surface on the back will, in fact, cover the greater part of an authenticity label. I think the industry will face difficulties in preventing the sale of counterfeit cigars by the unlawful elements.

Regarding the Government's view that there have been statistics supportive of its proposals, as I pointed out in the Subcommittee, the opinion poll of the Hong Kong Council on Smoking and Health in 2015 was conducted on the basis of an 75% coverage of health warning on packets of cigarettes, but the percentage currently proposed by the Government is 85%. I do not know the reason for the Government increasing the coverage to 85% after the release of the poll findings and whether there is any relationship between them.

Moreover, assuming the amendment proposing an increase from 50% to 65% is passed, our world ranking in terms of the coverage of health warning will rise from the 57<sup>th</sup> place to the 13<sup>th</sup>. With an increase to 65% only, our ranking will jump to the 13<sup>th</sup> place in the world, which is already a very high standard.

From the health angle, the Government certainly wishes to comply with the WHO guideline that the more prominent the health warning, the better; and the Government's current proposal is 85%.

In the course of scrutiny, we often asked the Bureau whether an increase of the percentage to 85% would really make a lot of people quit smoking and whether any survey had been conducted in this connection. The Bureau has all along failed to provide accurate statistics for Hong Kong citizens to understand the situation, but only explained with logic that the larger the coverage of health warning, the lower the smoking prevalence should be. The striking of a balance between the interest of the business sector and the health of Hong Kong citizens has always been the most important task of government departments and Members of the Legislative Council.

With regard to the Government's proposals, President, the Subcommittee has held a number of meetings in which many different members of the public have also expressed their views, but I found that those who came to make representations were more or less the same groups of people, whereas ordinary members of the public were seen less. As I said at the meetings, these people should be two completely different groups of stakeholders; one is made up of members of the business sector campaigning for their commercial viability and the other represents health care personnel who take health pretty seriously. These people were more often seen in our meetings. In spite of this, President, I think neither group of people is wrong because Hong Kong citizens are diversified and they are at liberty to express their own views.

Another point that I wish to raise is this: A focus of the Bureau this time around is the indication of tar and nicotine yields and as I pointed out before, WHO recommends the removal of information on tar and nicotine because the levels of their concentrations do not tell the public direct their chances of developing cancer, and this is a finding of WHO. In fact, to Hong Kong citizens, including many friends of mine, sometimes when they see a high concentration of nicotine on the packet of cigarettes, they will stop smoking that particular brand of cigarettes, but if the concentration indicated on the packet is lower, they will think that they can smoke more cigarettes of that brand. This is actually a wrong view. Therefore, throughout the entire course, we consistently asked the Bureau to remove these messages since the Government always holds that it is a general direction to go by the WHO standards but in the end, the Government did not accede to our request.

President, I wish to point out here that only about 10% of the Hong Kong population are smokers, while the remaining 90% are non-smokers who definitely account for the great majority. Originally I planned to propose more than just these three amendments as I had also put forward several other amendments, one of which concerns the seals on soft pack cigarette packets. If the seals are not given exemption, all the cigarettes would fall out of the packet when people open a soft pack cigarette packet. The second one concerns the adaptation period of 12 months. When the coverage of health warning was increased to 50% last time, a 12-month adaptation period was provided but it is less than 12 months this time and it would be impossible for the industry to meet the requirement. The third concerns the size of the coverage on the packet. I very much thank the Bureau for being willing to listen to some stakeholders reflecting the actual situation. It is not the case that they seek to reduce the 85% coverage by affixing a seal to the packet. This is not their intention. Rather, it is because they cannot possibly meet the requirement. They requested 12 months because last time they were given a 12-month period and they need sufficient time to sell the remaining stock before they can deal with it and make arrangements afresh. Therefore, they will need sufficient time. I am very grateful to the Bureau for supporting this amendment. Therefore, although I had put forward these two amendments in the Subcommittee, I eventually withdrew them on my own initiative as the Bureau and I hold the same view.

As for the three amendments proposed by me now, they actually relate to the area covered by the health warning on the packets of cigarettes and cigars. My colleagues told me that these amendments are set to be negated by a majority of votes but as the representative of the industry, I cannot but speak up and present these views on their behalf. And today, if I am asked whether a difference of a few percentage points between 85%, 84% and 83% can truly make people quit smoking or smoke less, President, I must say that I have great misgivings about it. But I insist on proposing these amendments because the industry cannot possibly comply with the requirement, or even if they meet the requirement in the future, when the packaging of cigarettes would look like this, leaving just this space here, as Members have seen earlier on, what can the industry do?

As I still have some speaking time left, let me point out in passing that there are actually some cases in EU that have to be taken to court because the governments of some EU countries consider that the coverage of health warning should not exceed 65%, or else it would constitute infringement on trademark and the intellectual property right. Therefore, while the Government has insisted on

increasing the coverage to 85%, and I understand that Dr Fernando CHEUNG who will speak later even considers it better to increase it to 90%, I would like to see whether this difference of 5% between 85% and 90% will be a factor of consideration to many people in deciding whether or not to smoke. I will listen to how he is going to convince Members of his views.

President, I shall stop here. Thank you.

**DR FERNANDO CHEUNG** (in Cantonese): President, we are now discussing whether the coverage of pictorial health warnings on tobacco product packages should be increased from 50% to 85% as proposed by the Government, and whether the percentage can be further increased. In my amendment, I propose that the proportion be raised to 90%. Yet Mr SHIU Ka-fai considers the high percentage unnecessary and requests that it be lowered to 65%.

Indeed, these arguments are somehow meaningless. Is the percentage really so important? The fact is straight forward: Smoking is hazardous to health. Since smoking has adverse impacts on health, not merely to smokers but also their surrounding environment and the health of people around them, it is better not to smoke. For this reason, we should identify ways to discourage people from smoking.

Over the past many years, Canada was the first to introduce in 2001 pictorial health warnings to advise the public against smoking. Later, more and more countries adopt this practice. According to a number of studies, the impact is greater if the coverage of pictorial health warning is larger. This practice is really effective in lowering the number of smokers, particularly in lowering the smoking prevalence among young people. This is basically indisputable. Hence, the World Health Organization ("WHO") indicated that a 100% pictorial health warning on tobacco product packages is the best approach. President, initially, I sought to increase the coverage to 100% in my amendment. However, for some technical reasons, the present Amendment Order could only cover part of it. If the coverage were increased to 100%, that is to adopt plain packaging, it would be technically impracticable, which means the Subcommittee cannot change the overall packaging to plain packaging under the present Amendment Order.

Mr SHIU Ka-fai considers the practice of increasing the coverage of pictorial health warnings from 50% to 80% impracticable. Yet, it is interesting

that many places around the world have now adopted plain packaging with 100% warning coverage, and it is practicable. If the 100% warning coverage is practicable, why would the 85% or 90% warning coverage be impracticable? President, it is true that certain countries around the world have adopted this practice, for instance, it is set at 85% in India, 85% in Thailand and 90% in Nepal. Is it impossible to achieve this technically? Why can other countries do that? Is it because tobacco products are not available for sale in those countries? Obviously not.

Hence, I have to point out that the best approach is to introduce plain packaging as soon as possible. In 2007, pictorial health warning was introduced in Hong Kong, the first place in Asia adopting such practice, to warn the public to think before choosing to smoke. Many young people will think twice when they see the pictorial health warnings. Regrettably, by 2017, we will have become most backward in this respect.

According to the report of WHO, among the hundred or so countries, our ranking in pictorial health warning against smoking hazards has dropped to 72<sup>th</sup>. Why? For no amendment has been made over the years. The coverage of our pictorial health warning is still maintained at 50%; the images used are very old, which were pictures made in 2007 (10 years ago), and the choices of images are limited to six compared with the wide variety offered in other countries.

Today, the authorities have eventually decided to make amendments and we welcome this move. However, the present amendments were proposed as early as 2015 and have been discussed for more than a year—nearly two years indeed, and there will be a 12-month adaptation period even if the Amendment Order is passed today. In fact, we have been extremely tolerant of tobacco companies in handling the problem of smoking hazards. As for the right to choose mentioned by Mr SHIU Ka-fai, does it worth our effort and time to procrastinate and even tolerate such right to choose?

I would like to point out that there is a cost for this right to choose. The cost is high. Are there any local studies showing the cost incurred? I have looked up some information and studied some documents. I notice that in 2005, the Faculty of Medicine of the University of Hong Kong ("HKU") published a study report, indicating that smoking costs Hong Kong over \$5 billion economic loss every year. This is the figure for 2005.

The Faculty of Medicine of HKU conducted a four-year assessment of smoking hazards between 2000 and 2004, which included the economic cost of diseases caused by active and passive smoking in Hong Kong, mainly involving premature deaths. The report pointed out that in 1998, among the 6 920 deaths attributable to active or passive smoking, nearly 4 000 cases were premature deaths, whereas 19% of the total deaths due to tobacco were caused by passive smoking. As for loss in productivity, the value of lost working years due to premature deaths was \$1.4 billion, whereas the value of loss arising from sick leave was \$400-odd million. The losses arising from consultations and long-term care or health care were \$2.6 billion and \$900 million respectively. In other words, in 2005, HKU had published a scientific study stating that Hong Kong was losing \$5 billion per annum.

By 2011, HKU again published a report on a 10-year tracking study, indicating that smoking largely increased mortality among older people. The study found that among older smokers aged 65 to 84, one out of every three would be killed by smoking-induced diseases, that is, lung cancer and coronary heart diseases. In the following year, HKU studied the data collected from 18 Elderly Health Centres under the Department of Health and found the situation even worse. Results indicated that among older smokers aged 65 and above, at least one out of two died of smoking; and in the group aged 85 and above, at least one out of four died of smoking.

By 2015, The Chinese University of Hong Kong ("CUHK") conducted a study on economic cost, which did not only assess the medical expenses incurred by or the productivity loss of smokers, but also explored the loss incurred by the smoker of a lifetime. According to the findings of the study, a smoker consuming one pack of cigarettes per day will spend \$1.44 million on buying tobacco products in his or her lifetime, and smoking will incur an annual economic loss of over \$11.3 billion in Hong Kong.

The data are not fabricated by me, President, for the information was published on the webpage of the Faculty of Medicine of CUHK on 27 May 2015. The press release pointed out clearly that they had interviewed a lot of people and estimated that each smoker was spending over \$20,000 a year on tobacco products. The ISPOR-HK made the deduction with reference to the Standards & Poor's 500 Index that if a smoker who smokes from 18 years of age uses the money to make investments instead of buying tobacco products, he or she may have made a return of nearly HK\$4.71 million (if they smoke one pack daily) on retirement at 60 years of age. If they smokes three packs daily, they will have



made \$14.1 million by the age of 60 if they use the money spent on cigarettes to make investment—the figures I read out are set out on the relevant webpage. Back then, CUHK said that the amount was adequate for purchasing a flat of 400 sq ft saleable area in the New Territories. Of course, this was the figure for 2015, and the property prices are much higher now. I do not know if the figures are exaggerating, but these are figures provided by the Faculty of Medicine of CUHK.

The thrust of my point is that the right to choose mentioned by Mr SHIU Ka-fai is costly. It will not only incur personal cost, the money spent on buying cigarettes and the loss of personal health resulting in premature death, but will also affect the health of people around the smokers. As for society as a whole, it will result in a loss of productivity and expenditures on medical care and long-term care services. In 2005, according to the assessment of HKU, the loss incurred amounted to \$5 billion per annum. By 2015, according to the estimate of CUHK, the loss amounted to \$11.3 billion per annum. Who should bear the cost? Should every citizen of Hong Kong pay the cost because of the personal choices of certain individuals? It is not only in monetary terms but also in terms of health. Why are we forced to tolerate passive smoking that affects our health?

President, WHO advocates the use of plain packaging. In Australia, plain packaging was adopted in 2012. As for the United Kingdom and France, 100% full warning coverage was adopted last year. As for Hungary, it will adopt it in 2018. Another 14 countries will adopt the plain packaging warning through legislation or other approaches, and they include New Zealand, Ireland, Norway, Canada, Slovenia, Uruguay, Thailand, Singapore, Belgium, Romania, Turkey, Finland, Chile and South Africa. These countries will implement it sooner than Hong Kong, for we are still discussing the 85% coverage for the time being and it will only be implemented one year later. We know full well that the greater the coverage of the warning the more effective it will be and that the earlier young people pick up smoking the greater harm it will have on society, individuals and their family. As such, why do we not impose a greater coverage and why do we not follow the advice of WHO?

Due to the technicality constrain, I can only raise the coverage of the warning to the highest percentage allowed technically, that is 90%. As for other countries, they can adopt plain packaging with 100% coverage. Warnings are printed clearly on packages, where smoking cessation hotlines are displayed to provide immediate and convenient messages to smokers intending to kick the

habit. As for pictorial warnings, standard printing methods, layouts and sizes for individual brands have been set out, so that warnings of a standardized size are printed on the same position of packages of all brands. This is straightforward. It does not need a scientist to do the calculations. There is no need to find out the appropriate percentage by calculus. Hence, President, I think our pace is too slow today. However, due to the restriction of the Amendment Order, I cannot but contain my amendment to 90% coverage though I mean to raise it to 100%.

**DR KWOK KA-KI** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Subcommittee"), I now report on the major deliberations of the Subcommittee.

The Subcommittee held a total of five meetings to receive representations from deputations and individuals. The Subcommittee's discussions mainly focused on the amended coverage of health warnings on packets or retail containers of tobacco products. Some members were concerned that the proposal for generally and drastically increasing the area of health warnings from covering at least 50% to 85% of the two largest surfaces of the packet or retail container of the tobacco products concerned might intensify the trade of counterfeit and illicit tobacco products due to the limited space left on the packets and retail containers for trademarks and branding. They also cast doubt on the marginal effectiveness of the proposal in lowering the local smoking prevalence. Some other members supported the legislative proposals in question. They considered that increasing the coverage of health warnings on the packets of tobacco products could increase people's awareness or knowledge of the harms of tobacco use. They requested the authorities to introduce plain packaging as soon as possible to further reduce the appeal of tobacco products.

Some members said that in the case of soft pack cigarettes, as the seal affixed to the top part of the two largest surfaces of the packet and the surface adjoining the top of these two surfaces would practically obscure the top part of the health warnings, they might be unable to fulfil the new requirements under the Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Amendment Order"). Since it was technically impracticable for the local trade to modify their packaging within the specified adaptation period, they considered that the authorities should amend the Amendment Order, so as to address the concerns of

the trade. While the authorities opined that this was not insurmountable to the trade, they agreed to propose an amendment to provide for a new version of the forms of health warnings for specified cigarette packets with seals, and also the size and positioning restrictions for the specified seal.

Some members were concerned that since local agents had to manually affix health warnings to retail containers of cigars, it might be technically impracticable to ensure that the English version of health warnings would exactly cover 100% of the area of the largest surface on the back of the container, and slight deviations might arise. Some other members held that given the much larger size of retail containers of cigars compared with that of cigarette packets, it would be sufficient for the Chinese version of health warnings to cover at least 60% of the area of the largest surface on the front of the container.

Besides, some members were concerned that the new health warning images in portrait orientation as prescribed by the Amendment Order for the packaging of cigarettes, cigars, pipe tobacco or cigarette tobacco would be badly distorted if they were to be printed in landscape orientation. To address members' concerns, the authorities would propose an amendment to provide for the landscape version of the forms of the new health warnings. Some other members considered that the trade should be given sufficient time to change the packaging of their products for compliance with the new requirements and get through existing stock. With the amendments being proposed by the authorities to the Amendment Order, the authorities agreed to propose a further amendment to the effect that during the period between 21 December 2017 and 20 June 2018 (both dates inclusive), the authorities would allow the sale of tobacco products carrying the present form or the new form of health warnings on the market.

The foregoing is my report on the work of the Subcommittee. I now move on to express my personal views.

President, the Government always cites the low smoking prevalence as proof that its tobacco control policy is successful. But is it the reality? I have strong feelings after assuming chairmanship of the Subcommittee. Actually, the Government's tobacco control policy is losing momentum and remains stagnant. The Government absolutely should not be complacent about what it calls the "low smoking prevalence". Statistics show that the overall smoking prevalence rate in Hong Kong is 10.5%. It is lower than the rate in the 1980s (some 30 years

ago) when 40% of Hong Kong people were smokers. But if we categorize smokers by gender, we can see that the rate of male smokers now remains at 18.6%. It means that one out of around five males in Hong Kong is a smoker. The rate of female smokers is 3.2%. But Members should note that the rate of female smokers is showing an upward trend. It already increased from 2.6% in 1990 at its lowest to 4% in 2005. While the current rate stands at 3.2%, it is still higher than the 2.6% in 1990.

Is there any blind spot in the Government's tobacco control policy? One may be making too arbitrary a judgment on the sole basis of the rate of female smokers. But much to my surprise, I have learnt that 2.8% (or some 4 000) of the students from Primary Four to Primary Six have tried smoking cigarettes. This is absolutely a shock to us because I now realize that some people try their first cigarette in Primary Four. Members will not take exception to the assertion that the most important task in the tobacco control policy is to prevent youngsters from smoking their first cigarette. "Prevention is better than cure" is universal common sense wisdom. However, if the harms of smoking have extended to even primary school students, then I must further question the effectiveness of the present proposal for merely increasing the size of warnings on cigarette packets and also the minor legislative amendments for tobacco control. At present, the duty of taking forward the Government's tobacco control policy mainly rests with government-funded statutory bodies, including the Hong Kong Council on Smoking and Health ("COSH") and the Tobacco Control Office under the Government. COSH's major duties include the promotion of education and the coordination of all anti-smoking campaigns.

But as Members can see, it looks like the work of COSH has not made any progress over the past 10 years or so. For instance, COSH will organize exhibitions or carnivals, during which booklets will be distributed. But all this is literally no match for the pervasive and highly professional sales and marketing practices adopted by tobacco companies with substantial financial resources and influence. Let me give an example. The total income of British American Tobacco owning some popular cigarette brands (including such high-, middle- and low-end tobacco products as Dunhill, Lucky Strike and Kent) in Hong Kong was £14 billion in 2016. But their operating profit amounted to as much as £5.2 billion, meaning that their profit margin was almost 40%. It can be seen from this that various tobacco companies engaging in this lucrative business have adopted numerous means of pervasive promotion. While the Government's

current requirements have wiped out cigarette advertisements (including print and television advertisements), Members can see that tobacco companies have now turned to use a soft marketing approach. People can see actors and actresses in movies holding a cigarette in their hands. How cool!

In contrast, has COSH engaged any professional advertising agencies or teams to conduct anti-smoking campaigns apart from resorting to the Government's Announcements in the Public Interest? Here, let me briefly discuss the adequacy of the Government's resource commitment. At present, the Government's tobacco duty revenue amounts to over \$4 billion. Of course, Members should not feel delighted at hearing this figure of \$4 billion and think that a gain is made. I am saying this because, according to a study conducted by the School of Public Health in The University of Hong Kong, smoking and second-hand smoking have incurred an animal loss totalling \$5.3 billion in health care and social welfare in Hong Kong. This means that after computation, Hong Kong people generally have to pay over \$1 billion every year to make up for the shortfall.

Besides, Members are well aware of the harms of smoking. But I believe those Members who have risen to speak in defence of tobacco companies and the tobacco industry may not have seen the plight of patients which we have personally seen in hospital wards. The plight of patients in some cases can hardly be described in words. Even though they are not old, their lung function has already degenerated to the point that they are even unable to walk a few steps. They must use an oxygen apparatus at home and return home after going out for less than 5 to 10 minutes. Besides, they have to keep coughing out their phlegm. To him, his social and family lives have been greatly affected, not to mention losing his working ability.

Armed with substantial resources, tobacco companies can counter or offset various tobacco control measures. Members may still remember that 10 years ago, we proposed to ban indoor smoking and require the affixation of health warnings to cigarette packets for the first time. Those who experienced the process and I were able to see the enormous power of the tobacco industry. It is no exception this time around. During the entire scrutiny process, we can see the enormous power of tobacco companies everywhere and how they have mobilized political parties, individuals and organizations to speak up for the tobacco industry.

As the Subcommittee Chairman, I certainly hope to see the passage of the Amendment Order, so that the majority of people can be protected from the harms of smoking by the law. Nevertheless, is the passage of the Amendment Order a victory in Hong Kong's tobacco control cause? I am not quite so optimistic because Members can see that the smoking rate (especially the smoking rates among males and youngsters) remains stagnant at present, without showing any downward trend. This means that while we have undertaken anti-smoking tasks with various means, there are actually more people (particularly young people) who pick up their very first cigarette.

The Government may be too naïve if it thinks that the legislative amendment exercise this time around can achieve the purpose of combating smoking. Our enemies are no ordinary people as such. They will resort to every means possible, and forbidding them to place advertisements does not mean that we can force them onto the path of doom. Adopting various means such as soft marketing, they may continue to portray cigarettes as something indispensable to being fashionable or trendy among youngsters, and create the image among them that smoking is a symbol of nonconformity and young people of a new generation. Therefore, I hope that after the passage of the Amendment Order, the Government can allocate additional resources. Apart from increasing resources to enhance smoking cessation services and encourage more people to quit smoking, the Government should cease to adopt the existing approach when initiating anti-smoking campaigns. As Members are aware, the resources for COSH are insufficient; neither is COSH given substantial resources or manpower to implement a more effective anti-smoking strategy. The Government will not be able to achieve any success if it clings to the old mindset.

I hope the Government can correspondingly allocate a greater sum from its tobacco duty revenue of \$4 billion every year to undertaking anti-smoking publicity because the Government has been saying that the money spent on this purpose has not gone down the drain. At present, the Hospital Authority, the Department of Health and voluntary agencies have spent massive sums on conducting anti-smoking publicity. But their approach is honestly not as effective as the pervasive marketing and sales practices adopted by tobacco companies.

Second, I hope that our tobacco control strategy can be improved, such as raising the tobacco duty rate as required by the Framework Convention on

Tobacco Control ("FCTC"). At present, our tobacco duty rate is still lower than 70% and falls short of the requirement stipulated by the World Health Organization in FCTC. Our target is to set the tobacco duty rate at nearly 85% of the price of a packet of cigarette or above. Only so doing can reduce the appeal of smoking and prevent youngsters from picking up the undesirable habit of smoking. More importantly, if the Government has additional resources in the future, it should cease to adopt the existing approach marked by inadequate resource commitment for tobacco control and anti-smoking publicity. Instead, the Government should progress with the times and adopt a more professional approach, such as engaging consultancies or professional advertising teams to undertake the relevant tasks.

Lastly, I wish to talk about the amendments proposed by Members this time around. I support Dr Fernando CHEUNG's amendment. Of course, he faced many constraints. For example, he initially wanted to propose an amendment to change cigarette packaging to plain packaging across the board. This is also the long-term target which the Government has repeatedly told members at meetings of the Subcommittee. But speaking of this long-term target, I have nonetheless learnt that the Government has not drawn up any timetable or roadmap. I feel gravely concerned that after this legislative amendment exercise, we may have to wait another 10 years before cigarette packaging is changed to plain packaging.

As for Mr SHIU Ka-fai, I appreciate his effort of speaking up for the industry. However, as his amendment runs counter to the goal of introducing plain packaging, I am unable to support his amendment. *(The buzzer sounded)* ... I hope our anti-smoking efforts can be sustained ...

**PRESIDENT** (in Cantonese): Dr KWOK, please stop speaking.

**DR KWOK KA-KI** (in Cantonese): ... I so submit.

**MR WONG TING-KWONG** (in Cantonese): President, before I speak further, I have to declare my interest as a smoker who has been smoking for more than 40 years. Although the Smoking (Public Health) (Notices) (Amendment) Order

2017 ("the Amendment Order") is related to tobacco, I am not involved in any direct or indirect pecuniary interest, hence, I will continue to speak and vote.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

The Order seeks mainly to increase the coverage of health warnings on packets of tobacco products, such as cigarettes and cigars. The coverage of health warnings on the front and back sides of tobacco packets is increased from the current 50% to 85%; the relevant coverage is increased from the current 50% to 70% on the front and 100% on the back for containers of cigars. Moreover, the number of graphic health warnings is increased from 6 to 12.

The Government has proposed a new set of graphic health warnings and increased their coverage on the front and back sides of packets of tobacco products, in the hope of reducing people's desire to purchase tobacco products, and thereby enhancing the effectiveness of tobacco control.

Personally, increasing the coverage of health warnings on tobacco packets or replacing graphic health warnings with new ones will hardly influence my decision on purchasing tobacco products. However, I do not hold any objection if the Government thinks such measures can help reduce young people's desire to purchase tobacco products, lower smoking prevalence among young people and control the growth of new smokers.

Nevertheless, I think the Government has to strike a balance between achieving the objective of tobacco control policy and the actual operational feasibility of the tobacco industry when introducing new tobacco control measures. I believe the Government has, to a certain extent, taken into account this balance when increasing the number of graphic health warnings on this occasion.

Insofar as the Government's proposal to increase the coverage of the health warnings on packets of tobacco products, the major difficulties faced by the tobacco industry include: as the seal on soft pack cigarettes covers a small portion of the graphic health warning, it is impossible to comply with the statutory requirement that the health warning must cover 85% of the front and back sides of cigarette packets; in respect of cigar products, it is required that the health warning must cover 100% of the back side of the container. It is difficult to



fully meet this requirement in practice because health warnings are affixed to the containers manually and a slight distortion will lead to failure in complying with the 100% coverage requirement. Besides, the industry has also raised the view that the less than 12-month grace period of this measure constitutes a difficulty to them.

First, a seal connecting the top of the two sides of soft pack cigarettes prevents cigarettes from falling out from the top once the packet is opened. Hence, it is necessary to have a seal on the top of soft pack cigarettes and the seal does cover a portion of the front and the back sides of the packet. Therefore, operation-wise, it is difficult for the trade to meet the new requirement that the graphic health warning must cover at least 85% of the front and back sides of the packet.

During the scrutiny of the Amendment Order, the Administration has pointed out that, as transparent seals are used on soft pack cigarettes in other countries, soft pack cigarettes sold in Hong Kong can borrow their example and replace the old seals with transparent seals. However, as soft pack cigarettes only take up an extremely small market share and the main manufacturer of soft pack cigarettes in Hong Kong does not possess production machinery to use transparent seals, the relevant manufacturer is not capable of replacing the equipment within the 12-month grace period, and such a replacement will not be cost-effective.

Meanwhile, the Amendment Order requires that the graphic health warning must cover 100% of the back side of the containers of cigar products. As graphic health warnings of cigar products are manually affixed to the containers by the importer after the products are imported into Hong Kong, it is difficult in practice to ensure that they accurately cover 100% of the back side of the container. For this reason, Mr SHIU Ka-fai has proposed an amendment to reduce the coverages of the graphic health warning on the front and back sides of cigarette and cigar products to 65% respectively, so as to solve the problems concerning the seal on soft pack cigarettes and the back side of cigar product containers. Dr Fernando CHEUNG holds that the newly proposed coverage of graphic health warnings is not sufficient, and has thus proposed in his amendment that it should cover 90% of the front and back sides of the packet.

During the scrutiny of the Amendment Order, I have repeatedly relayed to the Government the concerns and difficulties of the tobacco industry, in the hope that, when implementing the increase of graphic health warning coverage, the

Administration will solve the problems encountered by the industry in complying with the new requirement. In this way, the Administration can strike a proper balance between strengthening the implementation of tobacco control measures and the operational feasibility of the tobacco industry.

The Government has given careful consideration to the issues eventually. First, the Administration has proposed amendments so that an aluminium seal not exceeding 23 mm in width and 14 mm in length of soft pack cigarettes is exempted; and the grace period of the Amendment Order is revised from 12 months after gazettal, that is, from 21 April this year to 21 April next year, to 12 months after its passage, that is, from 21 June this year to 21 June next year. Moreover, during the course of scrutiny, the Administration has promised that it would not initiate prosecution casually, should cigar importers fail to comply with the Amendment Order unintentionally; and that the slight incompliance with the 100% graphic health warning coverage requirement is merely due to the practical operation reasons.

I recognize and approve of the concession made by the Administration. Exempting the seal on soft pack cigarettes is a win-win solution, in that the problem facing soft pack cigarettes manufacturers is effectively solved without seriously affecting the effectiveness of the Government's proposal for increasing the coverage of the health warnings. More importantly, revising the grace period of the Amendment Order from 12 months after gazettal to 12 months after its passage can allow manufacturers, dealers and sellers, in particular small retailers such as newspaper vendors, sufficient time to sell out their stock, avoiding losses in the event that they fail to sell out their stock within the grace period.

The considerations made by the Government can strike a balance between strengthening tobacco control measures and the practical operation of the tobacco industry. I find them pragmatic and worth supporting. I hope other government departments will put forth win-win solutions, taking into account the difficulties and effectiveness issues facing affected persons and the trade, when introducing new legislation or policies in the future, regardless of how noble the objective is.

Deputy President, I so submit. The Democratic Alliance for the Betterment and Progress of Hong Kong and I support the amendments to the Amendment Order proposed by the Government and oppose those proposed by Members.

**MR HUI CHI-FUNG** (in Cantonese): The Democratic Party supports the Government's tobacco control effort and its stepping up of the same.

Smoking is certainly a personal choice, and its merits and demerits are pretty obvious. Our greatest concern is, although smoking per se is a personal choice, it affects the health of some non-smokers. Many members of the public know that passive smoking could be even more dangerous than active smoking, and inflicts more serious harms on health.

Smoking will also affect children and future generations, who might develop a smoking habit through imitation, for they might see their parents or other family members smoke at home. Given that the conclusion of future generations affected by smoking is supported by data, we feel all the more concerned about whether or not the Government has taken further steps to carry out its tobacco control work properly.

This discussion is about the Government's proposal to increase the coverage of graphic warnings to at least 85% of the surface of cigarette packets, as cigarette packets actually have influence on young people and children. The graphic warnings printed on the cigarette packets of their family members at home or those sold at newspaper stands or convenience stores could have given them different overall impressions of smoking.

Having said that, we must respect smokers, for Hong Kong is a free society. Even if smoking poses health hazards, it is, as I pointed out just now, a personal choice. There is no need for us to demonize or label smokers, describing smoking as an unethical act. Neither is there a need for us to become a moral guardian, saying it is wrong to smoke.

Indeed, smokers and non-smokers are not absolutely confrontational. I have many friends whom I describe as civilized smokers. They will consider people around them whenever they intend to smoke, regardless of the time and place. They will consider: Should they go farther away in order to smoke? Will their smoking affect other people on the streets? Will their smoking affect other people waiting for buses in the queues? All this precisely demonstrates that there is mutual respect between smokers and non-smokers. In our opinion, they should be able to co-exist without affecting each other.

Coming back to the amendments proposed this time around, the Democratic Party supports the Government's proposal to require that the coverage

of graphic warnings be increased to at least 85% of the surface of cigarette packets. Certainly, this proposal converges with the requirements of the international community and the World Health Organization. Despite voices of opposition from the industry, this proposal has already gone through a long period of discussion and consultation. In our opinion, the proposal put forward by Mr SHIU Ka-fai to reduce the coverage of graphic warnings to at least 65% runs counter to the Government's direction of further stepping up tobacco control, as if he is backtracking. Hence, the Democratic Party can hardly support Mr SHIU's proposal.

Dr Fernando CHEUNG has also asked whether the coverage of graphic warnings can be increased from at least 85% according to the present proposal to at least 90% of the surface of the cigarette packets. I understand that Dr Fernando CHEUNG was meant to ask whether plain packaging should be adopted. Actually, the Subcommittee has held in-depth discussions on this issue. Moreover, the Government has presented many examples from around the world to show that plain packaging is the trend of the international community. Personally, I greatly support plain packaging and consider that it has merits. As I pointed out earlier, children and passive smokers might also stand to benefit. Even smokers themselves might wish to smoke less as a result. That said, we consider plain packaging to be the next step to be taken in the future. I hope the Government can conduct extensive consultations and studies on it.

Nevertheless, in regard to the Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Amendment Order"), we have not fully consulted the industry or conduct in-depth discussions in society on the adoption of plain packaging for cigarette packets or requiring the coverage of graphic warnings to be at least 90% or 85% of the surface of cigarette packets. The Democratic Party holds that the Government's proposal for requiring the coverage of graphic warnings to be at least 85% of the surface of packets more appropriate. Based on the aforesaid justifications, we will vote in support of the proposals put forward in the Amendment Order, but we will not support the amendments proposed by other Members.

I would like to take this opportunity to tell the Government we hope it can understand that a lot of important work has to be done if we are to further step up tobacco control in society as a whole at the legal or social level. It is our hope that, after the passage of the Amendment Order, such important work will continue to be done, with the regulation of electronic cigarettes to be dealt with

first. In fact, the harms caused by electronic cigarettes to children and young people have direct and far-reaching implications, and the consequences will be catastrophic. Although we have put forward our proposals to the Government repeatedly, we have still not heard the Government say that any public consultation or concrete study would be conducted.

Furthermore, we propose that tobacco control be enhanced at the community level. We have received a lot of complaints from members of the public, claiming repeatedly that passive smoking has caused nuisances to them in such places as bus stops and footbridges. I hope that, after the passage of the Amendment Order, we can see the Government step up its efforts in tobacco control in the community in a more comprehensive manner.

Smoking-related laws in Hong Kong are actually lagging behind those in other parts of the world. Under their tobacco control laws, the scope of no smoking areas on such premises as restaurants and eateries and the ways of imposing smoking bans outside Hong Kong are more numerous and comprehensive than the case in Hong Kong. Tobacco control in public places, such as buildings and their access points, is also more stringent outside Hong Kong than the case in Hong Kong. Hence, through supporting the proposals put forward in the Amendment Order, I hope we will see the Government make more specific commitment to stepping up tobacco control at the community level and in introducing legislative amendments in the future.

I so submit. Thank you, Deputy President.

**MR TOMMY CHEUNG** (in Cantonese): Deputy President, the amendments proposed by the Government came as a complete disappointment to me. The entire consultation exercise was biased and conducted in a hegemonic manner. The authorities in charge had the absolute say but showed no mutual respect. They thought that, having occupied the moral high ground, they could easily garner public support and gave no regard to realistic difficulties and problems once they have secured enough votes, forcing their will on the industry.

The authorities made a loud announcement that the proposed amendments have been drafted with consideration given to the actual local situation, including public expectation of more stringent tobacco control measures and the need for an enhanced warning impact. Apparently, the authorities have put the public on the spot.

I suspect whether the public, after finding out that the authorities have taken extreme measures to suddenly enlarge the coverage of health warnings on the two largest surfaces of cigarette packets from at least 50% to at least 85% and gaining an in-depth understanding of the resultant authenticity issue, will still support the amendments? Even if the majority of the people support it, so what? Ninety per cent of them are non-smokers, who certainly would not try to understand the problems in depth. The question now is whether tobacco control should be strengthened, and naturally they would agree. Therefore, the amendments should not be decided simply by public opinions.

In fact, the Government has failed to present scientific data to substantiate that an increase in the minimum coverage of health warnings on packets is conducive to reduction of smoking prevalence, rendering the entire amendment proposal implausible.

Deputy President, the smoking prevalence in Hong Kong is almost the lowest in the world, only behind several African countries, such as Ethiopia. The reason is simple: African people are so poor that they do not even have food, so how would they have the money for cigarettes? In the past 20 years, the health knowledge of Hong Kong citizens, including the harmful effects of smoking, has greatly improved. As most Hongkongers attach great importance to health, Hong Kong has become the region with the longest life expectancy, male and female alike, in the world.

The prime task for the authorities is to deal with the rising trend of smoking prevalence among young people in Hong Kong and strengthen focused education and publicity, so that they would be made to understand that smoking is bad for them, rather than attempting to surpass the United Kingdom and catch up with the United States by significantly increasing the minimum coverage of health warnings on cigarette packets, rendering its attempt to outdo others into a disgraceful blunder.

Currently, only four countries in the world, namely Thailand, India, Nepal and Vanuatu, require the coverage of health warnings on cigarette packets to be 85% or above. However, among them, countries having recorded their smoking prevalence all have a higher prevalence than Hong Kong. The smoking prevalence of Thailand and Nepal is even double of that of Hong Kong; when there is a wide gap in the cultural and education levels of the local people there, their understanding and information of the harmful effects caused by smoking to health are not as popularized as in Hong Kong. Against such a different

background, it is not suitable to apply their tobacco control policies to Hong Kong.

The most baffling point is that the World Trade Organization ("WTO") only recommends that health warnings cover at least 50% of the principal display areas on packets. Hong Kong has already met the requirement. In the United Kingdom and European Union ("EU") where their levels of economic development and education systems are comparable to those of Hong Kong, the requirement for health warnings is 65% both on the front and back sides of packets. Why does the Hong Kong Government not make reference to their practices?

In 2015, the daily smoking rate of people aged over 15 in Hong Kong dropped to 10.5%. But as we can see, given the persistent increases in tobacco duty by the Government, while there has not been any significant drop in the number of smokers in recent years, the number of illicit cigarettes remains high. Are such rampant illegal acts in people's interests?

The industry has already warned the authorities that, after increasing the coverage of health warnings on packets to at least 85%, manufacturers will have difficulties in displaying authenticity labels on packets, thus readily facilitating unlawful groups in slipping counterfeit cigarettes into the market. It is a bigger concern for cigar products because various labels and certifications must be displayed on the packets. For this very reason, EU only requires health warnings to cover 30% on the front and 40% on the back sides of cigar packets. But the unreasonable authorities in Hong Kong will adopt a "front 70% and back 100%" requirement for cigar products, leaving absolutely insufficient space to display authenticity labels and certifications. Consumers will find it hard to identify the counterfeits, presenting an opportunity to lawbreakers to exploit the loophole and indirectly fostering the market of counterfeit cigarettes.

Deputy President, I declare that I smoke cigars. According to the sales practices of the cigar trade, after a salesperson has pitched different brands, consumers may not purchase an entire box of cigars but, in a more common way, individual sticks of cigars. Therefore, the authorities' proposal to significantly increase the proportion of the coverage of health warnings is completely not in line with the actual operation and not conducive to encouraging cessation of smoking. However, no matter how much explanation and persuasion has been made by the industry, the authorities remain not moved, which is very disappointing.

According to the figures in 2015, the Hong Kong Customs and Excise Department seized a staggering 72 million sticks of illicit cigarettes, with a monthly average of 6 million sticks. However, it was just the number of cigarettes seized. Given the manpower constraints of Customs and the "ants moving home" modus operandi adopted in illicit and counterfeit cigarette smuggling, the true situation can be way worse. In addition, the resultant problems, such as smuggling, counterfeit cigarettes and juvenile delinquency, are not to be dismissed.

It is thus evident that, the Government has looked at the problem from too simple and narrow an angle, without paying close attention to the industry's views. Its proposals are too aggressive and groundless, completely failing its job of maintaining a balance of industry interests. However, due to the general public's little understanding of the issue, the Government's proposals are likely to gain the support of the majority of Honourable colleagues in the Council. It begs the suspicion that the amendments are made because some officials who hanker after achievements only care about currying favour with WTO together with the Hong Kong Council on Smoking and Health.

Deputy President, some 10 years ago we paid an overseas visit to assess the indoor smoking ban. Each time in a different country, the people knew we were on a visit to learn about how the smoking ban was enforced there. I particularly wish to mention Norway, whose people were very surprised that our smoking prevalence at the time was only 16% and asked us why we still needed to impose tobacco control. They even said that if only 16% of the people in their country were smokers, they would be "singing praises of god" and then could "pack their bags" without doing anything more. However, it is another story in Hong Kong. No matter how much Hongkongers have grown health conscious in the last 10 years or more to take the initiative to quit smoking, thus reducing the smoking population to only 10%, the Government still continues to raise the minimum coverage of health warnings on cigarette packets. I really am very disappointed.

On this occasion, we can see the greatest drawback of a democratic society, that is, dictatorship of the majority. When the Government can secure enough votes, it can turn a blind eye to the rights and interests of the minority smokers. Many Honourable colleagues from the pan-democratic camp strive for the rights and interests of the minorities, but in its dealing with the smoking issue, dictatorship of the majority is readily noticeable.

Let me tender the authorities a piece of advice: Actually you have secured enough votes and you might as well ban smoking; Tommy CHEUNG from the Liberal Party supports a smoking ban. Do it if you have the guts. Stop always



"tempering" with cigarette packets. The authorities utterly live in an ivory tower.

Deputy President, I so submit.

**DR PIERRE CHAN** (in Cantonese): Deputy President, it has been two years since the Government submitted a proposal to the Panel on Health Services to "amend the prescribed forms (including specifications) of health warnings, the size and number of the health warnings and messages for packet or retail container or cigarettes under the Smoking (Public Health) (Notices) Order" on 18 May 2015.

In the interim, the Panel on Health Services has conducted six discussions, including special meetings to hear views from members of the public, stakeholders and deputations. The Government has also received more than 100 submissions from the public, deputations, the tobacco industry, the retail industry, the medical profession, etc. On 28 April this year, the House Committee approved the setting up of the Subcommittee on Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Subcommittee"). The Subcommittee has held five meetings to carry out detailed discussions.

In fact, the Government has actively responded to the questions and views expressed by Members and the community; some views were accepted and embodied in amendments. The Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Amendment Order") which the Government introduced into the Legislative Council can be regarded as the fruitful outcome of the benign interaction between the Legislative Council and the Government. As far as the several Members who have proposed amendments are concerned, currently the greatest controversy lies in the requirement that graphic health warnings cover at least 85% of the two largest surfaces on packets or retail containers of cigarettes. As regards the lower limit, some Members wish it higher; some prefer it lower. However, as the largest political party in the Legislative Council, the Democratic Alliance for the Betterment and Progress of Hong Kong, together with the Hong Kong Federation of Trade Unions, both expressed support for the Government motion in the meeting of the Subcommittee on 2 June, so I believe the Amendment Order will be passed with majority support from Honourable colleagues.

As a doctor, my primary task is to keep the gate for people's health and cure sick citizens. Tobacco control can effectively reduce diseases caused by

smoking. Doctors not only cure but also hope to prevent diseases. Therefore, I support the passage of the Amendment Order to enlarge and strengthen the health warnings and smoking cessation messages. At the same time, to demonstrate my utmost support of tobacco control, I also support Dr Fernando CHEUNG's amendment which seeks to expand the coverage of graphic health warnings on the two largest surfaces of cigarette packets from at least 85% to at least 90%.

For the same reason, sorry, I have to oppose Mr SHIU Ka-fai's amendment. Mr SHIU proposes to amend the government proposal such that the coverage of graphic health warnings on retail containers of cigarettes, pipe tobacco or cigarette tobacco will be reduced from at least 85%, as proposed to be increased from currently minimum 50%, to 65%, which is 20% less than the government proposal. He also proposes to reduce the coverage of graphic health warnings on the largest surface on the front and back sides of retail containers of cigars from 70% and 100% as respectively proposed to 65%. These are some technical amendments. In fact, it will undermine the effectiveness of health warnings.

Members not supportive of increasing the coverage of health warnings to at least 85% of cigarette packets have repeatedly stated that in the world, only Thailand has adopted such a requirement whereas most advanced countries in the West do not have such a stringent requirement for the size of health warnings on cigarette packets. I wish to point out here that they have only stated part of the truth to their advantage; I am going to tell everyone the part unfavourable to them.

As a matter of fact, the World Health Organization ("WHO") has been advocating plain packaging of cigarette packets in recent years. The World No Tobacco Day last year was on the theme of plain packaging. What is "plain packaging"? It means the entire packet is prohibited from promoting or building the brand image of the cigarette other than displaying the brand name in a standard colour and font style. In other words, cigarettes in plain packaging only carry health warnings and messages other than their brand names. It is a very harsh measure and also a new trend. Australia has been implementing plain packaging since 2012. The requirement for plain packaging came into effect in the United Kingdom, France and Ireland last year and this year. Norway and New Zealand will implement the same requirement next year. Other European countries, such as Hungary, Slovenia and Turkey, will adopt plain packaging for cigarettes in the coming few years, same as Canada. To catch up with the global trend of banning smoking, Hong Kong should take this opportunity of amendment to mandate plain packaging for tobacco companies.

However, just the increase in the size of graphic health warnings on packets has drawn such a strong backlash. I believe the Government has made a compromise to maintain a balance of the interests of the industry.

Members and members of the tobacco industry have pointed out that the requirement coverage of at least 85% will affect the display of trademarks and authenticity labels, undermining intellectual property rights and fostering activities related to counterfeit and illicit cigarettes. In fact, the Government has repeatedly responded that no evidence points to such a situation. While at least 85% of packets is covered by graphic health warnings, the remaining 15% of surfaces and the two sides can be used to display trademarks and authenticity labels. Therefore, I agree that the Amendment Order is an appropriate, balanced and necessary measure.

I particularly wish to remind the Government that the originally proposed new form of health warnings was not the current "quit smoking for future generations", but "tobacco kills up to half of its users". Many people think that such a message is an overstatement. But I hope they will understand that it is a conclusion backed by scientific research. Over half of smokers die prematurely of smoking; it is a concrete fact. From 1998 to 2001, the School of Public Health of the University of Hong Kong ("HKU") registered the information of over 60 000 elderly persons at 18 Elderly Health Centres in Hong Kong and conducted a tracking study for 11 years. The results showed that the mortality rate of long-term smokers was higher than 50%, meaning at least one out of every two smokers died prematurely of smoking. A relevant overseas study targeting young people indicated that their mortality rate was even higher, up to 66%, meaning two out of every three young smokers died of smoking. People say everyone dies, so what does it have to do with smoking? The results I have just mentioned demonstrated that at least one out of every two smokers died prematurely of smoking. It is very important. Anyone who finds it unreasonable can lodge a judicial review against the study report. It is a conclusion substantiated by data collected in empirical scientific researches.

Long-term smoking causes lung cancer, heart diseases and various kinds of respiratory diseases, increasing the burden on medical expenses. In 2012, WHO conducted a study based on data collected from 150 countries, and the results showed that medical expenses on treatment of smoking-related ailments were over US\$400 billion, amounting to 5.7% of medical expenses worldwide. Second-hand smoke has a severe impact on health, affecting also family members of smokers.

The HKU School of Public Health conducted a research study between 2000 and 2004, and the results indicated that diseases caused by smoking and second-hand smoke cost \$5,300 million in economic losses to Hong Kong every year, of which \$3,570 million went to medical expenses. I told the Government that the income from tobacco duty is not sufficient to cover such medical expenses, meaning the income falls short of expenses and duty revenue does not suffice to cover the economic losses. In May 2015, the Faculty of Medicine of The Chinese University of Hong Kong also published a report which projected the economic losses incurred by smoking in 2015 to be \$11.3 billion, based on the data released by the aforementioned HKU study. It is hardly alarmist at all that smoking and second-hand smoke cause severe health risks and economic losses.

As a matter of fact, the health warning "quit smoking for future generations" is fairly moderate. It is a compromise made by the Government for the smooth passage of the Amendment Order. I fully appreciate that Members are voicing opposition for the industry interests in their speeches and have endeavoured in a professional manner to speak on its behalf in striving for some technical amendments, including allowing non-transparent soft pack seals to cover at most 5% of graphic health warnings such that the coverage of the warnings will be reduced to at least 80% of the largest surface of packets. They also kept questioning the Government about the hasty implementation of the Amendment Order. I will not describe these efforts as filibustering but hope Members will understand that the Government has already addressed the industry concerns by extending the adaptation period from the original six months to one year from gazettal of the Amendment Order.

However, smoking bans and sale of cigarettes are quintessentially contradictory. Regardless of the compromises made, it is impossible to claim the effectiveness of a smoking ban without hurting the tobacco industry and its dependent trades, because the purpose of a smoking ban is to reduce the number of smokers and juvenile smoking. I also understand that the tobacco industry, like other industries, hope to attract as many customers and smokers as possible, so it is hardly unexpected that a smoking ban conflicts with the industry interests. If the Government proposes measures to ban smoking which are welcome by the relevant industries, it would mean that there is something wrong with the government proposals.

In other words, a smoking ban must harm the interests of the tobacco industry and relevant trades. The more effective the measures are, the greater the harm. For example, increases in tobacco duty, which I have earlier mentioned, do inflict an impact. Some Members have stated that the

Government needs to give thorough consideration to the livelihood of practitioners of the tobacco industry. I am a bit dumbfounded by them expressing such a view. It is unreasonable to request the implementation of a smoking ban which does not affect the livelihood of practitioners because, as I have just said, it is a quintessential contradiction. However, I hope Honourable colleagues will not mistake me for acting against the business sector or tobacco-related trades. I just wish to say that, as a doctor, I know very well the harmful effects caused by smoking and second-hand smoke. For the sake of people's health, I think it is an urgent task for the Government to take further measures of tobacco control. I sincerely hope for the diversified and stable development of Hong Kong economy so that full employment does not have to rely on the tobacco industry.

Some people consider that the smoking population in Hong Kong has dropped to 10.5% which is a level lower than other regions and thus question the effectiveness of enlarging the health warnings and messages on packets. Imagine that 10% of the population in Hong Kong is 600 000 and that undertaking one task can lower the smoking population by 1% to 9.5%, which is already around 50 000 people. We can do something to lessen the harmful effects of smoking or second-hand smoke to help the people while alleviating the burden on the health care system. Therefore, I hope all Members can give serious consideration to passing the Amendment Order.

Deputy President, I so submit.

**MS ALICE MAK** (in Cantonese): Deputy President, the content of the Smoking (Public Health) (Notices) (Amendment) Order 2017 ("Amendment Order") is mainly on the amendment of the information on packets and containers of tobacco products. From the perspective of public health and safety, the Hong Kong Federation of Trade Unions ("FTU") in general supports the Amendment Order proposed by the Government. We hope that these amendments will prompt society to address the problem of smoking squarely and be useful to public health.

We understand that during the scrutiny of the Amendment Order, many people said that increasing the coverage of health warnings to 85% would not be useful and it would not stop people from smoking, and they concluded that an increase in coverage would not help, unless there was scientific evidence proving so.

In fact, the Amendment Order has been discussed for two years. During these two years, I could not stop pondering: If they consider increasing the coverage of health warnings ineffective in discouraging smoking, why would they worry? If increasing the coverage to 100% will not bring any impact, why do they have to do so many things? If they believe that increasing the coverage of health warnings will not result in a decrease in the number of smokers, they should have let the authorities increase the coverage. It is precisely because they think increasing the coverage of health warnings may actually affect people's desire to smoke, smoking prevalence and their businesses that they have to make all these efforts to block it. In the past two years, I have been thinking about this. Since they consider the approach ineffective, why do they have to make all the vigorous effort to dissuade the authorities from adopting such an approach? What are they afraid of? If they consider increasing the health warning coverage to 85% ineffective, they do not have to care about whether or not the coverage will be increased to 100%. They often say that people who want to smoke will keep smoking. Smokers will continue smoking no matter how disgusting and how large the coverage of health warnings is. Following this line of logic, I think increasing the coverage of health warnings will at least prevent people from considering the design of cigarette packets attractive and cool at the sight of them but make them find the packets disgusting at least.

Recently, I found a packet of cigarettes at home. I do not know why it would be in my home, yet I found the packet disgusting. My first reaction was to hide it immediately so that no one would see this disgusting thing—if a photo is taken and uploaded onto the Internet, it will be looped endlessly, and for those who do not know the reason, I wonder what they would be thinking—so I hid the packet of cigarettes immediately. For this reason, I trust that increasing the coverage of health warnings will definitely help discourage smoking. I am particularly concerned about the young people. I hope the Amendment Order may have deterrent effect on them, preventing them from smoking their first cigarette. If the packaging of cigarettes is attractive and cool, they may consider smoking fashionable. Yet if the coverage of health warning is big, they will not consider smoking fashionable. Hence, I think this is a useful approach.

In fact, at the meeting of the Panel on Health Services of the previous Legislative Council held in May 2015, amendments to the legislation were discussed. I remember the documents mentioned three issues at that time. First, it is about health warnings. Second, it is about setting up "No Smoking Area" at interchange stations of cross-harbour buses. Third, it is about the

regulation of electronic cigarettes. However, only the item on setting up "No Smoking Area" at interchange stations of cross-harbour buses was eventually passed. As for the present legislative amendments, they have been dragged on for more than two years. A lot of meetings had been held during the period. For the current term, the Panel on Health Services had already discussed this question for four times.

As for the concerns of whether sufficient consultation has been conducted and whether there is extensive understanding of the legislative amendments, frankly, in the beginning, in May 2015, I considered the consultation less than extensive. Back then, after the introduction of legislative amendments, only tobacco companies approached us to do lobbying. I wondered why anti-smoking organizations did not express their opinions. There should be two sides in society, yet why would we only hear the opinions of one side but not the other? Later, we heard some industry practitioners say that they had not been consulted. I did reflect to the Government at that time that if the amendment of any legislation would affect the industry, sufficient consultation should be conducted. The Government then explained that due to the requirement of the World Health Organization, they could not contact those tobacco companies direct. However, I believe the Government should have gained some understanding of these situations on public occasions.

Some Honourable colleagues pointed out earlier that we were being contradictory in demanding the Government to prohibit smoking on the one hand and request it to be understanding towards the industry about their operation on the other. They may say that it is contradictory, yet I think this is the way to find the balance. If we wish a certain law to be passed expeditiously or smoothly, we have to find the balance that will minimize the impact on practitioners affected and maximize the effect of the law. Hence, during the past two years or so, we have been meeting with representatives of the industry on a continued basis to understand the operational problems they faced.

Actually, practitioners in one of our trade unions have expressed to us their worries about the Amendment Order, particularly on the part relating to soft packs. Since this trade union is the only trade union with members working in the production lines in Hong Kong, we have to strike a balance in maintaining their means of living. Some people may think that we can simply ignore them, yet this will prevent the smooth and swift passage of the legislation introduced. Members should have noticed the situation this time around. It has been

dragged on for over two years. Hence, I think the Government should have learnt a lesson. In future, if it is going to introduce legislation of this nature, for example, the introduction of plain packaging mentioned by colleagues earlier, it should conduct more consultation and let society have extensive discussions. If not, it will repeat the same mistakes as it did in the present Amendment Order, causing it to spend more than two years on it.

Moreover, the amendments proposed by the Government this time around have incorporated some of our views. During the past two years, has there been no progress at all? This is definitely not the case. Had Members monitored the progress in amending the present legislation since the beginning in 2015, they would have seen how stubborn and indifferent the Government had behaved in the beginning—it might not be indifferent but simply considered its approach was justified indeed. Yet, today, the Government is willing to compromise and make amendments on soft pack cigarettes, to make adjustments to pictorial warnings to facilitate the trade in meeting the requirements and to extend the adaptation period to allow time for the industry to cope with the amendments and changes under the new legislation.

As we often say, tobacco control should not rely on a single approach. Health warnings may be helpful, yet this should not be the only means. By the same token, we have pointed out that an increase in tobacco duty is not the only means. In fact, tobacco control has to be implemented through different means. Hence, we hope the Government will not overlook tobacco control work in other aspects after it has completed the amendment on health warnings this time around.

As for passive smoking in office, we have great concerns, too. We really hope that the Government can step up the work in this aspect—"Slow Beat", why are you laughing? You know why I raised this issue, do you not? We hope that apart from health warnings, the Government will also reinforce tobacco control work and education and publicity in future. We notice that the problem of smoking is relatively serious among young people and females, the Government should thus introduce target measures addressing the smoking prevalence among young people and females. We have also learnt from some surveys that some students start smoking in primary schools.

Lastly, I will not use all of my speaking time. I would like to take this opportunity to thank the Government for willing to make certain adjustments at



the final stage to make it easier for the industry and practitioners to cope with the amendment smoothly once the legislation is passed. I also hope that the Government will dial up its vigour in tobacco control work in other aspects and not to be complacent about completing the legislative amendment on increasing health warning coverage to 85%.

Thank you, Deputy President.

**MR CHAN CHI-CHUEN** (in Cantonese): Deputy President, "smoking is hazardous to health". I think these words are familiar to adults and children alike, and no one will oppose or argue over this point. Today, many Members from the medical profession have also presented statistics to point out the health hazards of smoking, and I do not plan to debate this point here.

In fact, my father had smoked for several decades and eventually died of lung ailments. But is it politically incorrect not to support the anti-smoking policy measures of the Government? Of course, it would be most easy to support these policy measures as it is correct to curb smoking, but do we have to give unconditional support to any policy measure proposed by the Government because it is correct to curb smoking? Regarding these policy measures, such as levying a tobacco duty, expanding the no smoking areas and enlarging the coverage of health warnings on cigarette packets that we are discussing today, should we give them unconditional, unlimited support as well? Is it that the higher the tobacco duty, the better; the bigger the no smoking areas, the better; and the greater the coverage of health warning, the better? Is this the way it should be?

The Government has proposed the Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Amendment Order") to increase the size of health warning images from covering 50% at present to at least 85% of a packet of cigarettes, claiming that this would help encourage smokers to quit smoking in the hope of reducing the smoking prevalence. I think this is impractical and so, I will not support it.

In retrospect, the Government implemented the measure of including health warning messages on a packet of cigarettes for the first time in 1994. The health warning messages were subsequently replaced in 2000, and then images were included in 2007. But if we look at the smoking prevalence in those three years,

we will see that there has not been any significant effect on the smoking prevalence after the implementation of the new measure of including health warnings on cigarette packets. For example, in 1994, the smoking prevalence was 14.9% and in 1996, it was 14.8%, showing a decrease of a mere 0.1%. What is more interesting is the smoking prevalence after the subsequent two enlargements of health warning coverage on cigarette packets, which was 12.4% in 2000 and 14.4% in 2002, and then it was 11.8% in 2008 and 12% in 2009.

These statistics show that the three attempts made to enhance health warnings on cigarette packets did not speed up a dropping trend of smoking prevalence in Hong Kong. If we take an overview of the entire implementation period of the policy of printing health warnings on packets of cigarettes, the smoking prevalence changed from 14.9% in 1994 to 10.5% in 2015, representing a fall of 4.4% in a decade or so. This is a trend, but I think it is not mainly attributed to the enhancement of health warnings cigarettes packets. In this connection, when the Government introduced the policy, what statistics were there to show us that the smoking prevalence could be reduced if we supported an increase of the coverage of health warnings on cigarette packets?

Ms Alice MAK said just now that although we considered it useless to increase the size of the images, why should we oppose it? First, if it would be useless to increase the coverage but if the Government is given a free hand to increase it as it likes, there would be effects in several aspects. To the industry, this would increase the cost of production; to the retailers, this would increase the business costs, and it is still unknown as to whether these costs would be shifted to consumers for it depends on the elasticity of demand of cigarettes. Besides, consumers or smokers would be demonized and their right to receive information reduced. Of course, the interest of the industry is not a factor for my consideration today. The industry interest is certainly not an overriding factor. When we enact a piece of legislation, such as imposing a ban on ivory trade, the interest of the industry will naturally be put in a secondary position. But this is not the case for cigarettes that we are discussing today. As Mr Tommy CHEUNG has said, the Government might as well impose a total ban on smoking, in which case the industry would no longer exist while the cigarette traders and retailers could change jobs and switch to other fields after retraining.

Deputy President, I have to declare that I neither smoke nor drink, though I may smoke a couple of cigars and drink a few glasses of wine every year on some

joyous occasions. I support my friends to cut down on or quit smoking. I do not like people smoking either, but I respect their right to smoke. Therefore, I think when we are here to formulate a social policy, we must treat all stakeholders, including smokers, cigarette traders and retailers, reasonably and fairly.

In fact, a point that I badly wish to make is that the Government is actually biased in its initiatives taken to control tobacco and alcohol. In recent years, the Government has shown a strong determination to develop Hong Kong into a wine centre and has substantially reduced the wine duty but it has substantially increased the tobacco duty to make people cut down on smoking. As we often say, smoking is hazardous to health, but so is drinking; passive smoking is harmful, but drinking can lead to cases of domestic violence, drink driving can kill, and the drinkers themselves may suffer from various diseases which will incur costs for society, so both are more or less the same. However, the measures adopted by the Government for alcohol control are far less vigorous than those for tobacco control and it was only recently that the Government commenced studies on prohibiting the sale of liquors to people under 16 years of age, which cannot be compared to such policies as a smoking ban, increasing the tobacco duty, and so on.

By the same token, when it comes to health warnings which are the theme of our discussion today, why are they not also printed on wine bottles? Why do we not affix pictures of a rotten liver or rotten lung to a wine or whisky bottle or put down such wording as "drinking leaves you senseless"? What about the problem of drink driving? Why does the Government not enact legislation to this effect? The discrepancy is even clearer in the duties levied. But as we are here not to discuss the tobacco duty today, I am not going to waste time discussing this in depth.

However, whenever the Government is asked what statistics it has to support that the health warning images on cigarettes packets can effectively reduce the smoking prevalence, the Government will cite the results of a statistical survey conducted by the Census and Statistics Department in 2015, pointing out that 37% of daily smokers had tried to quit or wanted to quit and using this as proof of the need to encourage cessation of smoking. Moreover, the Government will also mention a recent survey which found that 70% of the public and 50% of smokers support the enlargement of the size of health warning images to be covering 85% of the packet. But the question is: Even if these

statistics are correct, can they be used as proof that health warning images on a cigarette packet can effectively reduce the smoking prevalence?

(THE PRESIDENT resumed the Chair)

These surveys did not gauge the changes in the actual behaviour of smokers but were merely subjective self-measurement of the desire to quit smoking by respondents in the survey. If smokers are asked whether or not they wish to quit smoking, I believe 10 out of 10 had thought about quitting but ultimately in vain or had eventually resumed smoking. Smoking is a behaviour whereas to quit smoking is a desire. They are two different concepts. The Government's statistics serve only as a subjective measurement of the desire to quit smoking. That is, when you ask a person how he gets on with smoking, he would tell you that he has cut down on it and that he is prepared to quit or he will quit after pulling one last puff. All these are actually just catchphrases and it is impossible for any practical measurement to be made. To put it in a survey jargon, they lack validity.

Furthermore, the long-term effectiveness of health warning images and messages has been questioned by the academia. The reason is that many of the studies in support of their effectiveness are one-off but not longitudinal studies, meaning that the studies were not conducted over a long period of time; nor were cohort studies conducted to track the effectiveness of health warning messages in reducing smokers' demand for cigarettes in the long run. I have even found other studies pointing out that the effectiveness achieved by changing the packaging of cigarettes to plain packaging could last no more than a week. Without the support of long-standing scientific evidence, the Government is saying that its proposals are meant to follow the international footsteps, but after much has been said, all that the international footsteps refer to are Thailand, India, and so on. The reasons of the Government in doing so are incomprehensible, and it gives people the feeling that the Government's mindset in policy formulation is contrary to the evidence-based principle. Frankly speaking, what is the case in the real world? My friends who smoke certainly feel disgusting on seeing those images but if they found them disgusting, they would choose to buy another packet of cigarettes with images that are less disgusting. For instance, if he does not like the image of impotence, he will choose to buy another packet of cigarettes but he will not quit smoking as a result.

On the other hand, I think the Government simply wants to have the best of two worlds. According to the Government's amendments, the indication of tar and nicotine yields should be separately printed on a surface of a cigarette packet or retail container other than the surface bearing the health warning, and there is no restriction on the background colour. But according to the guidelines issued by the World Health Organization ("WHO") for implementing Article 11 of the Framework Convention on Tobacco Control ("FCTC"), parties should not require, among others, quantitative statements on tobacco product packaging and labelling about tobacco constituents and emissions, such as the tar, nicotine and carbon monoxide figures. Let me cite paragraph 34 of the guidelines for implementation of Article 11 of FCTC of WHO, which reads, "Parties should not require quantitative or qualitative statements on tobacco product packaging and labelling about tobacco constituents and emissions that might imply that one brand is less harmful than another, such as the tar, nicotine and carbon monoxide figures or statements such as 'these cigarettes contain reduced levels of nitrosamines'".

In fact, we all know that these indications will mislead smokers into thinking that tobacco with lower yields of tar and nicotine is less harmful to health, causing changes in their normal smoking habit. As low tar tobacco does not contain as much nicotine as ordinary tobacco, smokers generally think that low tar products are not strong enough to satisfy their craving and so, they will smoke a few more cigarettes and this would, on the contrary, do more harm to their health. The Government should follow the instruction of WHO by excluding the indication of nicotine and tar yields on a cigarette packet in order not to mislead the smokers. In this respect, I will not debate the arguments with the Government in depth, but what I wish to say is that during the legislative exercise, the Government always seeks to bluff us off with the WHO standards, but the Government is like a dispenser in a Chinese medicine store, dispensing only those medicines that it likes but not those it dislikes. Even though WHO has provided the prescription, the Government does not dispense medicines according to the prescription and instead, it dispenses medicines according to its own preference.

Certainly, I have to say a word or two to commend the Government for eventually taking on board the suggestion of Members and some industry practitioners by slightly relaxing the requirement for soft pack cigarettes. It is because the seals on soft pack cigarettes will cover part of the images on the surface of the packet, making it impossible to meet the 85% standard. The

Government, therefore, has slightly relaxed this requirement but in doing so, the Government is exactly slapping itself in its face. Why do I say so? Let me cite two pictures as examples. This is an image of "smoking causes immature death" and version C of the image shows a mourning hall. In the version currently proposed by the Government after relaxing the requirement, the roof of the mourning hall is adjusted downwards. As the roof of the mourning hall is stark black, it makes no difference for the roof to be covered by the seal. Another example is the image showing a mortuary body store with words "I Die of Smoking". In fact, after the entire image is moved downwards, it also makes no difference for the stark black roof of the mortuary body store to be covered. What does it prove? It proves that the size is irrelevant. That is to say, it suffices as long as the images and words on the packet have expressed the warning message of the Government, but the Government insisted on extending the roof of the mortuary body store to be covering 85% of the surface of the packet and it insisted on extending the roof of the mourning hall to be covering 85% of the surface of the packet, and the case of the bed sheet underneath the rotten foot is the same. This actually carries no messages other than the background colour and yet, the Government has to argue with us, insisting on expanding the coverage of the images to be 85% of the surface of the packet. Is it that displaying an additional 10% of the roof of a mourning hall can make smokers quit smoking? No. This has precisely revealed the flaws in the Government's logic while the Government made this concession.

Concerning the three resolutions proposed by Mr SHIU Ka-fai to the Amendment Order, given that the Government has not presented sound justifications to prove that enlarging the coverage of warning images on a cigarette packet can effectively reduce the smoking prevalence, I will, therefore, support all amendments proposing a reduction of the coverage. Of course, I will oppose the Government's original motion and motions proposing an increase of the coverage. I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr SHIU Ka-fai, before I call upon the Secretary to reply, do you wish to speak again?

**MR SHIU KA-FAI** (in Cantonese): President, do I still have 15 minutes' speaking time?

**PRESIDENT** (in Cantonese): Yes.

**MR SHIU KA-FAI** (in Cantonese): Fine, thank you.

First of all, I thank the many Members who have expressed their views just now, especially Dr KWOK Ka-ki and Dr Fernando CHEUNG, who spent a great deal of time in their 15-minute speeches to explain the harmful effects of smoking, such as premature death or illnesses. President, I can only respond by saying "I agree". It is a known fact that smoking is harmful, but the resolution under discussion is not about smoking is good or bad.

Some Members said that I have proposed to reduce the coverage of the health warning. President, I would like to clarify that my proposal is to increase the original coverage requirement of 50% to 60%, instead of reducing it. The Administration suggested to increase the coverage requirement from 50% to 85%; Dr Fernando CHEUNG suggested to increase it from 50% to 90%. We are proposing three different amendments.

Dr Fernando CHEUNG mentioned a survey report by The Chinese University of Hong Kong, which stated that smokers who smoke three packs of cigarettes daily might have cumulated \$14 million if they did not smoke. I urge the 90% of Hong Kong people who do not smoke or who used to smoke three packs of cigarettes daily but have not yet had \$14 million amassed to make inquiries with that Member or that organization about why they have yet to amass \$14 million.

President, I absolutely oppose smoking among children. However, this resolution is about increasing the coverage of health warnings. As Mr CHAN Chi-chuen has asked, logically, is it a must to increase the coverage to 85% in order to achieve the desired effect? This is logic that I always have a problem understanding. Be it 85%, 75% or 65%, can it really encourage the public not to smoke? I have been asking the Administration to provide relevant data but in vain. On the contrary, as Mr CHAN Chi-chuen has said, the number of smokers showed a rise, instead of a decline, when the coverage of the health warnings on

cigarette packets were increased on the two previous occasions. It is for this reason that I moved the motion.

Ms Alice MAK mentioned that some tobacco companies have relayed to them their opposition to increasing the coverage of health warnings. They hold that this practice is flawed in logic as the number of smokers will not decline even if the coverage is increased. I would like to clearly express the views of the industry. The industry has always held that the increase of the health warning coverage will reduce the size of their logos, and thereby reduce people's right to know and facilitate counterfeiting cigarettes. The industry has always insisted on this argument, so have I. As I said in my first speech, are the health warnings on cigarette packets really the larger the better? President, it should be the case logically, but it cannot be seen statistically. A balance should be struck in light of the problems faced by the industry. Invisibility of the logos can easily lead to counterfeit cigarettes and cigars.

A Member mentioned just now that the \$4 million tobacco duty received each year is not sufficient to cover the \$5.3 billion worth of social resources spent by smokers according to the calculation of a certain organization. I do not know how this figure of \$5.3 billion was accurately calculated. They said the \$4 billion tobacco duty was not enough to cover the amount, but I believe Hong Kong people do not care about this \$4 billion tobacco duty. Hong Kong people, including myself, actually prefer that non-smokers be the majority. Nevertheless, should Hong Kong people have to right to choose? I wish to emphasize that we should respect each other, or else the Government should ban smoking full scale.

I do not agree with the Government's approach of constantly increasing tobacco duty or using these methods so as to meet the requirements of the World Health Organization ("WHO") and to align with them. The Government should, or else, fully follow WHO's guidelines which, as I have said, clearly pointed out that indication of nicotine or tar yields on the packets is not recommended. Then why are these still indicated on the packets? WHO stated that the health warnings should cover at least 50% of the packets. Just now, Dr CHAN mentioned that WHO had recommended plain packaging of tobacco products. Recommending plain packaging and requiring all member states to comply with its standard are two different matters. It is just a recommendation of WHO, not an obligation.



Some Members pointed out that many countries have adopted plain packaging of tobacco products. I can further discuss this granting the time. How many countries now require that the coverage of health warnings on cigarette packets must be 75%? Brunei, Canada, Laos and Myanmar require 75%; Austria, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland and Portugal require 65%; while Sweden, Turkey and Brazil are considering implementing plain packaging in the future. We do not need to surpass other countries on every issue. Why do we not follow the practice taken in the United States or the European Union, rather than the relatively extreme approach in Thailand? I find this quite unreasonable.

President, this Council will vote on the resolution soon. I would like to take this opportunity to thank the Administration. Despite our different positions, the Food and Health Bureau and I have maintained communication and exchanged views in the process. The Bureau has eventually accepted two viewpoints of mine, so as I said, I have already withdrawn those two amendments. In this connection, I thank the Bureau. In this process, many people have expressed their views in the five hearings, which I believe is a positive interaction and how a democratic society should be, where people can state their stances. The Administration has therefore made two amendments and I believe this is one of the functions of the Legislative Council.

I think it is fine for people to support Dr Fernando CHEUNG's amendment or the views of other pan-democratic Members. Everyone is entitled to stating their own opinions. I would also like to thank Prof Joseph LEE and Dr KWOK Ka-ki, who are not present, for chairing the panel and the Subcommittee respectively. As we all know, their positions are different from mine, but despite our differences, they were impartial and did not hold any bias in chairing the meetings. I would like to take this opportunity to thank them.

Lastly, I hope Members will consider the logo issue which is a grave concern to the business sector and the tobacco industry. The issue may facilitate counterfeiting and lead to an even higher prevalence of illicit cigarettes. Thank you, President.

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG, do you wish to speak again?

**DR FERNANDO CHEUNG** (in Cantonese): President, I wish to speak again and to give another reply in response to the speeches made by certain Members earlier. It is a pity that "Long Hair" is not present today. If he were present, he would definitely explain his support for smokers.

I also understand that smoking is not unlawful. Many working-class people or those having a busy time at work like to have a cigarette for a bit of relaxation when taking a rest. But this personal preference carries a price. It costs one's health and causes adverse economic impacts. And, the worst thing is that it will affect the people around him.

If "Long Hair" were present, he would definitely dismiss the Government's practice today as hypocritical. How hypocritical is it? Because the tobacco duty revenue received by the Government amounts to as much as \$4 billion every year. However, has the Government allocated sufficient resources for tobacco control purposes, so as to enable the Hong Kong Council on Smoking and Health ("COSH") to conduct more publicity or urge people to stop smoking? Or, has the Government done so to enable the Tobacco Control Office ("TCO") to step up law enforcement, with a view to reducing smoking among Hong Kong people and preventing youngsters from developing an addiction to tobacco? The relevant duty revenue amounts to as much as \$4 billion. But COSH and TCO I mentioned just now merely receive \$50 million in funding per annum. This sum is utterly a drop in the ocean. When "Long Hair" talked to me some time ago, he said that it was downright hypocrisy. I also agree with his point. Why should the Government refuse to commit more resources to tobacco control, publicity and public education?

Today, the Government proposes to increase the proportion of health warning images, in the hope of reducing smoking among people and encouraging more people to quit smoking after seeing the relevant warnings. I certainly support this proposal, and I approve of the recommendation made by the World Health Organization ("WHO") on increasing the coverage of health warning images to 100% of cigarette packets. But even so doing will not be enough. The Government should undertake more work. But sadly, the Government has failed to take forward this cause with a proactive attitude. Besides, if computation is done on the basis of the \$4 billion tobacco duty revenue, how much can tobacco companies earn as profits? Computation based on a profits tax rate of 16% shows that tobacco companies earn a profit of \$25 billion per

annum. The tobacco business is indeed a big business. And since it is a big business, they certainly oppose any practices which may have impact on their business. Therefore, I can understand very well why the Liberal Party raises opposition. They are concerned about business opportunities and profits. Where will the profits go? To large consortia and tobacco companies.

The Amendment Order proposed by the Government today to increase the proportion of health warning images on cigarette packets as a means to reduce smoking among people will directly affect the interests of large consortia. But who are the very ones to pay the price? As I said in my previous speech, the latest study conducted by The Chinese University of Hong Kong finds that Hong Kong people have to pay \$11.3 billion a year. They make a profit of \$25 billion, but Hong Kong people have to pay \$11.3 billion. The difference between these two sums upon subtraction is honestly not small. This also explains why I hope that the proportion of health warning images on cigarette packets can be further increased.

I also wish to give a reply on two major viewpoints put forth by Mr CHAN Chi-chuen in his earlier speech. First, the Government's tobacco control and alcohol control efforts are utterly disproportionate. These days, the Government talks about the need for enhanced tobacco control, so it launches many anti-smoking publicity campaigns. But the case of alcohol control is exactly the opposite, as reflected by the Government's recent exemption of duty on red wine and alcohol as a proactive means to develop Hong Kong into a red wine hub and also its perception of red wine as a business. Nevertheless, drinking likewise causes health impacts. Drink driving may cause traffic accidents and casualties. I agree with all these. But I must point out to Mr CHAN Chi-chuen that smoking and drinking are quite different after all. Smoking definitely affects one's health. But at present, the question of whether drinking will adversely affect our health remains highly disputable. There is even the assertion that moderate drinking may offer some health benefits. It can be seen from this that the health impacts produced by the two are quite different.

Besides, smoking will affect the people around smokers because the former are forced to inhale second-hand smoke. In contrast, a person who consumes alcohol merely swallows the alcohol into his stomach. The people around him will not get harmed because of this. It is another story if he commits assault

after drinking. Or, if drink drivers cause traffic accidents involving casualties, then we will certainly give it huge attention. For these reasons, I agree to the affixation of warnings to the packaging of alcoholic beverages. I certainly support this approach and also the imposition of a wine duty. Why are the Government's efforts in these two areas so very disproportionate? According to "Long Hair", the Government is hypocritical. When the Government perceives a commodity as a business opportunity, it will turn a blind eye to its associated health hazards and will instead seek to promote it no matter what and impose disproportionate regulation.

Another viewpoint put forth by Mr CHAN Chi-chuen is the lack of evidence or long-term tracking studies supporting the assertion that larger health warning images will achieve effects. For instance, according to Mr WONG Ting-kwong, a smoker known to all, whether a health warning image is large or small will not affect him in any way. But when it comes to the implementation of public policies, the Government must not take the wishes or views of one or two individuals as the major source of reference. The Government should make reference to scientific evidence and consider whether any related studies have been conducted previously.

Actually, some related studies were conducted previously. I did not have much time to search for the relevant studies, but I manage to browse through some press reports. A press report which I read stated that Canada was the first country to introduce health warning images in 2001, and it conducted a long-term tracking study from 2002 to 2011. In other words, the study spanned as long as 10 years, and it highlighted the changes within these 10 years. The numbers of smokers, cigarette buyers or prospective cigarette buyers who wanted to smoke after realizing the health hazards from health warning images on cigarette packets dropped by 30%. The number of people who indicated that they would continue to smoke in spite of noticing the health warning images fell by 25%. And, the number of those considering that the relevant health warning images failed to produce on them the effect of quitting smoking decreased by 50%. In 2012, Canada amended its legislation to increase the proportion of health warning images from 50% to 75%. This change immediately led to a 100% increase in the number of smokers who would consider quitting smoking. All of these are supported by data, ones which were obtained from the study initiated by the Canadian Government.

Besides, the Canadian Government once conducted a study on the actual impacts caused by the proportion of health warning images on cigarette packets (such as 75%, 90% and 100%) on various groups of people, including adult and juvenile smokers, and also adult and juvenile non-smokers. It found that increasing the proportion could really achieve some effects. The study findings have enabled the Canadian Government to better understand the greater health hazards caused by smoking, changed the community's attitude towards smoking, dampened non-smokers' desire to try their first cigarette and enhanced smokers' intention of quitting smoking. Therefore, increasing the coverage of health warning images can cause substantive implications.

But the actions taken by the country concerned aroused the opposition of tobacco companies. Such tobacco companies not only expressed their views and raised oral opposition, as in the case of those tobacco companies in Hong Kong which did so in the Legislative Council. Tobacco companies in some countries even initiated legal proceedings. One such case was initiated by Philip Morris International, a large tobacco company and also the manufacturer of Marlboro cigarettes. The Uruguay Government decided to increase the proportion of health warning images from 50% to 80%. But Philip Morris International sued the Uruguay Government, arguing that since there was no evidence to show that it could achieve any effects of tobacco control or reducing the number of smokers, it was unnecessary, just as the several Members asserted just now. For these reasons, they opposed this practice.

Philip Morris International brought this matter to an international organization for arbitration. This case was processed in the International Centre for Settlement of Investment Disputes under the World Bank. In July last year, a formal judgment was passed on it. It was ruled that Philip Morris International, the tobacco company in question, lost the case precisely because there was sufficient evidence to show that larger health warning images would be more effective in the dissemination of health hazard information and achieving effects on reducing the number of smokers and affecting youngsters' desire to try the first cigarette. This is an international precedent rather than our mere fabrication. We have presented the evidence. Hong Kong should make reference to the practices adopted in various places of the world, the judgments on similar disputes handed down by international organizations, WHO's requirements on various countries for dealing with the smoking problem and health warning images on cigarette packaging.

I am not a doctor, and all along, I have been concerned about the underprivileged. Many underprivileged people are smokers. My position today is different from the stance of such Members as Mr CHAN Chi-chuen and "Long Hair". My position is based on people's health, and money is my secondary concern. The expenditure incurred by Hong Kong or the scale of its productivity loss every year is my secondary concern. The most important consideration of all is people's health. We are well aware of the health hazards of smoking. Why is it impossible to take all possible steps to reduce smoking among people?

We will not propose to ban smoking today. Frankly, if anyone asks me whether I support a smoking ban, I will answer in the positive. But as Mr CHAN Chi-chuen said, everybody has their own personal preferences and habits. Even in the case of those risky activities—some people like to do certain activities involving high risks—it will actually be alright for one to do such activities as long as one does not affect others. But the act of smoking will indeed affect the people around smokers. Regardless of how hard we try to reduce smoking among people in public places, smoking generates second-hand smoke all the same. And at present, it is impossible for us to forbid people to smoke in all public places. As long as smoking is not prohibited full scale, we must still tolerate this act and allow people to smoke as far as reasonable. But it will affect people's health.

My amendment stands a slim chance of passage because the Democratic Alliance for the Betterment and Progress of Hong Kong refuses to render it their support. And, certain democratic Members likewise hold dissenting views. But I hope that the Government's motion can be passed. Of course, we do not support Mr SHIU Ka-fai's amendment, and I do not believe it can be passed. But the crux of the matter lies in the question of how to reduce the number of smokers. I do not care about the business of cigarette traders. I care about the health of people, particularly elderly people. A few studies have shown that one out of every two elderly chronic smokers will die of smoking at various stages after the age of 65. This price is not worth paying; neither should this happen. For these reasons, I think the authorities should strive to increase the proportion of health warning images to 100% as soon as possible and implement plain packaging. Other countries have already implemented plain packaging for cigarette packets. Four countries have already implemented this requirement, and 10 or so other countries are moving in this direction by enacting relevant

legislation. I hope the Government can give serious thoughts to the idea and immediately proceed with it without any delay to prepare for legislative amendments to implement plain packaging for cigarette packets after the passage of this motion on increasing the proportion of health warning images to 85%.

I so submit.

**PRESIDENT** (in Cantonese): I now call upon the Secretary for Food and Health to reply. Thereafter, the debate will come to a close.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, before responding to the resolutions proposed by Members, I will first make a declaration and a clarification. As I said in my opening remarks, the amendments proposed by the Government have the endorsement of the Subcommittee. Second, I need to clarify some information as a number of Members have repeatedly said that our proposal to increase the forms of warnings this time around is modelled on or introduced with reference to the examples of some countries, and they have mentioned Thailand, India or other countries repeatedly. Certainly, as pointed out by other Members, let me reiterate that Australia has implemented plain packaging for tobacco products since December 2012. Moreover, France, the United Kingdom, Hungary, Ireland and New Zealand have also passed relevant legislation. Since May 2016, France and the United Kingdom have also implemented plain packaging. I wish to clarify some information.

As to the several amendments proposed by Mr SHIU Ka-fai in his proposed resolutions seeking to reduce the coverage of the health warnings on packets or retail containers of tobacco products to 65%, or reduce the coverage of the health warnings on retail containers of cigars from 100% to 90% on the back side and from 70% to 60% on the front side, we do not support such a proposal. As pointed out by me earlier, the Government's proposal to enlarge the coverage of the health warnings on tobacco product packaging has taken into account the actual local situation, including public expectation of a more stringent tobacco control measure first introduced in 2007, and the need to update and enlarge the health warning images with a view to sustaining and enhancing their impact. Moreover, international experience and evidence have demonstrated that the effectiveness of graphic health warnings increases with their prominence.

Studies carried out in Brazil, Canada, Singapore and Thailand have also shown that health warnings significantly increase people's awareness or knowledge of the harm of tobacco use. Dr Fernando CHEUNG has also cited a long-term study in Canada just now, which proves the statement "no evidence of effectiveness" wrong. As shown by a local survey, the majority public support that the health warnings about the smoking-induced diseases should be displayed more clearly and the graphic health warnings should be made more threatening.

As regards Mr CHAN Chi-chuen's attempt to demonstrate in terms of logic that our proposal of 80% is unnecessary just now, while I, on the one hand, appreciate Mr CHAN's debating skills, I wish to point out on the other that we are not having a debate game or competition here today. As I said earlier, there is much evidence in the international community demonstrating that the effectiveness of graphic warnings increases with their overall prominence. Certainly, for any image, some parts must carry the key message while other parts do not serve that purpose. If we do not care about whether the parts not carrying the key message are covered, we will fall into the trap thinking that the reduction from 85% to 83% does not matter much, and 80% also makes no difference, followed by an endless dispute. Hence, back to the original proposal, we should note that the effectiveness of the whole graphic health warnings should increase with their prominence. I hope Members will take note of this.

As to Mr SHIU Ka-fai's proposal to change the requirement for the coverage of the health warnings on cigar boxes or retail containers, we are also aware that cigar boxes or retail containers come in different shapes and sizes. After duly considering the views expressed by the cigar trade, we have also proposed to change the requirement for the health warnings to cover 85% of two of the largest surfaces of cigar boxes or retail containers to 100% on one of the largest surfaces and 70% on another largest surface, allowing more room for the trade to enforce such a requirement. The change allows the trade to affix the authenticity seals and necessary labels to the side with the health warning covering 70% of the surface, as well as the four lateral surfaces of the box or retail container. We have pointed out at a meeting of the Subcommittee that under normal circumstances, the law enforcement departments will not institute prosecution against cases involving slight deviation probably arising from manual procedures. This has addressed the point raised by Mr WONG Ting-kwong earlier.



In fact, we may take Australia, the first country to introduce plain packaging, as an example. The plain packaging requirement is applicable to cigar boxes or retail containers. There are stringent restrictions on the display of brand names and product names, and the use of logos, brand images and promotional information is restricted or prohibited. We consider the Government's current proposal in relation to cigar boxes or retail containers is an appropriate, most practical and feasible approach, which can achieve the policy objective of protecting public health while ensuring the feasibility of the relevant technical requirements.

As to Dr Fernando CHEUNG's proposed resolution, we note that it seeks to expand the coverage of the health warnings on the packets or retail containers of cigarettes, pipe tobacco and cigarette tobacco from 85% further to 90%, and to expand the coverage of the health warnings on the front of the retail containers of cigars from 70% to 75%. With respect to this, the Hong Kong Government has actually been adopting a multi-pronged and progressive approach on tobacco control. In response to the views put forward by some Members, increasing the coverage of health warnings is actually not the whole of our approach to tobacco control. We have considered the recommendations of the World Health Organization ("WHO") and the views of the trade when formulating the proposed amendments, and there has also been considerable discussion about the proposed amendments by the Panel on Health Services.

I would like to thank the Labour Party, the Civic Party and the Democratic Party again for supporting our proposals. I also appreciate other political parties, such as the Democratic Alliance for the Betterment and Progress of Hong Kong and the Hong Kong Federation of Trade Unions, which, committed to their responsibility of reflecting the difficulties faced by the trade, have relayed to us the views of the trade and accepted the amendments proposed by us in light of their views. As to Members from the Liberal Party, although they are relatively stubborn, they have recognized the Government's effort in this regard and accepted our views partially.

In view of the technical concerns expressed by the trade, we have adjusted our proposed amendments to facilitate the trade in complying with the new requirements. We consider the Government's proposal on the coverage of health warnings on the packets or retail containers of various tobacco products practical and appropriate, and its feasibility is evidenced by the experience of other countries. Hence, as to some Members' opinion that it is not feasible to display the product brands on the remaining surfaces which are getting smaller and

smaller, I believe the experience of other countries has actually proved its feasibility and refuted this point. We will also assess the effectiveness of the proposal after its implementation and monitor the local situation before considering the next step forward.

Let me further point out that WHO, apart from adopting a continued position of encouraging countries worldwide to move towards plain packaging of tobacco products, has also written recently to show support to us specifically for the amendment seeking an 85% coverage proposed by the Hong Kong Government this time around. I believe Members should have received a copy of its letter.

I am grateful to Members and the Council for having a good debate based on merits in a serious manner today, stating their respective positions while caring for public health, and I believe members of the public are eager to see that such a proper practice will become a norm of the Legislative Council. Some Members questioned whether there are other inadequacies of the overall approach and measures on tobacco control. I also agree that the Government should reflect on itself and continue to step up its effort in other aspects of tobacco control.

Lastly, I implore Members to support the amendments proposed by the Government. I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Food and Health be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Mr SHIU Ka-fai, you may move your first motion

**MR SHIU KA-FAI** (in Cantonese): President, I move that my first motion, as set out in the Appendix to the Script, be passed.

**Mr SHIU Ka-fai moved the following motion:**

"RESOLVED that the Smoking (Public Health) (Notices) (Amendment) Order 2017, published in the Gazette as Legal Notice No. 66 of 2017 and laid on the table of the Legislative Council on 26 April 2017, be amended as set out in the Schedule.

### **Schedule**

#### **Amendments to Smoking (Public Health) (Notices) (Amendment) Order 2017**

- 1. Section 6 amended (paragraph 3 amended (health warning and indication of tar and nicotine yields on packet or retail container of cigarettes))**
  - (1) Section 6, new paragraph 3(4)(e)—  
**Repeal**  
"85% "  
**Substitute**  
"65%".
  - (2) Section 6, new paragraph 3(5)(b)(ii)—  
**Repeal**  
"85% "  
**Substitute**  
"65%".
  
- 2. Section 7 amended (paragraph 4A amended (health warning on retail container of cigar, pipe tobacco or cigarette tobacco (other than retail container containing one cigar)))**
  - (1) Section 7, new paragraph 4A(5)(a)(ii)—  
**Repeal**  
"70% "  
**Substitute**  
"65%".

- (2) Section 7, new paragraph 4A(5)(b)(ii)—  
**Repeal**  
"100%"  
**Substitute**  
"65%".
- (3) Section 7, new paragraph 4A(6)(b)—  
**Repeal**  
"85%"  
**Substitute**  
"65%".
- (4) Section 7, new paragraph 4A(7)(b)(ii)—  
**Repeal**  
"85%"  
**Substitute**  
"65%"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the first motion moved by Mr SHIU Ka-fai be passed.

**PRESIDENT** (in Cantonese): Before I put to you the question on Mr SHIU Ka-fai's first motion, I wish to remind Members that if Mr SHIU Ka-fai's motion is passed, Dr Fernando CHEUNG may not move his motion, and Mr SHIU Ka-fai may not move his second and third motions either.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the first motion moved by Mr SHIU Ka-fai be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SHIU Ka-fai rose to claim a division.

**PRESIDENT** (in Cantonese): Mr SHIU Ka-fai has claimed a division. The division bell will ring for five minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Frankie YICK, Mr CHUNG Kwok-pan and Mr SHIU Ka-fai voted for the motion.

Mr James TO, Prof Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr POON Siu-ping, Mr HO Kai-ming, Mr Holden CHOW, Dr Pierre CHAN, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr KWONG Chun-yu and Dr YIU Chung-yim voted against the motion.

Mr Christopher CHEUNG, Ir Dr LO Wai-kwok, Mr SHIU Ka-chun and Mr Kenneth LAU abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr Paul TSE, Mr LEUNG Kwok-hung, Mr CHAN Chi-chuen and Dr Junius HO voted for the motion.

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Alvin YEUNG, Mr Andrew WAN, Mr LAM Cheuk-ting, Mr Wilson OR, Ms Tanya CHAN,

Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr Jeremy TAM and Dr LAU Siu-lai voted against the motion.

Dr CHENG Chung-tai abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 3 were in favour of the motion, 20 against it and 4 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 4 were in favour of the motion, 22 against it and 1 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**MS STARRY LEE** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Amendments to Smoking (Public Health) (Notices) (Amendment) Order 2017", this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Amendments to Smoking (Public Health) (Notices) (Amendment) Order 2017", this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG, you may move your motion.

**DR FERNANDO CHEUNG** (in Cantonese): President, I move that the motion, as set out in the Appendix to the Script, be passed.

**Dr Fernando CHEUNG moved the following motion:**

"RESOLVED that the Smoking (Public Health) (Notices) (Amendment) Order 2017, published in the Gazette as Legal Notice No. 66 of 2017 and laid on the table of the Legislative Council on 26 April 2017, be amended as set out in the Schedule.

### **Schedule**

#### **Amendments to Smoking (Public Health) (Notices) Amendment Order 2017**

- 1. Section 6 amended (paragraph 3 amended (health warning and indication of tar and nicotine yields on packet or retail container of cigarettes))**
  - (1) Section 6, new paragraph 3(4)(e)—  
**Repeal**  
"85% "  
**Substitute**  
"90% ".

- (2) Section 6, new paragraph 3(5)(b)(ii)—  
**Repeal**  
"85%"  
**Substitute**  
"90%".

**2. Section 7 amended (paragraph 4A amended (health warning on retail container of cigar, pipe tobacco or cigarette tobacco (other than retail container containing one cigar)))**

- (1) Section 7, new paragraph 4A(5)(a)(ii)—  
**Repeal**  
"70%"  
**Substitute**  
"75%".
- (2) Section 7, new paragraph 4A(6)(b)—  
**Repeal**  
"85%"  
**Substitute**  
"90%".
- (3) Section 7, new paragraph 4A(7)(b)(ii)—  
**Repeal**  
"85%"  
**Substitute**  
"90%".

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

**PRESIDENT** (in Cantonese): Before I put to you the question on Dr Fernando CHEUNG's motion, I wish to remind Members that if Dr Fernando CHEUNG's motion is passed, Mr SHIU Ka-fai may not move his second motion.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Fernando CHEUNG be passed. Will those in favour please raise their hands?

(Members raised their hands)



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

(Members raised their hands)

Dr Fernando CHEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Dr Pierre CHAN and Dr YIU Chung-yim voted for the motion.

Mr James TO, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU and Mr KWONG Chun-yu voted against the motion.

Mr SHIU Ka-chun abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Ms Claudia MO, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Alvin YEUNG, Ms Tanya CHAN, Mr Jeremy TAM and Dr LAU Siu-lai voted for the motion.

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr Paul TSE, Mr LEUNG Kwok-hung, Mr Michael TIEN, Mr WU Chi-wai, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Helena WONG, Dr Elizabeth QUAT, Mr Andrew WAN, Dr Junius HO, Mr LAM Cheuk-ting, Mr Wilson OR, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung and Dr CHENG Chung-tai voted against the motion.

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 7 were in favour of the motion, 19 against it and 1 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 7 were in favour of the motion and 20 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr SHIU Ka-fai, you may move your second motion.

**MR SHIU KA-FAI** (in Cantonese): President, I move that my second motion, as set out in the Appendix to the Script, be passed.

**Mr SHIU Ka-fai moved the following motion:**

"RESOLVED that the Smoking (Public Health) (Notices) (Amendment) Order 2017, published in the Gazette as Legal Notice No. 66 of 2017 and laid on the table of the Legislative Council on 26 April 2017, be amended as set out in the Schedule.

### Schedule

#### **Amendment to Smoking (Public Health) (Notices) (Amendment) Order 2017**

- 1. Section 7 amended (paragraph 4A amended (health warning on retail container of cigar, pipe tobacco or cigarette tobacco (other than retail container containing one cigar)))**  
Section 7, new paragraph 4A(5)(a)(ii)—  
**Repeal**  
"70% "  
**Substitute**  
"60%"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the second motion moved by Mr SHIU Ka-fai be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr SHIU Ka-fai rose to claim a division.

**PRESIDENT** (in Cantonese): Mr SHIU Ka-fai has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Frankie YICK, Mr CHUNG Kwok-pan and Mr SHIU Ka-fai voted for the motion.

Mr James TO, Prof Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr POON Siu-ping, Mr HO Kai-ming, Mr Holden CHOW, Dr Pierre CHAN, Mr CHAN Chun-ying,

Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr KWONG Chun-yu and Dr YIU Chung-yim voted against the motion.

Mr Christopher CHEUNG, Ir Dr LO Wai-kwok, Mr SHIU Ka-chun and Mr Kenneth LAU abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr Paul TSE, Mr LEUNG Kwok-hung, Mr CHAN Chi-chuen and Dr Junius HO voted for the motion.

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Alvin YEUNG, Mr Andrew WAN, Mr LAM Cheuk-ting, Mr Wilson OR, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr Jeremy TAM and Dr LAU Siu-lai voted against the motion.

Dr CHENG Chung-tai abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 3 were in favour of the motion, 20 against it and 4 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 4 were in favour of the motion, 22 against it and 1 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr SHIU Ka-fai, you may move your third motion.

**MR SHIU KA-FAI** (in Cantonese): President, I move that my third motion, as set out in the Appendix to the Script, be passed.

**Mr SHIU Ka-fai moved the following motion:**

"RESOLVED that the Smoking (Public Health) (Notices) (Amendment) Order 2017, published in the Gazette as Legal Notice No. 66 of 2017 and laid on the table of the Legislative Council on 26 April 2017, be amended as set out in the Schedule.

### Schedule

#### Amendment to Smoking (Public Health) (Notices) (Amendment) Order 2017

- 1. Section 7 amended (paragraph 4A amended (health warning on retail container of cigar, pipe tobacco or cigarette tobacco (other than retail container containing one cigar)))**

Section 7, new paragraph 4A(5)(b)(ii)—

**Repeal**

"100%"

**Substitute**

"90%".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the third motion moved by Mr SHIU Ka-fai be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr SHIU Ka-fai rose to claim a division.

**PRESIDENT** (in Cantonese): Mr SHIU Ka-fai has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Frankie YICK, Mr CHUNG Kwok-pan and Mr SHIU Ka-fai voted for the motion.

Mr James TO, Prof Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr POON Siu-ping, Mr HO Kai-ming, Mr Holden CHOW, Dr Pierre CHAN, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr KWONG Chun-yu and Dr YIU Chung-yim voted against the motion.

Mr Christopher CHEUNG, Ir Dr LO Wai-kwok, Mr SHIU Ka-chun and Mr Kenneth LAU abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr Paul TSE, Mr LEUNG Kwok-hung, Mr CHAN Chi-chuen and Dr Junius HO voted for the motion.

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Alvin YEUNG, Mr Andrew WAN, Mr LAM Cheuk-ting, Mr Wilson OR, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr Jeremy TAM and Dr LAU Siu-lai voted against the motion.

Dr CHENG Chung-tai abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 3 were in favour of the motion, 20 against it and 4 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 4 were in favour of the motion, 22 against it and 1 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

## **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 Waterworks (Amendment) Regulation 2017, which was laid on the Table of this Council on 24 May 2017.

I call upon Mr LEUNG Che-cheung to speak and move the motion.

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

**MR LEUNG CHE-CHEUNG** (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed.

At the House Committee meeting on 26 May 2017, Members decided to form a subcommittee to scrutinize the Waterworks (Amendment) Regulation 2017. In order to allow sufficient time for scrutiny by the Subcommittee, in my capacity as Chairman of the Subcommittee, I move that the scrutiny period of the aforementioned subsidiary legislation be extended to 12 July 2017.

President, I urge Members to support this motion.

**Mr LEUNG Che-cheung moved the following motion:**

"RESOLVED that in relation to the Waterworks (Amendment) Regulation 2017, published in the Gazette as Legal Notice No. 81 of 2017, and laid on the table of the Legislative Council on 24 May 2017, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 12 July 2017."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEUNG Che-cheung be passed. Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEUNG Che-cheung 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: To extend the period for amending the Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2017, which was laid on the Table of this Council on 24 May 2017.

I call upon Mr WONG Ting-kwong to speak and move the motion.

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

**MR WONG TING-KWONG** (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed.

At the House Committee meeting on 26 May 2017, Members decided to form a subcommittee to scrutinize the Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2017. Members completed the scrutiny of the Notice at the Subcommittee meeting on 6 June 2017. I will report on the work of the Subcommittee at the House Committee meeting on 16 June 2017.

In order to allow sufficient time for the Subcommittee to submit a report to the House Committee, in my capacity as Chairman of the Subcommittee, I move that the scrutiny period of the aforementioned subsidiary legislation be extended to 12 July 2017.

President, I urge Members to support this motion.

**Mr WONG Ting-kwong moved the following motion:**

"RESOLVED that in relation to the Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2017, published in the Gazette as Legal Notice No. 102 of 2017, and laid on the table of the Legislative Council on 24 May 2017, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 12 July 2017."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Ting-kwong be passed. Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Ting-kwong 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.

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 9:00 am tomorrow.

*Suspended accordingly at 7:28 pm.*

## Annex I

## Arbitration (Amendment) Bill 2016

## Committee Stage

Amendments moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
1(3)	By deleting “1 October 2017” and substituting “the first day of the seventh month immediately following the month during which this Ordinance is published in the Gazette”.
7	In the proposed section 1(1), by deleting “1 October 2017” and substituting “the commencement date of this section”.
7	In the proposed section 1(4), in the definition of <i>pre-amended Ordinance</i> , by deleting “1 October 2017” and substituting “the commencement date of this section”.
9	By deleting subclause (2) and substituting— “(2) The Schedule— <b>Add in alphabetical order</b> “Andorra Angola Comoros”.”.

## Annex II

## Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016

## Committee Stage

Amendments moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
3	By deleting the proposed section 98G(2).
3	<p>In the proposed Part 10A, in Division 3, by adding—</p> <p><b>“98NA. Part 10A not applicable to lawyers acting for parties in arbitration</b></p> <p>(1) This Part does not apply in relation to the provision of arbitration funding to a party by a lawyer who, in the course of the lawyer’s legal practice, acts for any party in relation to the arbitration.</p> <p>(2) If a lawyer works for, or is a member of, a legal practice (however described or structured), the references in subsection (1) to “lawyer” include the legal practice and any other lawyer who works for, or is a member of, the legal practice.</p> <p>(3) In this section—</p> <p><i>lawyer</i> (律師) means—</p> <p>(a) a person who is enrolled on the roll of barristers kept under section 29 of the Legal Practitioners Ordinance (Cap. 159);</p> <p>(b) a person who is enrolled on the roll of solicitors kept under section 5 of that Ordinance; or</p> <p>(c) a person who is qualified to practise the law of a jurisdiction other than Hong Kong, including a foreign lawyer as defined by section 2(1) of that Ordinance;</p> <p><i>party</i> (一方) means a party to an arbitration within the</p>

meaning of section 98I.”.

4 By deleting the proposed section 7A(d) and substituting—

“(d) section 98S of that Ordinance were replaced by the following—

**“98S. Disclosure of mediation communication for third party funding of mediation**

- (1) Despite section 8(1) of the MO, a mediation communication—
  - (a) may be disclosed by a person to another person for the purpose of having, or seeking, third party funding of mediation from the other person; and
  - (b) may be disclosed by a person mentioned in paragraph (a) to a professional adviser of the person for the purpose of obtaining advice in connection with the third party funding of mediation.
- (2) Also, despite section 8(1) of the MO, a mediation communication may, with leave, be disclosed by a person mentioned in subsection (1)(a) to protect or pursue a legal right or interest of the person in relation to the third party funding of mediation in legal proceedings before a court or other judicial authority in or outside Hong Kong.
- (3) For the purposes of leave required under subsection (2), section 10 of the MO applies as if the reference to “section 8(3)” in that section included subsection (2).
- (4) If a disclosure is made by a person to a professional adviser under subsection (1)(b), subsections (1)(b) and (2) apply to the professional adviser as if the professional adviser were the person.
- (5) In this section—

*mediation* (調解) has the same meaning as in

section 8 of the MO;

*mediation communication* (調解通訊) has the same meaning as in section 8 of the MO;

*MO* (《調解條例》) means the Mediation Ordinance (Cap. 620).”.”.

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Ms YUNG Hoi-yan's supplementary question to Question 3**

As regards the operation of Unlicensed Food Business at Outdoor Barbecue Sites, based on the past three years' records, for the period from 2014 to May 2017, the Food and Environmental Hygiene Department instituted a total of 235 prosecutions against operators of 18 outdoor barbecue sites for operating unlicensed food business, among which 199 cases have been convicted as at 13 July 2017. Among the convicted cases, no offender has been sentenced to imprisonment.