OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 31 January 2018

The Council met at
thirty-three minutes past Eleven o'clock

MEMBERS PRESENT:

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

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, G.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, G.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 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, S.B.S., 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, S.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, J.P.

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, B.B.S., 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 CHU HOI-DICK

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, B.B.S., M.H., J.P.

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

MEMBER ABSENT:

THE HONOURABLE JAMES TO KUN-SUN

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MS TERESA CHENG YEUK-WAH, G.B.S., S.C., J.P.
SECRETARY FOR JUSTICE
MR TSE CHIN-WAN, B.B.S., J.P.
UNDER SECRETARY FOR THE ENVIRONMENT, AND
SECRETARY FOR THE ENVIRONMENT

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

DR THE HONOURABLE LAW CHI-KWONG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

THE HONOURABLE JOHN LEE KA-CHIU, S.B.S., P.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE FRANK CHAN FAN, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

PROF THE HONOURABLE SOPHIA CHAN SIU-CHEE, J.P.
SECRETARY FOR FOOD AND HEALTH

MR LIU CHUN-SAN, J.P.
UNDER SECRETARY FOR DEVELOPMENT

CLERKS IN ATTENDANCE:

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MS ANITA SIT, ASSISTANT SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL
PRESIDENT (in Cantonese): Council now holds the regular meeting of 31 January 2018.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments

| L.N. No. |
|-----------------|-----------------|
| Antibiotics (Amendment) Regulation 2018 | 9/2018 |
| Pharmacy and Poisons (Amendment) Regulation 2018 | 10/2018 |
| Statutes of the University of Hong Kong (Amendment) Statute 2018 | 11/2018 |

Other Papers

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<tr>
<td>Report of the Bills Committee on Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017</td>
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<tr>
<td>Report of the Bills Committee on Employment (Amendment) (No. 2) Bill 2017</td>
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ORAL ANSWERS TO QUESTIONS


Sites leased under private recreational leases

MR ANDREW WAN (in Cantonese): President, the Secretary is not in his seat.
PRESIDENT (in Cantonese): Had the Honourable Member paid attention, he should have noticed that the Secretary is already seated.

MR ANDREW WAN (in Cantonese): President, I have paid close attention, but still I cannot see the Secretary in his seat. President, do you mean he is present even though he is walking around. President, please make it clear again.

PRESIDENT (in Cantonese): The Secretary is present and he is in his seat.

MR ANDREW WAN (in Cantonese): President, I will not argue with you. Though the situation was confused and chaotic just now and when you called upon me to stand up and speak, I rose immediately. Yet when I noticed the Secretary was not in his seat and made a brief comment, you treated me this way …

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

This is question time, Members should only ask questions instead of making comments at will.

MR ANDREW WAN (in Cantonese): President, you have finished, have you not? You have used 20 seconds of my time for question.

(A Member spoke aloud in his seat)

MR ANDREW WAN (in Cantonese): Do so only when you have become the President.

1. **MR ANDREW WAN** (in Cantonese): President, the Government has leased dozens of pieces of land under private recreational leases ("PRLs") to private clubs for them to develop sports and recreational facilities for use by their members. Fanling Golf Course ("FGC") is one of them. According to the results of an opinion survey conducted by the Democratic Party from the end of
last year to early this year, among the some 1 000 respondents, about 70% of them considered that the land resources occupied by FGC was excessive. Moreover, 90% of the respondents opined that the Government should rezone FGC for other uses. Among them, the percentages of those who held the views that the site should be used for developing public housing, government or community facilities, and private housing were 55%, 17% and 12% respectively. On the other hand, it was reported in the press early this month that, as pointed out in the report of a study conducted by the Planning Department, it was technically feasible to use a 16-hectare site in the eastern part of FGC, which was close to the major infrastructure in the district, for building 5 000 to 6 000 residential units. Although there were old trees and graves on the site, they would not affect the building of such units. Regarding sites leased under PRLs, will the Government inform this Council:

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

(1) whether it will make reference to the aforesaid survey results and decline to renew the PRL for FGC upon its expiry in August 2020, in order to make the site available for housing development;

(2) whether it knows how the situation of FGC's facilities being opened up to outsiders in each of the past five years compares to the undertaking made by the lessee; whether the Government will require the lessee to step up publicity on the arrangements for opening up FGC's facilities to outsiders; and

(3) of the number of PRLs not renewed upon expiry (with a breakdown of the reasons and site areas by name of lessee), and the number of cases in which the Government continued, upon expiry of PRLs, to lease the sites concerned to the lessees by way of short term tenancy or private treaty instead, in the past 10 years, and set out the term of the new leases by name of lessee?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, in the past, owing to the limited provision of recreational and sports facilities in Hong Kong, people interested in promoting sports development and providing
recreational and sports facilities established sports clubs and applied to the Government for grant of land to develop such facilities. In addition to private sports clubs, non-profit-making organizations such as social and welfare organizations, uniformed groups, national sports associations, district sports associations and civil service organizations were granted land by the Government to develop recreational and sports facilities under PRLs at nil or nominal premium. Of the existing 66 PRL sites in Hong Kong, 39 are granted to community groups such as social and welfare organizations, uniformed groups, national sports associations and district sports associations, as well as civil service organizations. The remaining 27 PRL sites are held by private sports clubs.

In 2014, an inter-departmental working group was set up by the Government to comprehensively review the PRL policy. The working group has examined a number of issues relating to the PRL policy and will recommend an array of measures to ensure that the operation of private sports clubs and the use of PRL sites can better meet the dual objectives of supporting sports development and optimizing public resources. We expect to report the review findings to the Panel on Home Affairs of the Legislative Council within this year, and subsequently consult the public and stakeholders. Regarding the three parts of the question, my reply is as follows:

(1) As the Policy Bureau responsible for sports development, the Home Affairs Bureau will examine in detail each and every private sports club's contribution to the implementation of the Government's sports development policy (including promoting community sports, supporting elite sports and making Hong Kong a centre for major international sports events) in order to consider whether to support their continued use of the sites concerned. If the Government decides to resume a particular site, relevant bureaux and departments will carefully consider, in accordance with the established mechanism, alternative uses of the site or any parts of it.

(2) To strengthen the role of PRL sites in supporting sports development in Hong Kong, the Executive Council approved in 2011 the addition of the "greater access" requirement during the renewal of PRLs. Under this policy, a provision was added to PRLs expiring in 2011 and 2012 when they were renewed to require the opening-up of sports facilities to eligible outside bodies for a minimum of 50 hours per month. Eligible outside bodies include schools registered under
the Education Ordinance, non-governmental organizations receiving recurrent subvention from the Social Welfare Department, uniformed groups and youth organizations receiving recurrent subvention from the Home Affairs Bureau, national sports associations and government departments. Lessees are required to submit their "opening-up schemes" to the Home Affairs Bureau for approval before the lease renewal. When vetting such schemes, the Home Affairs Bureau will consider the provision of facilities by individual lessees. Those with more sports facilities available for use by eligible outside bodies will be required to commit more opening-up hours.

The abovementioned greater access requirement, which was added to PRLs expiring in 2011 and 2012, is not part of the clauses of the current lease signed in 1999 for FGC. The lessee, i.e. the Hong Kong Golf Club, is therefore not required to submit an "opening-up scheme" under the lease. Despite this, the Club has been encouraged to open up facilities to outside bodies and promote the opening-up arrangements. It is also required to submit quarterly reports on the opening-up of facilities to outside bodies. According to the lessee, FGC's 18-hole golf courses and driving ranges are open to the public from 7:00 am to 6:00 pm and from 7:00 am to 10:00 pm respectively on weekdays. Outside bodies, such as schools, social and welfare organizations, the Hong Kong Golf Association and the Hong Kong Schools Sports Federation, also use the facilities of the Club. In 2017, FGC held about 120,000 rounds of golf activities, with about 50,000 rounds by non-members, which accounts for over 40% of the overall utilization.

PRLs are one type of government land leases. Lease holders may apply with justifications to have their original lease arrangements replaced by other land leases. For PRL sites with committed development uses, the Government may resume, under the Land Resumption Ordinance or via the resumption clauses of the existing leases, all or any parts of such sites for public uses. Information of PRLs not renewed or leased on alternative arrangements in the past 10 years is at Annex.
Annex

Information of PRL Not Renewed or Leased on Alternative Arrangements in the Past Ten Years

<table>
<thead>
<tr>
<th>PRL Lessees</th>
<th>Lot No. and Location</th>
<th>Site Area (about sq m)</th>
<th>Remarks</th>
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<tr>
<td>Hong Kong Jockey Club</td>
<td>STTL 13, Sha Tin</td>
<td>682 333</td>
<td>The lease expired in June 2012. The Lessee requested a Special Purpose Lease to replace the original PRL. Taking into account the land use and community facility enhancements proposed by the Lessee, the Government has approved the grant of a 50-year special purpose lease so as to facilitate the long-term planning and development of horse racing and community facilities at Sha Tin Racecourse.</td>
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<tr>
<td>Tung Wah Group of Hospitals (Ma Tso Lung campsite)</td>
<td>Lot No. 2321 in D.D. 96, Ma Tso Lung</td>
<td>49 220</td>
<td>The lease expired in June 2012. As the Lot would be required for the development of the Kwu Tung North New Development Area (&quot;NDA&quot;), the lease was not renewed upon its expiry. Instead, the Lessee has been allowed to continue its operation on the site by way of Short Term Tenancy (&quot;STT&quot;) until the related NDA development project is implemented.</td>
</tr>
<tr>
<td>Community Sports Limited (Recreation Centre)</td>
<td>Lot No. 2322 in D.D. 96, Ma Tso Lung</td>
<td>18 930</td>
<td>The lease expired in June 2012. As the Lot would be required for the development of the NDA, the lease was not renewed upon its expiry. Instead, the Lessee has been allowed to continue its operation on the site by way of STT until the related NDA development project is implemented.</td>
</tr>
<tr>
<td>Hong Kong Girl Guides Association</td>
<td>Lot No. 148 in D.D. 250, Yim Tin Tsai, Sai Kung</td>
<td>2 508</td>
<td>The lease expired in June 2012. Given the cessation of the campsite's operation on the Lot, the lease has not been renewed.</td>
</tr>
<tr>
<td>Hong Kong Youth Hostels Association</td>
<td>Lot No. 188 in D.D. 337, Mong Tung Wan, Lantau Island</td>
<td>3 700</td>
<td>The lease expired in June 2012. Given the cessation of the campsite's operation on the Lot, the lease has not been renewed.</td>
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MR ANDREW WAN (in Cantonese): Deputy President, in the main reply, the Bureau does not give any response to the survey report of the Task Force on Land Supply ("the Task Force"), not a word is said about that. I do not know why the Secretary would refrain from mentioning the progress of the report in the Legislative Council. Despite several meetings having been held by the Task Force, no paper has been presented. Yet, the Secretary pointed out just now that a survey was conducted by the Government a few years ago. It is really strange.

Besides, the figures provided are also weird. The Secretary mentioned just now that 120,000 rounds of golf activities were held at the relevant venue in 2017, with about 50,000 rounds by non-members. In other words, every day, 329 rounds were held and 192 rounds saw participation by the public. May I ask the Secretary to clarify if these are the figures collected by him?

DEPUTY PRESIDENT (in Cantonese): I would like to remind Members that Members should ask one supplementary question only. Secretary, please reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, I will first respond to the usage of FGC. The 120,000 rounds of golf mentioned earlier are counted by rounds, and there are around 120,000 rounds for the whole year with about 50,000 rounds participated by non-members. The figures are provided by FGC, which is a statement of facts. As for the review, it is almost finished, pending a meeting to be held by the Task Force. We are ready to attend the meeting anytime.

MR WU CHI-WAI (in Cantonese): Deputy President, according to the existing planning, the lease of FGC will expire in 2019. In the recent discussion of the Task Force, the Government did not provide the relevant documents on the site to the Task Force for discussion and the Task Force raised queries about this. May I ask in whom is the power of approval of lease renewal of that site vested? Is it the Secretary or the Secretary for Development, or is it the Secretary for Transport and Housing?
SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, the Executive Council is responsible for the examination and approval of the right to use of land.

MR WU CHI-WAI (in Cantonese): That means you have no authority to handle this case. Am I right?

DEPUTY PRESIDENT (in Cantonese): Mr WU Chi-wai, the Secretary has already answered your supplementary question. If you have other questions, you may follow up on other occasions.

MR SHIU KA-FAI (in Cantonese): Deputy President, first of all, I have to declare that I do not play golf. Yet, all the sports facilities in Hong Kong should be open to all and I consider the arrangement must be fair.

FGC, with a history of more than a century, includes three 18-hole courses. Every year, the international event Hong Kong Open is held in Hong Kong and golfers from around the world will come here to participate in the event. During these big events, the two 18-hole courses must be combined to meet the specifications for international golf courses, whereas the remaining 18-hole course will be reserved for spectators to view the event. Without these arrangements, this international event cannot be held. It is learnt that over 40,000 spectators watched the competition on the site last year. If land in FGC's site is set aside for housing construction purposes, I think Hong Kong can no longer maintain its position in the international golf sport.

May I ask the Secretary, as the government official responsible for sports, how he will strike a balance between the demand for golf courses and the needs of the public? Members should have noted from the news that golfer Tiffany CHAN has recently become one of the world’s top player, so the Secretary must give regard to this sport.

DEPUTY PRESIDENT (in Cantonese): Mr SHIU, you have stated your supplementary question, please let the Secretary give his reply.
SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, at FGC which the Member mentioned just now, around 28 competitions of various scales are held every year. Certainly, the most important one is the Hong Kong Open. This worldwide competition is at its 59th edition, and it is unquestionable that the event helps Hong Kong to maintain its status in staging international golf competitions. In fact, I did visit the site last year to watch the competition. The event attracted 40 000 spectators to the site and 10 000 spectators came from overseas. It is true that FGC is conducive to the healthy development of golf.

MS TANYA CHAN (in Cantonese): Secretary, I can see you finally. I will certainly ask you the question on private clubs, for I have been following up this issue since 2009. I have to tell Mr SHIU Ka-fai that the commencement date of the lease of the golf course in Fanling which he mentioned just now is 26 December 1930. I have many tables about this and he may take his time to read them for reference.

I will not talk about other reports of the Director of Audit for the time being and will ask the Secretary one question, for he has been defaulting on his undertakings for quite some time. Just now, he said that the report could only be submitted this year. I have a report on hand, which was completed by the Advisory Committee on Private Recreational Leases Appointed by Governor in three years in 1965. The report was printed in horizontal layout and available in Chinese and English. Then in 1977, the Hong Kong Sports Development Board set up a working group and prepared the report now I am holding. Two years later, in 1976, the Board submitted a report to the Executive Council and changed the policies. Afterwards, in 1990, the Audit Commission and the Public Accounts Committee made their reports on the issue respectively. Then in 2012, The Ombudsman also mentioned the issue, and the issue was raised again in the Director of Audit’s Report in 2013.

In 2014, the Secretary told us in his reply that a special group had been formed and an initial report was scheduled for submission by the end of 2014. However, the initial report was nowhere to be seen. Then, the Secretary said that the report would be submitted by the end of 2016, yet it was nowhere to be seen either. These former groups merely needed a couple of years to prepare their report. Now that 2017 was over, he is still saying that the report will be submitted this year …
DEPUTY PRESIDENT (in Cantonese): Ms Tanya CHAN, please state your supplementary question.

MS TANYA CHAN (in Cantonese): Yes, Deputy President, I only wish to tell you that the Secretary initially said the report would be submitted by the end of 2016, then he said it would be submitted by the end of 2017. Then he says that the report will be submitted to the Legislative Council in the 2017-2018 session. And now he has changed the time of submission to within this year. What are the difficulties? The Secretary keeps defaulting on his undertaking and says that a lot of groups are involved. What kinds of difficulties have been encountered? We are merely asking for a report, why can he not produce the report after all?

DEPUTY PRESIDENT (in Cantonese): Ms CHAN, you have asked your supplementary question. Secretary, please reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, I understand that Ms CHAN is well versed in the subject. Rightly because Ms CHAN is well versed in the issue, she should understand that 60-odd leases and various types of sports associations are involved. Hence, the issue has to be handled by the interdepartmental group and examined by various departments. The conduct of the review definitely takes time and must be handled cautiously. Yet, as I mentioned earlier, we are now ready to submit the results to the Task Force for their consideration.

When we consider an issue, apart from examining the previous practices adopted, it is more important for us to give regard to the way to forge ahead. In fact, Ms CHAN should have known the long history of these golf clubs and the significance they carry. Yet, times change, so do the demands of the public. Nowadays, in view of the demands of the public and the shortage of land resources, the authorities have to formulate a new set of policies and set down approaches to handle lease renewals in the future. We have to consider whether the requirement of opening for use by the public should be enhanced and whether the land premium charged should be raised, and interdepartmental discussions on these issues must be conducted in a cautious manner. I am glad to tell Ms CHAN that the relevant work has now come to the final stage and a conclusion may be drawn. We will announce the conclusion to Members of the
Legislative Council, the public and stakeholders. We hope the community will hold discussions on the existing situation, previous policies and future policies concerning these dozens of leases. Then, we will make a decision.

**MR JEFFREY LAM** (in Cantonese): Deputy President, Hong Kong as a financial centre needs not only the Stock Exchange of Hong Kong Limited and bank towers and office buildings. We must balance the needs of different sectors in society and strive for balanced development covering all aspects.

May I ask the Secretary, in respect of recreational and sports policies, how a balance of the needs of the community as a whole can be achieved? In recent years, the demand for sports and recreational facilities from various sectors has increased significantly. In respect of the training of young people, we notice that many clubs and venues have made good achievements. For instance, the bowling team of Hong Kong has won a gold medal, athletes in sailing have gained good results, and for ball games, a female golfer has performed most remarkably in the Olympics recently.

However, venues are required for the training of young people. Overseas athletes visiting Hong Kong need not only the provision of accommodation during their stay but also some recreational facilities for their weekends …

**DEPUTY PRESIDENT** (in Cantonese): Mr Jeffrey LAM, please state your supplementary question.

**MR JEFFREY LAM** (in Cantonese): May I ask the Secretary how a balance between recreational and sports measures will be struck?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, it is undeniable that sports development in Hong Kong is thriving now. Sports events in Hong Kong enjoy a good status in the international arena, and the Government will continue to render them support. The authorities welcome all international events like the Rugby Sevens, sailing, cycling, marathons and golf competitions to be held in Hong Kong, for these events will bring considerable revenue and impact to Hong Kong.
As for the training of young people, in addition to the staging of large-scale international events in the Kai Tak Sports Park, our strategy is to enable more sports venues to be open to all, so that young people may engage in sports since childhood. Hence, the authorities will spend $20 billion in the next few years on the construction of 26 sports and recreational facilities in the 18 districts to cope with the demand. We will also cooperate with over 100 schools, hoping these schools will open their campus outside school hours, like Saturdays or Sundays, to sports clubs for the conduct of training. I think private sports clubs can serve as the training bases, as well as venues for the training of young people and the use of the public.

Let me cite an example. There are a total of 97 tennis courts and 27 swimming pools under various private sports clubs at present. The authorities are now considering ways to enable these facilities to be used by members as well as the public, and even be used as training venues. We hope that sports development in Hong Kong will be multi-level and three-dimensional, covering large-scale competitions and sports for all, as well as venues for training, so that young athletes may continue to strive for good results worldwide.

DEPUTY PRESIDENT (in Cantonese): A number of Members are concerned about this issue, and Members may follow up the issue on other occasions.

(Mr Jeffrey LAM stood up)

DEPUTY PRESIDENT (in Cantonese): Mr Jeffrey LAM, do you have a point of order?

MR JEFFREY LAM (in Cantonese): Like the declaration of interest made by Mr SHIU Ka-fai earlier, I would like to declare that I play football, badminton, table tennis, golf and tennis, and that I have membership in a number of clubs, including the Hong Kong Golf Club.

Outbreak of influenza epidemic

2. MR CHAN HAN-PAN (in Cantonese): Deputy President, the Government implements the Government Vaccination Programme and the Vaccination Subsidy Scheme annually to provide free or subsidized seasonal influenza vaccination to groups which are at a higher risk of infection (e.g. children and the elderly). It has been reported that Hong Kong is now in the peak season of influenza and there have been sporadic outbreaks of influenza in the community and schools, resulting in the bed occupancy rates of many public and private hospitals reaching or even going beyond their capacities. In this connection, will the Government inform this Council:

(THE PRESIDENT resumed the Chair)

(1) whether it knows the number of people diagnosed with influenza and, among them, the number of those who had received influenza vaccinations within six months before contracting the disease, in each of the past five years; whether the Government has examined the reasons for some members of the public contracting influenza even after they had received vaccinations; if so, of the outcome;

(2) of the percentage of the number of people who received influenza vaccination in the population in each of the past five years; whether the Government has reviewed the effectiveness of the aforesaid programme and scheme in preventing or reducing influenza outbreaks in the community and schools; if so, of the outcome; and

(3) as it has been reported that as of the middle of this month, the paediatric inpatient bed occupancy rates of most of the public and private hospitals have reached or even gone beyond their capacities, e.g. the relevant occupancy rate of Tuen Mun Hospital was once as high as 225%, and since the overcrowdedness of wards will increase the risk of cross-infection among inpatient children, of the Government's immediate counter-measures to address the shortage of hospital beds in paediatric wards?
SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, vaccination is one of the effective means to prevent seasonal influenza and its complications, and can reduce the risks of influenza-associated hospitalization and mortality. Hence, the Government has all along been encouraging the public to receive seasonal influenza vaccination as early as possible. It also provides subsidized or free seasonal influenza vaccination for eligible groups who are generally at a higher risk of severe complications or even death caused by influenza, or spreading the infection to those at high risk (please refer to Annexes 1 and 2 for details). In 2017-2018, the influenza vaccines procured and used under various influenza vaccination programmes in Hong Kong are those recommended by the World Health Organization ("WHO") for use in the northern hemisphere.

In consultation with the Centre for Health Protection ("CHP") of the Department of Health ("DH") and the Hospital Authority ("HA"), I provide a consolidated reply to three parts of the question as follows:

(1) For healthy individuals, influenza is usually self-limiting with recovery within a week. The majority of infected cases in the community are not tested and confirmed. Given its prevalent nature, seasonal influenza is not a statutory notifiable disease in Hong Kong. Hence, CHP does not maintain statistics on the total number of people diagnosed with influenza in the community.

Nevertheless, CHP conducts routine surveillance of cases of paediatric influenza-associated severe complication or death among children (aged under 18), and also cases of intensive care unit ("ICU") admission or death with laboratory diagnosis of influenza among adult patients. In the past five years, there were a total of 123 cases of paediatric influenza-associated severe complication or death. Among these cases, only 12% had received the seasonal influenza vaccine for the respective season. During the influenza seasons in the past five years, among the 2,368 adult cases of ICU admission or death with laboratory diagnosis of influenza, the percentages of adults aged 18 to 64, community-living elderly people aged 65 or above, and elderly people aged 65 or above living in residential care homes having received the seasonal influenza vaccine for the respective season were 4%, 27% and 66% respectively.
According to WHO, when the vaccine strains closely match the circulating influenza viruses, efficacy of influenza vaccine in healthy individuals aged under 65 typically ranges from 70% to 90%. However, the actual efficacy depends on a host of factors, e.g. degree of matching between the vaccine strains and the circulating strains, age of the vaccine recipients, timing of vaccination, and the presence of any underlying medical conditions that may impair the immune response. Many scientific studies showed that influenza vaccine could provide some degree of protection in preventing hospital admissions or deaths caused by influenza.

(2) The total number of people receiving influenza vaccination under the Government Vaccination Programme and the Vaccination Subsidy Scheme in the past five years are listed in Annex 3. Around 6.4% to 9.3% of the population joined the two programmes each year, and the percentage has been increasing year on year. Some members of the public may have received influenza vaccination in the private sector at their own expense. In this connection, the actual percentage of people having received influenza vaccination should be higher.

Past local research studies showed that the effectiveness of influenza vaccination in preventing influenza-associated hospitalization among children ranged from about 40% to 80%. According to the analysis made earlier by CHP on the effectiveness of seasonal influenza vaccination in elderly people living in residential care homes from 2011-2012 to 2016-2017, it was found that the vaccine effectiveness in preventing influenza-associated ICU admissions or deaths ranged from 37% to 69%. Besides, CHP collaborated with HA to analyse data of patients admitted to public hospitals for respiratory symptoms during the winter influenza season of 2015-2016. It was found that the effectiveness of influenza vaccination in preventing influenza-associated admissions among elderly patients aged 65 or above for that season was about 40%. Overseas studies have also shown that providing influenza vaccination for school children can reduce absenteeism and protect other high-risk groups (e.g. the
elderly). CHP will continue to closely monitor local and global studies on influenza vaccine effectiveness and relevant scientific literature.

(3) In respect of public hospitals, HA has been monitoring the bed occupancy rates in different specialties. Various measures have been introduced to alleviate the overcrowding in wards. During the peak seasons every year, public hospitals will exercise flexibility in deploying health care manpower and hospital beds, including increasing the number of time-limited beds and day beds, adding temporary beds as necessary, and transferring patients from crowded wards to alleviate the overcrowded conditions. In the long term, HA will include in its annual plan the initiative of increasing manpower and resources for the provision of new hospital beds, with a view to addressing the overall shortage of beds in a progressive manner. During the days when some wards of public hospitals may be overcrowded because of a surge in the number of hospital admissions, hospitals will implement various measures to alleviate the situation as far as possible, including transferring patients to other wards. Moreover, HA will transfer suitable patients, such as clinically stable surgical patients, orthopaedic patients and medical patients receiving rehabilitation treatment, to private hospitals with low-cost hospital bed arrangement with HA for completion of treatment.

In respect of private hospitals, there were a total of 414 paediatrics and neonatology inpatient beds in 12 private hospitals across the territory at the end of 2017. As at 22 January 2018, approvals were granted to two of the hospitals for providing additional paediatric and neonatology inpatient beds, thus increasing the total number of paediatrics and neonatology beds to 440. In addition, private hospitals have set up infection control teams and formulated policies, procedures and guidelines on prevention and control of infectious diseases inside the hospital.
Annex 1

Government Vaccination Programme 2017-2018
(free seasonal influenza vaccination)

<table>
<thead>
<tr>
<th>Priority groups recommended by Scientific Committee on Vaccine Preventable Diseases</th>
<th>Eligible groups of Government Vaccination Programme 2017-2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pregnant women</td>
<td>Pregnant women who are Comprehensive Social Security Assistance (&quot;CSSA&quot;) recipients or holders of valid Certificate for Waiver of Medical Charges issued by Social Welfare Department (&quot;Certificate&quot;)</td>
</tr>
<tr>
<td>2. Elderly persons living in residential care homes</td>
<td>Residents of residential care homes for the elderly (&quot;RCHEs&quot;)</td>
</tr>
<tr>
<td>3. Long-stay residents of institutions for persons with disabilities</td>
<td>Residents of residential care homes for the disabled (&quot;RCHDs&quot;)</td>
</tr>
<tr>
<td>4. Persons aged 50 years or above</td>
<td>Community-living persons:</td>
</tr>
<tr>
<td></td>
<td>- 65 years or above: all elderly</td>
</tr>
<tr>
<td></td>
<td>- 50 years to under 65: CSSA recipients or valid Certificate holders</td>
</tr>
<tr>
<td>5. Persons with chronic medical problems*</td>
<td>Community-living persons:</td>
</tr>
<tr>
<td></td>
<td>- Receiving Disability Allowance: clients of HA or clinics of DH</td>
</tr>
<tr>
<td></td>
<td>- With intellectual disabilities: clients of HA, DH clinics, designated day centres, sheltered workshops or special schools</td>
</tr>
<tr>
<td></td>
<td>Aged under 50 years attending public clinics: CSSA recipients or valid Certificate holders with high-risk conditions#</td>
</tr>
<tr>
<td></td>
<td>In-patients (including paediatric patients) of HA: hospitalized patients with high-risk conditions# (including those in infirmary, psycho-geriatric, mentally ill or mentally handicapped units/wards)</td>
</tr>
<tr>
<td></td>
<td>Paediatric out-patients: with high-risk conditions# or on long-term aspirin</td>
</tr>
<tr>
<td>6. Healthcare workers (&quot;HCWs&quot;)</td>
<td>HCWs of DH, HA, RCHEs, RCHDs or other Government departments</td>
</tr>
<tr>
<td>Priority groups recommended by Scientific Committee on Vaccine Preventable Diseases</td>
<td>Eligible groups of Government Vaccination Programme 2017-2018</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
| 7. Children aged 6 months to under 12 years | Children aged 6 months to under 12 years from families receiving CSSA or holding valid Certificate  
*Where to vaccinate?*  
- 6 months to under 6 years: Maternal and Child Health Centres of DH  
- 6 years to under 12 years: Student Health Service Centres of DH |
| 8. Poultry workers | Poultry workers or workers who may be involved in poultry-culling operations |
| 9. Pig farmers or pig-slaughtering industry personnel | Pig farmers or pig-slaughtering industry personnel |

Notes:

* For details, please refer to Recommendations on Seasonal Influenza Vaccination for the 2017-2018 Season (June 2017).

# High-risk conditions include risk factors for both invasive pneumococcal disease and seasonal influenza:

- History of invasive pneumococcal disease, cerebrospinal fluid leakage or cochlear implant;
- Chronic cardiovascular (except hypertension without complications), lung, liver or kidney diseases;
- Metabolic diseases including diabetes mellitus or obesity (Body Mass Index 30 or above);
- Immunocompromised states related to weakened immune system due to conditions such as asplenia, Human Immunodeficiency Virus infection/Acquired Immune Deficiency Syndrome or cancer/steroid treatment;
- Chronic neurological conditions that can compromise respiratory functions or the handling of respiratory secretions or increase the risk for aspiration, or those who lack the ability to take care of themselves; and
- Children and adolescents (aged 6 months to 18 years) on long-term aspirin therapy.
Vaccination Subsidy Scheme 2017-2018  
(subsidized seasonal influenza vaccination)

<table>
<thead>
<tr>
<th>Priority groups recommended by Scientific Committee on Vaccine Preventable Diseases</th>
<th>Eligible groups of Vaccination Subsidy Scheme 2017-2018 ($190 per dose)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pregnant women</td>
<td>All pregnant women</td>
</tr>
<tr>
<td>2. Children aged 6 months to under 12 years</td>
<td>All children aged 6 months to under 12 years</td>
</tr>
<tr>
<td>3. Persons with chronic medical problems*</td>
<td>Community-living persons with intellectual disabilities or receiving Disability Allowance, regardless of disability (including disabled physical, mental, intellectual or other conditions)#</td>
</tr>
<tr>
<td>4. Persons aged 50 years or above</td>
<td>All elderly aged 65 years or above</td>
</tr>
</tbody>
</table>

Notes:

* For details, please refer to Recommendations on Seasonal Influenza Vaccination for the 2017-2018 Season (June 2017).

# High-risk conditions include:

- History of invasive pneumococcal disease, cerebrospinal fluid leakage or cochlear implant;
- Chronic cardiovascular (except hypertension without complications), lung, liver or kidney diseases;
- Metabolic diseases including diabetes mellitus or obesity (Body Mass Index 30 or above);
- Immunocompromised states related to weakened immune system due to conditions such as asplenia, Human Immunodeficiency Virus infection/Acquired Immune Deficiency Syndrome or cancer/steroid treatment;
- Chronic neurological conditions that can compromise respiratory functions or the handling of respiratory secretions or increase the risk for aspiration, or those who lack the ability to take care of themselves; and
- Children and adolescents (aged 6 months to 18 years) on long-term aspirin therapy.
Number of people receiving influenza vaccinations under the Government Vaccination Programme and the Vaccination Subsidy Scheme

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of people receiving vaccinations</th>
<th>Percentage of population</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-2014</td>
<td>463 000</td>
<td>6.42%</td>
</tr>
<tr>
<td>2014-2015</td>
<td>493 000</td>
<td>6.80%</td>
</tr>
<tr>
<td>2015-2016</td>
<td>579 000</td>
<td>7.92%</td>
</tr>
<tr>
<td>2016-2017</td>
<td>677 000</td>
<td>9.18%</td>
</tr>
<tr>
<td>2017-2018 (as at 21 January 2018)</td>
<td>687 000</td>
<td>9.30%</td>
</tr>
</tbody>
</table>

**MR CHAN HAN-PAN** (in Cantonese): President, the Government has been calling on the public to receive vaccination for the prevention of influenza. I once inquired about the relevant data, including the number of people who had received influenza vaccination within six months before contracting the disease, but the authorities replied that such statistics were unavailable. I would like to say a few words about hospital beds. According to some frontline health care personnel, although additional beds were provided by HA in the peak seasons of influenza, the numbers of doctors and nurses were not increased accordingly. As a result, the frontline health care personnel were kept constantly on the run. Is this allegation true? If so, what is the solution? Besides, it was pointed out …

**PRESIDENT** (in Cantonese): Mr CHAN Han-pan, you have already asked your supplementary question. Please sit down.

**MR CHAN HAN-PAN** (in Cantonese): President, I must follow up this point.

**PRESIDENT** (in Cantonese): Members are allowed to ask one supplementary question only. Moreover, this is not a debate session. Please sit down.
MR CHAN HAN-PAN (in Cantonese): President, I know. But this point is related to my supplementary question, so may I go on?

PRESIDENT (in Cantonese): Mr CHAN, you have already asked your supplementary question, so please be as concise as possible.

MR CHAN HAN-PAN (in Cantonese): But I wish to ask a follow-up, President. Members can see that if additional temporary beds are regarded as general hospital beds, the ratio of hospital beds going beyond the capacities of hospitals will actually be lowered. It seems that the Government is doing so in order to make the figures look better. Is this allegation true?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I thank Mr CHAN for his supplementary question. The Government has been reviewing the bed occupancy rates, particularly in the peak seasons of influenza. Due to the ageing population, hospitals, particularly medical wards, are under tremendous pressure in treating patients of chronic illnesses even on weekdays. The bed occupancy rates of certain wards have even exceeded 100%. Moreover, different situations will arise at different times. Sometimes, it also hinges on the admission and discharge of patients.

HA is also prepared to provide additional beds in the peak seasons of influenza and allocate resources for these beds. Under the circumstance that additional resources must be provided, it is difficult to immediately recruit regular manpower simultaneously. Usually, the relevant resources can only be used to recruit temporary manpower such as part-time staff or offer ex gratia allowances for the provision of additional health care manpower. Certainly, these solutions are not satisfactory because they are just temporary and short-term measures that seek to alleviate the pressure borne by health care staff and provide care for patients. In the long run, the authorities should review afresh manpower planning, the existing health care manpower base, the provision of additional services and the ageing population to examine if the manpower is able to cope. If not, additional manpower should be provided in a gradual manner.
I have requested HA to submit a plan regarding nursing manpower with a view to examining the manpower base of existing nursing manpower to determine if assistance is required. The Government will wait for HA to submit its plan before providing matching resources in the light of its demand for resources.

**DR KWOK KA-KI** (in Cantonese): President, Hong Kong saw the deaths of another seven influenza patients yesterday, and 85 people in total had died of influenza in this year. Of the 10 serious influenza cases involving children, 2 children died of influenza, and none of these 10 children had received influenza vaccination. With a less than 10% vaccination rate, Hong Kong has the lowest vaccination rate among developed regions. Yesterday, the boss of the Secretary offered $500 million for the purchase of "letters of indulgence", but not a cent was earmarked for influenza vaccination purposes. This Council has made repeated requests for the Government to provide influenza vaccination for the relevant people in schools and the community. Nevertheless, the Government has done nothing at all over the years.

President, may I ask the Secretary, besides spending $500 million on purchasing "letters of indulgence", whether the Government will step up efforts in visiting schools and the community to do vaccination for the relevant people so as to avoid being ridiculed? The 10% vaccination rate will only lead to the deaths of more elderly people and children.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Dr KWOK for his question and comments. The Government also agrees that vaccination is a good way to prevent seasonal influenza. Every year, we will review the vaccination rate of the high-risk groups in particular to examine, on the one hand, if the subsidy should be expanded and, on the other, if the vaccination rate still has room for improvement in terms of expanding or providing the subsidy. In our opinion, there is still room for improvement, and better arrangements should be made in both the subsidy and operation.

To boost the vaccination rate, I hope to enhance publicity and education in addition to making better and more proactive arrangements. In fact, members of the public should also heighten their awareness or approach private medical
institutions on their own for vaccination. Besides enhancing our efforts on various fronts, we will continue to review the seasonal influenza vaccination rate and enhance the related work.

DR KWOK KA-KI (in Cantonese): My supplementary question is very clear. I asked whether the Secretary would visit schools and the community to provide vaccination services. May I request the Secretary to answer this question: How many more people would have died of influenza before the Secretary is willing to provide vaccination services?

PRESIDENT (in Cantonese): Dr KWOK, you have pointed out the part of your supplementary question not answered, so please sit down. Secretary, do you have anything to add?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I thank Dr KWOK for his question. As regards the provision of influenza vaccination for children, we already urged various schools a long time ago to contact CHP since it would provide guidelines and could arrange for private doctors to visit schools to provide vaccination services.

Certainly, some schools have already contacted CHP, but not all of them have done so. As such, the Government must step up publicity and education. Meanwhile, since parents might have misgivings about influenza vaccination, we must step up efforts on this front, too.

As regards vaccination in the community, some high-risk groups, such as inmates of residential care homes for the elderly or the elderly, can also visit the elderly health centres under DH. We will also gradually review and expand the relevant work.

MR LAU KWOK-FAN (in Cantonese): I would like to make some specific suggestions to the Secretary. Certainly, influenza vaccination should most preferably be given before outbreaks of influenza. Moreover, the influenza vaccines will not work until two weeks after vaccination. We have been helping
members of the public to receive vaccination in the community, but the problem is the scope of contact is not extensive enough. Therefore, vaccination services should most preferably be provided in schools for students.

If schools are required to look for private medical institutions on their own for the provision of influenza vaccination services, not too many schools will be willing to participate since their proactiveness is not high. Such being the case, can the Secretary arrange for DH staff to go to schools to provide influenza vaccination for students?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I thank Mr LAU for his advice. CHP has been hoping to arrange for more students to receive vaccination en masse, with a view to enhancing the coverage rate.

The Bureau has also for instance, held briefing sessions, carried out publicity and education work, and issued letters to primary schools, kindergartens and parents through the Education Bureau for publicity purposes. Nevertheless, given the existing manpower, CHP is unable to deploy adequate manpower to go to schools to provide influenza vaccination for students. Therefore, besides reviewing the existing situation, we will also encourage schools or sponsoring bodies, issue letters through the Education Bureau, hold briefing sessions, and so on, to enhance the effectiveness of our publicity efforts. We hope to enhance efforts on this front continuously to encourage more schools to arrange for influenza vaccination on campus.

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

MR LAU KWOK-FAN (in Cantonese): Actually, the effectiveness is currently very low …

PRESIDENT (in Cantonese): Mr LAU, you need only point out the part of your supplementary question not answered.
MR LAU KWOK-FAN (in Cantonese): I asked the Secretary whether DH would be required to arrange for staff to visit schools. The Secretary has not answered my question since the Chief Executive has $500 million …

PRESIDENT (in Cantonese): Mr LAU, the Secretary has already answered your supplementary question, please sit down.

MR KENNETH LAU (in Cantonese): President, we are all very much concerned that it is now the peak season of influenza. Members can see that in order to raise the figures of school children receiving influenza vaccination, CHP provided additional outreach vaccination services in schools in 2016-2017 for groups of primary students aged between six and 12. Nevertheless, as of 7 January, of the 500 primary schools across the territory, only 57 schools have participated in the scheme and the response is unsatisfactory. During interviews, some parents expressed concern that their children might develop fever after receiving vaccination. As a result, their children have not received vaccination.

Although it is now the peak season of influenza, many government measures are considered to be medium-to-long-term. May I ask the Government if immediate follow-up options are available?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I thank Mr LAU for his supplementary question.

We are gravely concerned about vaccination of children. A long time ago, we already made repeated appeals to the public and carried out health education. Just now, the Honourable Member mentioned that some parents were concerned about the reaction of their children after receiving influenza vaccination. I believe CHP will continue to enhance education on this front to make parents understand that the incidence of general reactions is normal. I also hope this will not pose an obstacle to parents allowing their children to receive influenza vaccination.
As regards ways to encourage more schools to arrange for students to receive influenza vaccination on campus, we will, besides contacting sponsoring bodies, issue letters through the Education Bureau and continue to enhance the flow on this front. We also hope those schools that have arranged for their students to receive influenza vaccination can share their successful experience with others.

We admit that the vaccination rate still has enormous room for improvement. We will continue to step up the relevant efforts in this direction, too.

PRESIDENT (in Cantonese): Third question.

Point-to-point transport services under new economic models

3. MR CHARLES PETER MOK (in Cantonese): President, according to the latest quarterly figures of complaints on public transport services, about half of the complaints were those made against taxi service, reflecting that the quality of taxi service is in need of improvement. The Consumer Council published a report in November last year, recommending to the Government the introduction of a parallel regime consisting of both taxis and e-hailing services, so as to enhance the quality of point-to-point transport services through increased market competition. In this connection, will the Government inform this Council:

(1) whether the Government will, by drawing reference from the recommendation of the Consumer Council and using the existing system of issuing Hire Car Permits to private cars as a blueprint, introduce in phases and on a pilot basis, a regulatory regime for vehicles, drivers and platforms for e-hailing services, with a view to increasing the market competition for point-to-point transport services, enhancing their service quality and facilitating the transition of in-service drivers to a new economic model; if so, of the implementation timetable and details; if not, the reasons for that;

(2) given that promoting car-pooling and car-sharing was one of the recommendations in the Report of Consultancy Study on Smart City Blueprint for Hong Kong published in June last year, but the Government decided not to incorporate this recommendation into
the Hong Kong Smart City Blueprint, which was based on the Report and published at the end of last year, of the process through which the decision was made as well as the relevant considerations and justifications; and

(3) as the Chief Executive stated in the Policy Address she delivered in October last year that in response to the emergence of new economic models (such as the sharing economy) arising from advancement in technology, the Government would review the existing legislation and regulations and remove the red tape, in order to foster the development of a new economy, whether the Steering Committee on Innovation and Technology and the Committee on Taxi Service Quality will, from the perspective of fostering the development of a new economy, jointly examine the introduction of a regulatory regime for e-hailing services as well as consult the public and the stakeholders on the relevant proposals; if so, of the details of the work plan and timetable; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, since Hong Kong is a densely populated city with limited road space, the Government has all along adopted the public transport-oriented policy with railway as its backbone. Various public transport modes serve their functions according to their respective roles and positioning. At present, over 12 million passenger trips are made through public transport services every day. This accounts for nearly 90% of the daily total passenger trips, which is the highest in the world. Personalized and point-to-point transport services in Hong Kong play an entirely different role as compared with those of cities with a lower rate of public transport usage. My consolidated reply to Mr Charles MOK's question is as follows:

The Government notes that the Consumer Council ("CC"), in its report on competition in the personalized and point-to-point transport service market, recommends the Government to proactively consider the proposal of introducing regulated online hailing services, if the franchised taxis, upon introduction, fail to deliver its promise. On the premise that any carriage of passengers for reward must be lawful in Hong Kong, we agree that the new demand in the community for personalized and point-to-point public transport services of higher quality and fare as well as with online hailing features in recent years should be well
addressed. To this end, the Government has conducted a comprehensive review on the personalized and point-to-point transport services (including taxis and hire car services) under the Public Transport Strategy Study over the past two-odd years and recommended the introduction of franchised taxis to meet the new demand.

The proposed franchised taxis will be a type of public transport services operated through a franchise model. Areas such as the number, service, fares as well as drivers' quality of franchised taxis will be regulated by the Government. If an operator fails to meet certain service level or standards, the Government may impose penalties through franchise terms or even revoke the franchise. The cap on the number of franchised taxis will be stipulated in the law. Franchised taxis will be operated under fleet management. This will help address the current difficulty in managing centrally the service quality of ordinary taxis due to scattered ownership.

Franchised taxis and the online hailing services proposed by CC have many features in common. For instance, franchised taxis shall provide online hailing services; the franchise will be time-limited with a limit on the vehicle age; all franchised taxis shall be equipped with global positioning system devices to record operating data for the Government's inspection; the operators shall provide drivers with training as well as a platform for lodging complaints and providing comments, etc. As compared with the CC proposal, franchised taxis will provide higher transparency on fares. The Government is preparing the legislative work, proactively striving to introduce the bill into the Legislative Council in the latter half of 2018.

Meanwhile, taxis continue to constitute the majority of personalized and point-to-point public transport services in Hong Kong. The Government will continue to strive to enhance their service quality and operating environment. To further strengthen the cooperation with the taxi trade and relevant stakeholders, the Transport Department ("TD") revamped and established a new Committee on Taxi Service Quality ("the Committee") this month. The Committee is chaired by the Commissioner for Transport and composed of non-official members from various sectors. This multi-party platform will discuss various strategies and measures to drive changes under the current taxi licensing regime. With regard to leveraging technology for optimizing services, the Government is aware that there are a host of mobile phone applications, equipped with online hailing functions, in the market for passengers to hail or
book a taxi. The Committee will consider ways to encourage and motivate the taxi trade to improve and enhance services in this regard to meet passengers' needs.

"Smart Mobility" is one of the important components for Hong Kong's development into a smart city. Our goal is to make use of technology to develop an intelligent transport system, assist in traffic management and alleviate traffic congestion and related environmental problems, so as to bring overall benefits to the community. The Government will progressively implement the measures under the "Smart Mobility" area in the Smart City Blueprint for Hong Kong ("the Blueprint"), such as integrating various existing e-transport applications of TD into an all-in-one mobile application, installing a new generation of on-street parking meters, studying "in-vehicle units" to enable motorists to receive real-time traffic information and pay tunnel fees without stopping the vehicles, and facilitating trials of autonomous vehicles in appropriate areas, etc. The "Report of Consultancy Study on Smart City Blueprint for Hong Kong", which was submitted in June 2017 by the consultant commissioned by the Government, put forward a number of recommendations for formulating the overall development framework of the Blueprint. The recommendations include suggesting the Government to promote "car pooling", which does not involve the carriage of passengers for reward but allows drivers/vehicle owners to recover part of the journey cost (such as fuel cost and tunnel toll) from the passengers, as well as "car sharing", which does not provide chauffeur services but charges a rental based on usage of the vehicles rented and comes with proper insurance coverage. These two types of car pooling/sharing arrangements mentioned in the consultant's report are both permitted under the existing laws of Hong Kong, and are already lawfully used by some members of the public. As such, the Government did not incorporate these two recommendations into the Blueprint which was published subsequently. The Government will continue to take forward various initiatives under "Smart Mobility" featured in the Blueprint.

MR CHARLES PETER MOK (in Cantonese): President, we have a pet phrase that goes "think outside of the box". But the main reply of the Secretary is totally "inside the box". Why? In that case, how can we be innovative, and how can we be smart? While members of the public call for the introduction of online hailing services, the Secretary has offered them online taxi-hailing service, which is even subject to a cap of 600 franchised taxis, and that is all. President, I think if I succeed in booking such franchised taxis, I should also be able to win a
third prize in the Mark Six Lottery. Obviously, online hailing services and franchised taxis are two entirely different things, but the Secretary insists that they have features in common.

I hope the Secretary will not always listen to the views of the taxi trade one-sidedly. They seem to be suggesting that as long as the App is fixed, it will be a cure for all. If so, we need not approach Secretary CHAN. We just need to approach Secretary YANG, and things will be settled. The issue is certainly not that simple. As pointed out by the Secretary in the main reply, "franchised taxis provide higher transparency on fares". But it is precisely because of the use of Big Data computing that online hailing services charge more in peak hours and less in off-peak hours. Flat and clear rates are actually outdated.

Moreover, as regards the newly established Committee—of which Mr Jeremy TAM is also a member—at least one third of its members, if not half, are those with vested interests in the taxi trade, and the scope of discussion is also confined to changes and measures under the current taxi licensing regime …

PRESIDENT (in Cantonese): Mr Charles Peter MOK, please ask your supplementary question.

MR CHARLES PETER MOK (in Cantonese): President, I will. So, as it has been made clear that the discussion is confined to taxis, I have this supplementary question. Can the Secretary extend the scope of work of the Committee to other personalized and point-to-point services, including genuine online hailing services, instead of online taxi-hailing service distorted to be online hailing services, or even franchised taxi service?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, regarding the online hailing services mentioned by Mr MOK and his call for us to "think out of the box", if we really think out of the box, the term "online hailing service" actually consists of two elements: the first one is "vehicle", which can be taxis or other vehicles; the second one is "online hailing", which involves the use of web-based technology, be it reservation or online booking. Hence, speaking of online hailing services, how should we define
effective delivery of services? If we have vehicles available to provide efficient and cost-effective services equipped with online hailing functions at a fare level acceptable to members of the public in order to meet personalized and point-to-point transport demands, they may actually be regarded as online hailing services. Hence, it does not matter whether the vehicles providing online hailing services are taxis, private cars or other types of vehicles. Nevertheless, we agree that the focus of the Committee is to review the service quality of the existing 18,000 taxis, and make planning in response to expectations on franchised taxis in the future. Certainly, we need to strike a balance between both, and we cannot possibly ignore the existing 18,000 taxis and the livelihood of tens of thousands of drivers in future. We understand that while the roads in Hong Kong have a total length of some 2,000 km only, the number of registered vehicles has exceeded 770,000. Together with unregistered vehicles, they will add up to 800,000. If all vehicles travel on roads at the same time, they will not be able to move. For this reason, we need to make appropriate arrangements for controlling the number of vehicles.

We have heard the aspirations of Mr MOK and stakeholders from the information technology sector for online hailing services. We also hope to take on board the views of such stakeholders when introducing franchised taxis in the future. Certainly, I believe the absence of established regulation for carriage of passengers for reward will have a significant impact on the transport planning and road accessibility of Hong Kong.

Apart from that, I hope to draw Members' attention to a recent ruling of the Court of Justice of the European Union, that online hailing service is a public transport service instead of an information society service, and it is also defined as a taxi service. We will also draw reference from requirements in law. The laws of Hong Kong provide that carriage of passengers for reward shall be subject to statutory control. Carriage of passengers for reward not in compliance with the existing regulations in Hong Kong shall be an offence.

MR CHARLES PETER MOK (in Cantonese): *He has not clearly answered my question. Does he mean that the Committee will only study taxi service, but not other issues relating to online hailing services? Can he give me a definite answer on this?*
PRESIDENT (in Cantonese): Mr MOK, the Secretary has already answered your supplementary question. Secretary, do you have anything to add?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have nothing to add.

MR FRANKIE YICK (in Cantonese): President, I consider it unfair to some 40,000 practitioners if we assert that taxi service is poor just by looking at the quarterly figures of complaints on public transport services which show that half of the complaints were made against taxis service. On the basis of the 930,000 taxi passenger trips per day (i.e. around 340 million passenger trips per year), the complaint rate is actually just 3 in 10,000.

Members from the taxi trade actually support the use of online hailing in order to make it more convenient for members of the public to hail a taxi. In fact, there are currently a number of taxi-call platforms. But the success of online hailing services hinges on whether they have a broad coverage. The issuance of "Hire Car Permits" to private cars, as recommended by CC, will not only increase road congestion and aggravate roadside air pollution, but also run counter to the Government's policy of containing vehicle growth …

PRESIDENT (in Cantonese): Mr Frankie YICK, please ask your supplementary question.

MR FRANKIE YICK (in Cantonese): … Hence, different regulatory regimes and varied fares will also give rise to an uneven playing field. In view of this, we may as well introduce a "centralized online hailing system" for some 18,000 taxis under statutory control, so as to raise the matching rates between passengers and taxis.

May I ask the Secretary whether he will consider consolidating the many existing taxi-call platforms into one and issuing relevant licences, so as to take the first step forward of promoting "Smart Mobility"?
SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr YICK for his supplementary question. As I mentioned just now, trips made by members of the public through public transport services account for about 90% of the daily passenger trips in Hong Kong. We therefore attach great importance to the smooth operation and efficiency of public transport. And taxis only account for less than around 10% of the passenger trips. As also mentioned by me and Mr Frankie YICK just now, about 1 000 of our prosecutions are instituted against overcharging, refusal to hire and touting by taxis. In fact, while the figures are high on a purely numerical basis, they are on the low side in percentage terms.

As regards the Committee mentioned by us now, one of its important objectives is to study how to enhance, improve and raise the quality of taxi service. One of the focuses is, in respect of online hailing arrangements, to incentivize integration by the taxi trade itself, make further use of online hailing technology and explore ways to do better in the provision of personalized and point-to-point online hailing services in future.

My personal views are in line with the aspirations of Members here. Hence, be it Mr YICK or Mr MOK, we are heading in the same direction. But as we know, such online hailing technology has been developing for some time. For example, the online hailing applications of some brands are indeed highly flexible and powerful, and it actually takes time to develop online hailing software or applications locally. For this reason, I have personally discussed with the relevant stakeholders, and their idea in mind is that if their existing applications cannot come into play in answering people's aspirations, they will consider integrating the online hailing application technology in Hong Kong. I hope all stakeholders will work closely together to do better in online hailing services for people in Hong Kong.

MR JEREMY TAM (in Cantonese): President, it is mentioned that there will be 600 franchised taxis. In fact, I wish to propose a new idea to the Government, that instead of actually buying 600 vehicles, it should allow private car owners to voluntarily take part in the so-called franchised taxi service and at the same time, impose a limit with such technology, so that only 600 such vehicles will be operating at all times. It means that there may actually be 2 000 individuals operating independently for entry into the market, or doing so through the Apps after getting a licence. In fact, the outcome is that only 600 vehicles will be allowed online at all times. The merit of such an approach is …
PRESIDENT (in Cantonese): Mr Jeremy TAM, please ask your supplementary question. The Question Time is not a platform for you to express your views.

MR JEREMY TAM (in Cantonese): President, I got it. So, it will bring forth various merits. Maybe let me go into further details later if possible.

Nevertheless, may I ask the Administration whether it will consider the suggestion made by me just now, i.e. concerning the so-called cap of 600 vehicles, there may actually be more than 600 operating vehicles but only 600 of them will be allowed to operate at any one time, so as to cut down on the number of new vehicles to be bought?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the Government's view on Mr TAM's suggestion just now is as follows: The current proposal on the number of the franchised taxis discussed now is 600. There are established requirements for these 600 vehicles, such as availability of some wheelchair-friendly vehicles, adoption of online hailing arrangements and operation under fleet management. Why? I also agree that the cap of 600 vehicles does have its limitation, but too lax an approach will not be an option. We understand that Mr TAM is asking the Government to ensure that 600 vehicles will operate on streets daily when licences are issued in the future, but such licences should not be issued to any particular vehicles. I believe Mr TAM's suggestion aims to improve the service.

But certainly, we have also mentioned an essential element in our proposal to introduce franchised taxi service, which is our wish to, given the ecology of the taxi trade nowadays, incentivize operators to adopt an employer-employee mode, so as to offer taxi drivers reasonable employment terms while giving them an incentive to enhance the quality of their service. Under the current circumstances, taxi owners and drivers do not share entirely a common interest, which has in turn affected the maintenance of taxi vehicles, the work attitude of taxi drivers driving the vehicles or even the service quality. Hence, the Government seeks to balance the interest of all parties and provide a suitable environment under the franchised taxi scheme, thereby elevating the personalized and point-to-point online hailing services in Hong Kong to the another level.
Certainly, if this franchised taxi scheme is proved successful, the Government will not rule out the possibility of considering effecting improvement along the same line as appropriate when enhancing the service of 18,000 taxis overall in future. The expectations of Members may materialize on more than 600 vehicles.

PRESIDENT (in Cantonese): Fourth question.

Railway services and public transport policy

4. DR ELIZABETH QUAT (in Cantonese): President, it was reported that near the peak hours in the morning of the 11th of this month, signalling system faults of the East Rail Line ("ERL") caused suspension of train service of the entire ERL for more than two hours, which affected hundreds of thousands of passengers. As several passengers had made their way on their own onto the railway tracks by opening the emergency exits of the trains, staff of the MTR Corporation Limited ("MTRCL") had to escort these passengers to leave at the nearby stations and inspect the railway tracks to ensure that all passengers had been cleared before the train service could be resumed. Such work lengthened the service disruption. Despite the efforts made by MTRCL to relieve the crowding of passengers according to its contingency plans, a great number of passengers were stranded at the various ERL stations and on the trains. Also, free shuttle bus service was seriously inadequate and directions were unclear, causing chaos and uproars. In this connection, will the Government inform this Council:

(1) whether the Government will urge MTRCL to enhance its contingency plans for implementation during railway service disruptions, including (1) improving the crowd control measures, (2) stepping up broadcasting at stations and on trains, (3) improving the communication channels among the staff, (4) strengthening staff training on crisis handling skills and providing staff with clear guidelines, and (5) stepping up public education on the rules for passengers to use the emergency exits of trains;
(2) as it is stipulated in the current Service Performance Arrangement that MTRCL must pay a fine for any railway service disruption lasting 31 minutes or above, whether the Government will review the calculation method for and raise the levels of the fine, with a view to reducing the occurrence of service disruptions through the implementation of more effective measures by the company's management; if so, of the details; if not, the reasons for that; and

(3) whether the Government will conduct a comprehensive review on its policy of designating railway as the backbone of the public transport system, so as to avoid the recurrence of the situation that the traffic of an extensive area is paralyzed during a railway service disruption; if so, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, the following is my consolidated reply to Dr Elizabeth QUAT's question:

Hong Kong is a densely-populated city with limited road space. Our challenge is to provide efficient and reliable public transport services for over 12 million passenger trips on a daily basis. Railway transport is a green and efficient mass transit which alleviates traffic congestion and attenuates roadside air pollution, and also unleashes the development potential of areas along the railway lines. Thus, the SAR Government has all along adopted railway as the backbone of the public transport system, while coordinating the complementarity among different public transport services, with the aim of providing a comprehensive public transport system. Under such a policy, MTR provides services to over 5 million daily passenger journeys. Overall, its performance is safe and reliable.

Nonetheless, the Government understands that railway service is highly related to the daily living of the public. It is of paramount importance to keep enhancing its safety and reliability so as to reduce the occurrence of incidents and to respond swiftly in the event of an incident. For this purpose, the Government has put in place a stringent regulatory system. The Electrical and Mechanical Services Department ("EMSD") regulates and monitors the safe operation of the MTR system, and investigates railway incidents in accordance with the Mass Transit Railway Ordinance. The Transport Department ("TD") monitors the
service performance of the railway network and handles complaints received from the public. At the same time, as the majority shareholder of the MTR Corporation Limited ("MTRCL"), the Government has been requesting MTRCL to enhance its maintenance and upgrade its railway system in order to minimize the occurrence of incidents.

Moreover, government departments require MTRCL to formulate contingency plans for various kinds of railway incidents. In case of railway service delays, MTRCL will, where the situation warrants, activate suitable established measures, including deploying more staff to assist passengers and providing shuttle bus services. In case of major incidents, MTRCL will inform government departments, other public transport service operators and the media, and disseminate train information to passengers through different channels as soon as possible, so that the public may keep abreast of the latest development. It is understandable that shuttle bus service is an emergency supplementary measure with limited carrying capacity, and it can hardly replace normal train service.

Regarding the contingency plan and investigation on the day of the incident on 11 January this year, as we all know, MTRCL implemented measures according to the contingency plan, including deploying over 320 staff to assist passengers and implement crowd management measures; and arranging for over 130 free shuttle buses to carry over 16 000 affected passengers within half an hour after the incident. MTRCL also put up large signage containing shuttle bus information at affected stations, maintained close communication with TD and the media, and disseminated information to passengers about railway service disruption and other public transport and connecting bus services through various channels such as broadcasts at stations and inside train compartments, information display at stations, road signs, web page, smartphone applications, etc.

After learning of the occurrence of the incident, TD immediately launched the Emergency Transport Co-ordination Centre to coordinate other public transport services. On that day, 21 franchised bus routes strengthened their services during the incident to assist in serving the affected passengers. TD and EMSD also deployed personnel to the stations to observe the situation on site.
All in all, MTRCL has taken measures in a swift and orderly manner on that day to minimize the impact of the disruption on passengers. Nonetheless, the Government and MTRCL are highly concerned about the cause of the incident and how the contingency arrangements can be improved. The Government's representative on the MTRCL Board has relayed our concern on the incident and requested MTRCL to conduct an in-depth investigation. Regulatory departments have also requested MTRCL to submit a detailed report on the incident in two months. To improve the handling of emergencies in the future, we will review the existing contingency plan together with MTRCL, in the light of the experience drawn from the incident.

Moreover, the Government and MTRCL are concerned about the fact that some passengers opened the train door on their own and walked on the tracks during the incident. To ensure the safety of passengers and to avoid further service delay, the emergency door release should only be used under the direction of the train captain in case of emergency. MTRCL will continue to educate the public, including the use of emergency exits on a train, through different channels. MTRCL will also continue to arrange regular training for frontline staff with simulations of various train incidents, and collaborate with various government departments in conducting drills to familiarize staff members with contingency plans and steps to handle emergencies.

The Government and MTRCL completed the first review of the Fare Adjustment Mechanism in 2013 and introduced the Service Performance Arrangement ("SPA"). While MTRCL should be held accountable for serious service disruptions, lesser disruptions, e.g. disruptions of a duration below 31 minutes, should not be treated as serious cases lest the frontline staff may rush their repair works under undue pressure, thereby putting railway safety at risk.

We have examined views from the public on SPA in the review last year and overall, SPA had been operating smoothly over the past few years. Despite so, in response to the Government's request and the views of the public, MTRCL agreed last year to raise the maximum penalty per incident under SPA from $15 million to $25 million.

The Government holds a high expectation for railway services in the same way as the public, and will continue to strengthen its oversight on MTRCL's railway services and safety through various channels.
DR ELIZABETH QUAT (in Cantonese): President, if MTRCL had really implemented all the measures as stated by the Secretary just now, the chaos should not have happened. Just now the Secretary said that MTRCL had taken measures in a swift and orderly manner on that day to minimize the impact of the disruption on passengers. I believe if we ask any passenger who was in an MTR station during the service disruption on that day, he will not agree to this conclusion. President, that day I received numerous complaints. Many members of the public said that they had been stuck in the MTR train compartments for an hour. Eventually, the train doors on only one side rather than both sides were opened. Thus there was no way they could leave the compartments earlier. After leaving the compartments, there was no instruction as to in which direction they should go to find the way out. So some passengers had to move along with their hands on the train body and grope their way out along the tracks. The situation at that time was in fact frightening and confusing …

PRESIDENT (in Cantonese): Dr Elizabeth QUAT, please ask your supplementary question.

DR ELIZABETH QUAT (in Cantonese): Hence, if the Government holds that the contingency measures implemented by MTRCL on that day were already good enough, I think the Government also has a great problem. The Government must expeditiously request MTRCL to review the whole contingency plan and conduct more training. President, the Government has stated the necessity to adopt railway as the backbone. I may not oppose this point. However, to adopt railway as the backbone, adequate ancillary facilities are actually needed. As I have pointed out from time to time, to adopt railway as the backbone, we need such ancillary measures as park-and-ride arrangements. If there is no such measure, how can railway be adopted as the backbone? The Government has all along indicated that it would hold discussions and make considerations, but it has never put it into practice. May I ask the Government how it intends to put it into practice now?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Dr QUAT for her supplementary question.
Before all else, I must make clear that just now I said MTRCL had carried out the contingency arrangements in an orderly manner. Certainly, holding the same expectations as Members, I strongly request MTRCL to conduct a review of the relevant incident and hope that improvements can be made in future.

The situation on that day was indeed a bit chaotic, especially when two trains were stranded between two stations. At that time some members of the public opened the emergency exits and walked onto the tracks. Consequently, during the whole course of restoration, the emergency measures of MTRCL were indeed been affected.

Let us look at the figures. When the incident broke out on that day, 31 trains on the East Rail Line ("ERL") were in service, with 14 of them halted between two stations. In terms of the time needed, basically, it would take about an hour or so to arrange for these 14 trains to enter the stations one after another to let the passengers alight. However, as I mentioned just now, since some passengers on two trains, one at Fanling Station and the other between University Station and Fo Tan Station, had opened the emergency exits, the staff had to take follow-up actions to ensure that all passengers had left safely before the trains could be reactivated. This is one of the reasons for the delay.

As mentioned by Dr QUAT just now, some passengers had to grope their way forward along the train body because they had walked onto the tracks. I hope that through publicity and education in future, members of the public will understand that during any railway incident, it is most important to stay on the train and then follow the instructions of the railway staff to make their way out.

Just now Dr QUAT also asked what methods we have to make MTRCL to perform better in future. As I pointed out in the main reply just now, this involves interchange arrangements. At present, park-and-ride arrangements are in place at 10-odd railway stations …

(Mr Michael TIEN stood up)

PRESIDENT (in Cantonese): Mr Michael TIEN, what is your point?
MR MICHAEL TIEN (in Cantonese): The main question and the supplementary question have already taken 15 minutes. Two Members are waiting to ask their questions. I am one of them. May I seek the President's help?

PRESIDENT (in Cantonese): Mr TIEN, please sit down. I have noticed that before Members raised their supplementary questions, they expressed many personal opinions, involving various issues to which the Secretary had to respond, and Members did not ask their supplementary questions until the end. Such an act was unfair.

Secretary, please finish your reply to this supplementary question as soon as possible.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I will end my simple reply here so that other Members will have more time to raise their questions.

MR MICHAEL TIEN (in Cantonese): Sorry, I could not help asking.

Secretary, some staff members from the staff union of MTRCL have relayed to me that since March last year, MTRCL has gradually reduced the number of platform assistants at various stations and the fixed working hours of platform assistants. If there is a shortage of manpower on a certain shift, it will adopt the overtime approach and call on the staff to enrol. Such an approach has greatly affected the job security and sense of belonging of the staff. The situation of the occurrence of incidents aside, it will cause a great impact on the manpower arrangements even on normal days, adding to the pressure of frontline staff.

On the day of the incident on ERL, passengers shot questions at the platform assistants in the first instance about the traffic conditions, such as when the train service could be resumed, where free shuttle bus services were available, etc. The latter were also scolded by passengers with abusive language. With only nine lids for 10 pots, they have suffered much hardship.

President, MTRCL makes a profit of over $10 billion every year, but the hourly wage for a platform assistant is only $52. What kind of payment is this? For this reason, now I wish to ask whether the authorities can undertake to urge
MTRCL to review the working hours of platform assistants and the manpower arrangements, so as to ensure that there are sufficient platform assistants and guarantee the quality of service for passengers. I wonder if the Secretary knows that their manpower has now been slashed, and they are requested to work overtime.

PRESIDENT (in Cantonese): Mr Michael TIEN, the supplementary question raised by you is completely irrelevant to the main question and reply. Please sit down. Secretary, would you respond to this?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I will relay it to MTRCL and look into the follow-up arrangements.

MR HOLDEN CHOW (in Cantonese): President, service disruption has happened on ERL more than once. In fact, it frequently happens. This large-scale disruption, in my view, was a traffic disaster.

President, there were many reasons for the occurrence of MTR service disruptions in the past. One of the reasons might be the problem of the signalling system. May I ask when MTRCL can perfect the signalling system to avoid the recurrence of similar large-scale traffic disasters?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, to our understanding, the replacement of the signalling system of ERL will be completed from the end of this year to early next year. Regarding the disaster mentioned by Mr CHOW just now, as I have pointed out in the main reply, the carrying capacity of trains is very large. Each train can carry 2000 passengers. Even if double-decker buses are deployed, each can carry only 200 passengers, while tourist coaches can carry only 50-odd. Hence, when a railway incident occurs, as I mentioned just now, the other means of transport will only serve as relief measures. Most importantly, we should inform the public through broadcasting to let them choose other means of transport, thus mitigating the impact on the public.
MR CHAN HAN-PAN (in Cantonese): President, the frequent incidence of railway service disruption has a great impact on members of the public. Earlier on, the Democratic Alliance for the Betterment and Progress of Hong Kong has proposed improving the penalty mechanism relating to railway incidents. The proposal includes compensating the affected passengers with a single journey ticket. Moreover, under the present system, no fine will be imposed if limited train services can be maintain during the incident, but in our view, to encourage and urge MTRCL to inject more resources to improve its services, a fine should be imposed under the mechanism even if limited services can be maintained during an incident. May I ask the Secretary whether he will consider this proposal?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, we hold that penalties in respect of public services are certainly necessary, but we also wish to see how we can actually urge the relevant public service contractors, including MTRCL, to continuously improve their services and reduce the occurrence of incidents under the system. This is much more important. Certainly, fines will achieve effective deterrence, but if we impose a fine irrespective of the severity of the case, as I said in the main reply just now, such indiscriminate imposition of fines may exert immense pressure on the frontline staff, especially those responsible for handling emergencies and repairs, thus resulting in imperfect repairs which may consequently undermine public safety. We are most unwilling to see such a situation. Hence, between safety and efficiency, we would rather choose safety. I hope Members will understand it.

As regards the penalty mechanism mentioned by the Member, just now I also mentioned that we have observed the relevant situations over the past few years and consider the operation smooth. Certainly, not every case can meet all expectations, but we will review individual cases with MTRCL. I will also relay Mr CHAN's view to MTRCL later.

PRESIDENT (in Cantonese): Fifth question.
Gross floor area concessions for putting in place electric vehicles charging infrastructure in private car parks

5. MR KENNETH LEUNG (in Cantonese): President, the Government has, since 2011, granted gross floor area ("GFA") concessions to encourage developers to put in place electric vehicle charging infrastructure in the private car parks of new buildings. According to the relevant technical guidelines, developers are required to install fixed electrical installations and socket outlets in every parking space in the car parks, install circuits up to the socket outlets, and engage registered professional engineers for the certification if they are to be granted the concessions. However, it has been reported that in respect of some development projects which have benefited from the aforesaid measure, all of the parking spaces have been installed with charging socket outlets but such installations are useless as all of the socket outlets are not connected to the power supply. In this connection, will the Government inform this Council:

(1) of the number of development projects to date which have been granted GFA concessions, together with the floor area for which concessions were granted, the number of parking spaces provided, and the charging speed of the charging facilities concerned, broken down by the name of building or housing court;

(2) of the existing procedure for as well as the government departments involved in vetting and approval of applications for GFA concessions; whether such procedure covers vetting and approval of building plans of car parks, site inspections and tests on charging facilities, and of the division of work among the relevant government departments; and

(3) in relation to the development projects which have been granted GFA concessions, whether the authorities have put in place any mechanism to ensure that the property management companies or the owners' corporations concerned provide functioning charging facilities at the parking spaces concerned on an on-going basis, and keep such facilities under proper repair and maintenance; if so, of the details, including the penalties which may be imposed on the parties who fail to provide such facilities; if not, the reasons for that?
SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, in light of the recommendations of the Council for Sustainable Development, the Government introduced a package of measures in April 2011 to enhance the design standard of new buildings to foster a quality and sustainable built environment. They include tightening gross floor area ("GFA") concessions to reduce the occurrence of "inflated buildings" and meet public aspirations for more green and amenity features in development projects. One of the tightened requirements is that, instead of all car parks being exempted from GFA calculations as in the past, only underground car parks provided with infrastructure for enabling electric vehicle ("EV") charging facilities at each parking space can be fully exempted from GFA calculations.

The main consideration for encouraging the provision of underground car parks is to address the public concern that car parks are a significant contributor to building bulk and height. By launching the new measures, the Government also aims to encourage developers to put in place EV charging-enabling infrastructure in car parks of new private buildings so that if EVs are widely used in the future, owners of parking spaces will not be hindered from installing the required EV chargers due to constraints in respect of power supply capacity, cabling and conduits, etc.

On this principle, the Environment Bureau and the Electrical and Mechanical Services Department have issued the Technical Guidelines for Electric Vehicle Charging-enabling for Car Parks of New Building Developments ("the Guidelines"), stipulating that future GFA concessions for car parks of new buildings will only be granted if car parks meet the basic conditions of providing EV charging-enabling infrastructure. These basic conditions include the provision of switchboards, distribution boards, cabling, conduits and trunking so that owners of parking spaces may install EV chargers at their parking spaces according to their specific needs in the future. As EVs were still at the development stage back then, mainstream standards for EV chargers and related installations were not established yet. Therefore, the Guidelines have not required installing EV chargers and arranging for electricity meter connection at parking spaces provided with EV charging-enabling infrastructure.

(1) From April 2011 to September 2017, the Buildings Department ("BD") approved a total of around 370 building plans involving the exemption of car parks of new buildings from total GFA calculations. Upon completion of these developments, about
40,000 parking spaces will be provided with EV charging-enabling infrastructure. BD has not compiled a list of the buildings or housing courts involved, GFA disregarded and the number of parking spaces provided. Nonetheless, when these developments are issued with occupation permits, members of the public may check the approved building plans and other details such as total GFA calculations from the Building Records Access and Viewing On-line of BD.

Given that the Guidelines have not required installing EV chargers and arranging for electricity meter connection at parking spaces provided with EV charging-enabling infrastructure, the Government has no data on the specific charging facilities available in these venues and their charging speed.

(2) As required in the Guidelines, an Authorized Person applying for disregarding the GFA for underground car parks from calculation of the total GFA of new private buildings shall have the fixed electrical installations ("FEI") design certified in advance by a Registered Professional Engineer ("RPE") under the Engineers Registration Ordinance (Cap. 409) of either the Electrical or Building Services discipline. Information on the certified FEI design of the EV charging-enabling infrastructure together with the related general building plan shall then be submitted by an Authorized Person to BD for consideration. BD will approve the application in accordance with established arrangement subject to the requirements set out in the current Guidelines being met. Upon receiving the approval of general building plan and permit for commencing building works in accordance with the law, developers may commence construction works.

After completion of construction works, RPEs as specified in the Guidelines have to submit to BD, via an Authorized Person, a certificate of completion certifying that the concerned car parks' EV charging-enabling infrastructure as prescribed in the design information are fully installed, tested and commissioned to support the application for occupation permits. BD will vet such application according to the Buildings Ordinance, and will also conduct random site inspections according to established procedures.
(3) As mentioned above, in encouraging developers to provide EV charging-enabling infrastructure for car parks of new private buildings, the Government's main objective is to enable owners of parking spaces to install chargers at their parking spaces and arrange for power connection according to their specific needs in the future without any constraints in respect of power supply capacity, cabling and conduits, etc. Back in 2011, EVs were still at the development stage and mainstream standards for EV chargers and related installations were not established yet. Hence, installation of chargers with electricity meter connection at parking spaces provided with EV charging-enabling infrastructure has not been included as a mandatory requirement in the Guidelines.

In the light of the rapid changes in the usage of EVs, the Government is reviewing the various policies and measures on promoting the use of EVs. Our efforts will include exploring ways to encourage installation of charging facilities to tie in with the usage of EVs, retrofitting existing car parks with charging facilities and updating the relevant guidelines and planning standards as necessary.

MR KENNETH LEUNG (in Cantonese): President, it was reported that a developer has "fraudulently" obtained 170,000 sq ft of GFA with 200 EV parking spaces at which charging was actually impossible because although charging outlets were installed, they were not connected to power supply. The Secretary stated in part (3) of his main reply that "Back in 2011, EVs were still at the development stage and mainstream standards for EV chargers and related installations were not established yet. Hence, installation of chargers with electricity meter connection at parking spaces provided with EV charging-enabling infrastructure has not been included as a mandatory requirement in the Guidelines." Since the Guidelines are outdated after seven years and the authorities are aware that some developers have obtained GFA by means of various deceptive practices, when will the authorities update the Guidelines? Which parts of the Guidelines will be updated? Will the installation of medium-speed chargers be included as a requirement for GFA concession?
SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank the Honourable Member for the supplementary question. As I said, mainstream standards were not established yet when the Guidelines were issued. Hence, back then car parks were only required to install EV charging-enabling infrastructure so that installation of chargers would not be hindered in the future. Mr LEUNG was right in saying that the use of EVs has been changing rapidly in recent years, which is why we have commenced a review on promoting the use of EVs, including how to increase charging facilities and how to add such facilities in existing car parks. As the Member has mentioned …

(Mr Kenneth LEUNG stood up and spoke)

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. The Secretary is replying to your supplementary question. Please let the Secretary give his reply. Secretary, please continue.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): We are now reviewing the promotion of EVs. I cannot give Members an exact date here, but we will sort out measures that allow immediate implementation and measures that can be implemented only under certain conditions. We will also update the relevant Guidelines and planning standards subject to the outcome of the review.

MR HUI CHI-FUNG (in Cantonese): President, the Secretary's reply was rather surprising to me. The intention of this policy was to promote the use of EVs by encouraging developers, including shopping malls, to provide charging spots. Yet, the Secretary said that the installation of such facilities without connection to power supply is acceptable to the Government under the Guidelines. As a result, developers gained the benefits of GFA concession while charging is actually not available to EVs. An even more ridiculous point is that the Secretary said there were some 300 applications involving 40,000 parking spaces, but the authorities did not have a list of their locations. How do the authorities effect monitoring in that case? The Secretary stated that the Guidelines would be reviewed, so can the authorities stipulate in the course of review that developers must connect charging facilities to power supply, in particular at parking spaces in shopping malls, so that the Guidelines could carry substantial meaning to the promotion of the use of EVs? Insofar as the 40,000
charging outlets already installed without connection to power supply are concerned, can the authorities require developers to connect them to power supply, in particular the ones in shopping malls?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I thank the Honourable Member for the supplementary question. We have sent staff to inspect completed car parks. With the provision of the infrastructure, owners can install chargers in the parking spaces on their own upon the purchase of EVs. On the contrary, without such infrastructure, owners would not be able to do so. Therefore, the infrastructure serves to facilitate the installation of chargers by owners when necessary in the future.

The Member asked whether consideration will be given to including the connection of charging facilities to power supply as a requirement for GFA concession. We will take this into account during the review.

MR HUI CHI-FUNG (in Cantonese): President, the Secretary has not answered one of my questions.

PRESIDENT (in Cantonese): Mr HUI, each member can ask one question only. You have asked two questions and the Secretary has replied to one of them.

MR DENNIS KWOK (in Cantonese): President, the Bureau should know that a recent report has stated that the sales of EVs in China will account for half of the global sales by 2030. A number of countries worldwide have put forward the vision of full conversion to EVs between 2030 and 2040. Does the Hong Kong Government have the same goal and vision that only EVs will be running on the roads in Hong Kong one day?

PRESIDENT (in Cantonese): Mr Dennis KWOK, your supplementary question has deviated from the scope of the main question and main reply. Secretary, will you respond in this regard?
SECRETARY FOR THE ENVIRONMENT (in Cantonese): I thank the Honourable Member for the supplementary question. We noticed that some countries have put forward their vision in this regard. However, the situation in Hong Kong is more complicated insofar as the drawing up of such a vision and a timetable is concerned in that, for instance, we do not have any local car manufacturer. However, we will actively explore and study this aspect to see if the same vision can be drawn up.

MR JEREMY TAM (in Cantonese): President, this problem is indeed most ridiculous. There were media reports on it before and I have also experienced it myself. The so-called charging facility provided by developers is a simple 13A socket. When I asked the attendants, I was told that it could not be used. Some of them even asked me to make an application for it. How do I make such an application? It is impossible since I was there to use the hourly parking only.

There are significant loopholes in the current system. The authorities offered developers GFA concessions free of charge without ensuring that charging facilities are available to general motorists. In certain cases, there is no charging facility at all. The Secretary mentioned in the main reply that with the infrastructure provided by developers, owners or users may install chargers according to their own needs, but the problem is that there is no such facility at all. Under these circumstances …

PRESIDENT (in Cantonese): Mr Jeremy TAM, please ask your supplementary question.

MR JEREMY TAM (in Cantonese): My supplementary question is: is there any provision requiring developers to open charging facilities for motorists' use so that they cannot simply reply that the facilities cannot be used? How will the authorities follow up on such cases?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I thank the Honourable Member for the supplementary question. As I have explained, the Guidelines were forward-looking at the time of introduction as there were very few EVs in Hong Kong and standards for charging facilities had yet been established. Back then, the principle was that buildings should have sufficient
infrastructure so that charging facilities could be installed when EVs become widely used in tandem with Hong Kong’s development. Therefore, as there was no standard, neither the type of charger nor the connection of the infrastructure to power supply was mandatory in the Guidelines.

However, as the Member has said, the situation has changed. The use of EVs has now greatly increased. Hence, we are conducting a comprehensive review on how to promote the use of EVs and whether any update of the Guidelines is necessary.

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

MR JEREMY TAM (in Cantonese): My question was very clear. I asked how the Government can effect regulation under the existing legislation if land has been granted but car park attendants directly refuse use of the charging facilities? Can land premium be charged?

PRESIDENT (in Cantonese): Secretary, please reply.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, we are conducting a review on how relevant facilities can be promoted and increased, as well as what facilities can better promote the use of EVs. The review is still underway at this stage.

MR JEREMY TAM (in Cantonese): He did not answer me. I asked how do the authorities enforce the legislation already laid down. Car park attendants forbid people to use the charging facilities.

PRESIDENT (in Cantonese): Mr TAM, the Secretary has already answered your supplementary question. If you are not satisfied with his reply, you may follow it up on other occasions.
MR CHARLES PETER MOK (in Cantonese): President, the Secretary said the situation is complicated in regard to promoting the use of EVs. Is the situation in Hong Kong more complicated than that in China, France and the United Kingdom? These countries have all indicated that it is feasible. If the situation in Hong Kong is more complicated than that in these places, then Hong Kong's government officials can go and work in those countries.

The most complicated situation in Hong Kong is that departments are all operating on their own. The Environment Bureau, the Electrical and Mechanical Services Department, the Transport Department and the Buildings Department mentioned in the main reply shirk responsibilities onto each other. If the Transport Department introduces such a benevolent policy of full conversion to EVs by 2030, other departments will really be at a loss as to what to do.

In the main reply, the Secretary said "the Government is reviewing the various policies and measures on promoting the use of EVs". The work is actually handled by which departments? Can a list of responsible departments be provided so as to give us confidence and so that the Secretary will not have a hard time answering our questions here when various departments operate on their own and shirk their responsibility. I really do not know how the Environment Bureau can reply to the questions today as they are all about building construction.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank the Honourable Member for the supplementary question. The review indeed involves various departments and Policy Bureaux. As far as I am aware, departments involved at present include the Transport and Housing Bureau, the Development Bureau, the Electrical and Mechanical Services Department and the Lands Department. A detailed list can be provided to Members later on. (Appendix I)

MR KENNETH LEUNG (in Cantonese): Mr Charles Peter MOK mentioned just now that departments operate on their own and shirk responsibilities onto each other. I have heard from the Chief Executive that each policy is now led by one Policy Bureau instead of having several bureaux or departments in charge. Which Policy Bureau is responsible for the promotion of EVs?
SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the review of policies and measures on EVs is led by the Environment Bureau.

PRESIDENT (in Cantonese): Last oral question.

Monitoring the administration of an estate for charitable purposes

6. MR PAUL TSE (in Cantonese): President, the Court of Final Appeal ("CFA") handed down a judgment in May 2015 that the Chinachem Charitable Foundation Limited was to hold as a trustee the late Ms Nina KUNG's estate of tens of billions of dollars which was dedicated to charitable purposes. In response to the relevant questions I raised in June 2015 and February 2016, the former Secretary for Justice ("SJ") said that as the protector of charities, he would actively follow up the arrangements for and the details of the implementation of Ms KUNG's will and would eventually, as directed by CFA, submit a scheme on using the estate for charitable purposes ("the Scheme") to the Court for approval. He expected the Department of Justice ("DoJ") to complete the formulation of the Scheme by around mid-2016. Before that, the estate would continue to be administered by the independent interim administrators appointed by the Court. However, DoJ has not published the Scheme so far. Moreover, since the inauguration of the current-term Government, the former SJ resigned after serving for only six months; and his successor is embroiled in a scandal involving unauthorized building works found in her residence, and she has also been granted exceptional approval by the Chief Executive to continue with her handling of six ongoing arbitration cases and her teaching commitments concurrently, raising public concern whether she can handle official matters wholeheartedly in the near future. In this connection, will the Government inform this Council:

(1) whether DoJ has completed the formulation of the Scheme and submitted it to the Court; if so, when DoJ submitted the Scheme; if not, of the reasons for that, and how much additional time DoJ will need to finish the formulation of the Scheme, which commenced two and a half years ago; if the work cannot be finished shortly, whether the authorities have studied if SJ's performance in exercising the function as the protector of charities has highlighted DoJ's lack of operational efficiency, falling short of public expectations and failure in fulfilling the last wish of Ms KUNG;
(2) given that the estate has all along been under the administration of accountants serving as the interim administrators since the aforesaid judgment was handed down by CFA in May 2015, whether the authorities have assessed if the management fees charged by the accountants are reasonable and if Ms KUNG's estate has been gnawed by the relevant expenses; and

(3) whether it has assessed if public confidence in the Government's implementation of policies will be affected by the fact that Ms KUNG's estate of tens of billions of dollars has not been put to charitable uses for a number of years?

SECRETARY FOR JUSTICE (in Cantonese): President, I thank the Honourable Member for his question.

Mrs Nina WANG passed away in April 2007 leaving a home-made Chinese will ("the Will") dated 28 July 2002. In May 2012, the Secretary for Justice, as the protector of charities, commenced proceedings in the Court of First Instance seeking the Court's adjudication on the proper construction of the Will, in order to ensure proper management and ultimate distribution of the Estate.

The Court of Final Appeal ("CFA") handed down its Judgment on 18 May 2015 and unanimously ruled that the Chinachem Charitable Foundation Limited ("the Foundation") should hold the entire Estate as a trustee and would not receive any part of the Estate as an absolute gift.

According to the CFA Judgment, a scheme should be prepared and submitted to the High Court for approval after consultation between the Foundation and the Secretary for Justice as the protector of public charities.

Following the Judgment of CFA, the Department of Justice ("DoJ") has been liaising with the Foundation through meetings and correspondence to exchange views on the preparation of the Scheme and related matters for administering the Estate. However, as parties had to negotiate through numerous and various legal issues involving the formulation of the Scheme, which include working out the details of the arrangements for the establishment of a managing organization to supervise the Foundation as a trustee and the Chinese prize (an international prize and fund similar to the Nobel Prize), the parties had taken more time to consider the Scheme in detail. DoJ had also
sought independent legal advice on the relevant legal issues. The Scheme had been amended a few times, with the latest draft being drawn up in May 2017 and awaiting the Foundation's reply. During the relevant period, parties had discussed and sought directions from the Court in respect of the costs matter arising from the preparation of the Scheme. As of now, DoJ and the Foundation are still discussing the details of the latest draft Scheme, and we are still awaiting their substantive reply. It is estimated that some more time is required. We hope to reach further consensus with the Foundation in respect of the contents of the latest draft Scheme as soon as possible. Once it is done, DoJ will submit the draft Scheme to the Court for approval. DoJ is aware of the public's expectation to utilize the funds of the Estate for charitable purposes as soon as possible. In view of this, DoJ has been actively working on the drafting of the Scheme as well as liaising with the Foundation accordingly, including to continue to explore the setting up of a supervising managing organization jointly formed by the Secretary-General of the United Nations, the Premier of the People's Republic of China Government as well as the Chief Executive of the Hong Kong Special Administrative Region as intended in the Will. DoJ will continue to closely monitor its progress. To ensure that the Scheme can be drafted and implemented as soon as possible and the Estate be administered in accordance with the testamentary intention of Mrs WANG, DoJ will take timely actions as may be appropriate, including seeking guidance from the Court.

Currently, the administration of the Estate is vested with the interim administrators appointed by the Court. DoJ has also filed a caveat against a grant of probate or administration to preserve the status quo pending a scheme to be set up under the court's supervisory jurisdiction.

The current interim administrators are professional accountants appointed by the Court. Their principal responsibilities are to get in and preserve the properties of the Estate, including making enquiries as they deem reasonably necessary or taking out legal proceedings to ensure that the Estate is properly preserved. Besides, the relevant work also includes handling matters arising from the operation of the Chinachem Group. As the Chinachem Group is a big business conglomerate comprising numerous companies with multiple areas of business, the relevant work activities can be very complicated. The interim administrators have been overseeing the Chinachem Group and made efforts to improve its governance structure, to ensure the smooth operation of various lines of corporate business. In discharge of their duties, the interim administrators would investigate and take follow-up actions against any irregularity known to them which might prejudice the proper preservation and management of the
Estate. The interim administrators are also required to submit periodical reports to the Court, the Secretary for Justice and the Foundation on the conduct of the administration.

(The President's Deputy, Ms Starry Lee, took the Chair)

Being "officers of the Court", the interim administrators owe a duty to the Court on matters relating to the interim administration of the Estate. The Court may also give directions to the interim administrators if and when necessary. The work of the interim administrators will continue to be monitored by the Court, including the consideration of the periodical reports and other relevant materials provided by them.

DoJ has, at all times, been paying close attention to the administration of the Estate and has been in frequent contact with the interim administrators, including considering the periodical reports provided by the interim administrators, approaching the interim administrators to further understand matters relating to the interim administration of the Estate, requesting the interim administrators to take follow-up actions and provide reports as the circumstances require, assisting the Court in legal proceedings taken out by the interim administrators, and seeking directions from the Court in the course of interim administration as may be required. DoJ will continue to closely monitor the interim administrators' work in managing and preserving the Estate and the litigation involving the Chinachem Group and the Foundation, and take such follow-up actions as may be appropriate.

Regarding the fees of the independent interim administrators, they have been prescribed by the Court in the appointment order and are subject to the Court's scrutiny. DoJ and the Foundation have also been monitoring the fees charged by the interim administrators. Should DoJ and the Foundation consider the amount to be too high or unreasonable, an application may be made to the Court for taxation of the fees, in order to ensure that the interim administrators' fees remain reasonable.

As the protector of charities, the Secretary for Justice will actively follow up on the detailed arrangements for the implementation of the Will in light of the blueprint laid down in the CFA Judgment, including continuing to keep in contact with the Foundation as the trustee of the Estate and to work closely with the
interim administrators, discussing the follow-up actions required, closely monitor the management and preservation of the Estate of Mrs Nina WANG, and take such follow-up actions as may be appropriate, including the seeking of guidance from the Court as may be required with a view to protecting and safeguarding the interest of the charity.

MR PAUL TSE (in Cantonese): Deputy President, is the Secretary of Justice aware of the fact that the Estate is now worth as much as $250 billion to $300 billion at market value, according to estimates made by people with knowledge of the assets under the Chinachem Group? This is a pretty colossal figure. Instead of administering the very clear decree handed down by CFA, in which the most important order stipulates the establishment of a trusted and reliable management structure, DoJ has procrastinated for two and a half years, relying instead on the relevant charitable Foundation, especially Dr KUNG Yan-sum who controls the Foundation and related persons, including the relevant interim administrators.

Deputy President, under such circumstances, why, instead of considering first and foremost the establishment of a comprehensive management structure, DoJ keeps dragging its feet on the matter, coming up with different excuses and blaming, among others, the difficulties in establishing the Chinese Prize, thus failing to make proper and solid arrangements for the management of the Estate? More importantly, has the Secretary ever considered the issues of backroom deals and conflicts of interests under the current arrangement? How closely is the Secretary of Justice monitoring the intricate relationship between Dr KUNG, the head of the Foundation, and the relevant interim administrators? How well-informed and involved she is in the matter? Or is she relying solely on the so-called reports provided by the interim administrators as the only basis for monitoring?

SECRETARY FOR JUSTICE (in Cantonese): I thank the Honourable Member for his supplementary question. First of all, regarding the establishment of a management structure, I totally agree that it is a prime task we should undertake, as the Will stipulates a management structure comprising the incumbents of three posts. I have considered and studied the matter after assuming office. I believe I will soon be in a position to give an account to Members and society on whether the establishment of such a management structure is viable. I very much agree with the Honourable Member's view that if the establishment of such a
management structure is possible, other issues can probably be easier to address. If it is not viable, my opinion for the time being is that the matter may have to be brought to court. I believe it is necessary to first communicate with the Foundation and submit our proposal to the Court for approval if a consensus is reached. If no consensus is reached, it may be necessary to seek the opinion and Judgment of the Court. I am therefore in absolute agreement with him on this point.

Second, in respect of the concern about conflicts of interests, the relevant interim administrators are appointed by the Court and, as officers of the Court, must maintain their independence. I believe they as accredited accountants will act in compliance with their professional code of conduct. That being said, it does not mean we will let up on monitoring. If we become aware of any evidence or develop any suspicion that something of the aforementioned nature may happen, I, as the Secretary for Justice, along with my colleagues will certainly act accordingly and appropriately against the possible occurrence of those things mentioned by the Honourable Member just now.

MR DENNIS KWOK (in Cantonese): Deputy President, the main question mentioned the effectiveness of DoJ in regulating charitable organizations and the situation of the existing system. Indeed, the Secretary for Justice should be aware that The Law Reform Commission of Hong Kong ("LRC") put forward in 2013 a comprehensive proposal on the way charitable organizations should be improved and regulated. Will the Secretary for Justice look into the reason why, despite the publication of the full proposal back in 2013, many of the recommendations remain not implemented after these year, just like the fate of LRC's many other recommendations? In respect of the regulation of charitable organizations, will the Secretary for Justice answer when the measures recommended by LRC for regulating charitable organizations will be implemented?

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, I am most grateful to the Honourable Member for raising this supplementary question. For I have been expressing my wish, since my inauguration, to communicate with the sector and Members. And the point raised by the Member just now coincides with the one brought up by The Law Society of Hong Kong when I met with them this Monday: the report published by LRC in 2013. Members may recall that the report was not devoid of controversy. While some of the views may
warrant further discussions, the report did set out a general direction. In this connection, I gather that there are some messages in the sector which suggest that we should look into the possibilities of a charity commission or a charity law and see what could be done. I think this is what we should look into.

At this stage, as the protector of charities and the Secretary for Justice, I will continue to follow up on matters related to Mrs WANG's Will, as they cannot be left unaddressed until the implementation of the LRC report of 2013. The Member also asked if there is a timetable. I have to say that we do not have one for the time being. However, I note that this is an issue brought up by both The Law Society of Hong Kong and Members. Therefore, we will consider how to address it.

MR HOLDEN CHOW (in Cantonese): Deputy President, according to the main reply given by the Secretary for Justice, the Estate is currently administered by the interim administrators while DoJ is tasked with the formulation of a scheme for the arrangements regarding the handling of this charity sum in future. And this situation has gone on for some time now. My main question is that the interim administrators—I am certainly not speculating on their motives but it is a fact that they have all along been charging fees for handling the Estate. Will the Secretary for Justice please tell us how she would monitor their work effectively, for instead of enabling the interim administrators to keep availing themselves to fees and benefits in the process, a speedy formulation of the Scheme could kick-start the operation of the charitable fund as soon as possible?

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, I thank the Honourable Member for his supplementary question. This has been a concern to both my colleagues in DoJ and officials in the Foundation, since the relevant fees, after all, are paid out from the Estate. For that reason, fees charged by the interim administrators have to be submitted to DoJ and the Foundation for monitoring. If we find those fees to be too high, we can, in accordance with past judgments by the Court, request a taxation from the Court, thus ensuring that the fees are not excessive. We will therefore conduct a review first and then, if there is a problem, submit the issue of fees to the Court for taxation, thus ensuring that fees charged are reasonable and will not—some might say "gnaw away", but I prefer not to use those words—reduce the real value of the Estate under unreasonable circumstances.
MR PAUL TSE (in Cantonese): Deputy President, first of all, I must thank the Secretary for Justice for her reply to my first supplementary question, which points to a way forward that, in relative terms, is most encouraging. However, I wish to follow up on the third last paragraph of her main reply which states that DoJ will pay attention to the litigation involving the Foundation and take such follow-up actions as may be appropriate. As far as I know, Dr KUNG was involved in the court case numbered 832 in 2014, being sued for suspected conversion—or embezzlement, I believe—of $50 million. On 12 January 2016, another company Right Margin Limited also sued Dr KUNG for conspiracy to defraud a sum of $50 million. On the basis of such complicated background, can a person with so many problems in his past meet the requirements entrusted by CFA? Can the Secretary feel satisfied or at ease by his role? Let me quote the CFA view, that they required "a person with the highest integrity, judgment and experience" to administer the Estate, meaning a person commanding enough, or the highest level of trust, credibility in terms of personal conduct, judgment and experience. Will Members not feel particularly worried if Dr KUNG continues to control such a large sum of money while maintaining a possibly intricate relationship with the interim administrators?

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, I thank the Honourable Member for the question. I also wish to tell Members here that, in view of the possible criminal offence involved in this case, while I am tasked, in accordance with Article 63 of the Basic Law, to handle criminal cases, I am also responsible for, in my capacity as the protector of charities, this aspect of the case. That is why I have made an internal authorization so as to recuse myself from involvement in the criminal aspect of the case. The Member raised the issue of whether the person concerned meets the requirements of CFA. This too has been our concern. As I said just now, I believe first of all, we have already drafted a supervisory scheme which has been submitted to the Foundation, pending their reply. Meanwhile, I think we can establish a management organization while awaiting their reply. As for whether the establishment of such a management organization is possible, we may have to ask the three persons stipulated in the Will. Once anyone of them indicated his willingness or unwillingness to participate, we will know whether further proceedings in the Court are necessary. As such, instead of awaiting the completion of one issue before dealing with another, the aforementioned tasks may be undertaken concurrently.

WRITTEN ANSWERS TO QUESTIONS

Money collection activities in public places carried out by political organizations

7. MR WONG TING-KWONG (in Chinese): President, under section 4(17)(ii) of the Summary Offences Ordinance (cap. 228), any person who, without lawful authority or excuse, carries out money collection activities in a public place for non-charitable purposes, shall be liable to a fine of $500 or to imprisonment for three months, except with a permit issued by the Secretary for Home Affairs. It has been reported that in recent years, quite a number of political organizations, such as political parties, have carried out illegal money collection activities along the routes of public processions. Some members of the public are of the view that the Government should step up law enforcement efforts to stop such an undesirable trend from spreading. In this connection, will the Government inform this Council:

(1) whether it knows the number of money collection activities carried out by various political organizations along public procession routes and the total amount of donations collected in each of the past five years, together with a breakdown by (i) whether a permit in respect of the activity had been issued, and (ii) the name of the political organization that organized the activity;

(2) whether it took law enforcement actions against the aforesaid illegal money collection activities in the past five years; if so, of the details; if not, the reasons for that; whether it will step up law enforcement efforts; if so, of the details; if not, the reasons for that; and

(3) whether, in the past five years, the authorities (i) publicized among members of the public that they should, before making donations, enquire if the money collection activities concerned are legal, and (ii) publicized among various political organizations that they should obtain a permit before carrying out money collection activities; if so, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, upon consultation with the Security Bureau, our consolidated reply to the various parts of the question is as follows.
The Secretary for Home Affairs may issue permits under section 4(17) of the Summary Offences Ordinance (Cap. 228) for collection of money or sale of badges, tokens or similar articles in public places for any non-charitable purposes. Such activities, if held without obtaining fund-raising permits for non-charitable purposes, are subject to prosecution by the Police under the provision, rendering the relevant parties liable to a fine of $500 or to imprisonment for three months.

The Police have the duty to take lawful measures to regulate public meetings and processions as appropriate to ensure public order and public safety. Pursuant to the Public Order Ordinance (Cap. 245), in the event of the attendance of public meetings or processions exceeding the respective limits prescribed in the Ordinance, i.e. public meetings of more than 50 persons and public processions of more than 30 persons, the organizers shall, in accordance with the Ordinance, give a notice in writing to the Commissioner of Police ("the Commissioner") not less than seven days prior to the intended events, which can only be conducted if the Commissioner gives no prohibition or objection. The Commissioner may impose conditions on a notified public meeting or procession. The conditions so imposed will be stated explicitly in the "letters of no objection" issued to the organizers and uploaded to the police website for public viewing. In respect of notified public order events involving fund-raising activities, the Police will, in the "letters of no objection", remind the organizers to appeal to the participants not to engage in any fund-raising activities without obtaining the permits required.

In the past five years, the Secretary for Home Affairs issued 16 fund-raising permits for non-charitable purposes under section 4(17) of the Summary Offences Ordinance (Cap. 228). Among these non-charitable fund-raising activities approved, none of them involved public meetings and processions.

Generally speaking, if the Home Affairs Bureau receives complaints of suspected fund-raising activities for non-charitable purposes held by individuals or organizations without permits in public places, referrals will be made to the Police for follow-up investigation. Members of the public may also directly make a report to the Police regarding any suspected fund-raising activities without permits. After receiving a referral or report, the Police will follow up as appropriate by, for example, asking the individual or organization concerned to provide supporting documents, conducting investigation as to whether the activity involves deception or other criminal offences, warning the individual or organization concerned, etc. If there is sufficient evidence, the Police will take actions in accordance with the law.
The Police have been handling fund-raising activities during public meetings and processions in accordance with the aforementioned mechanism, as well as ensuring that such activities and related booths or temporarily erected structures will not cause unreasonable obstruction to the proceeding of processions and endanger the safety of participants of processions or other road users, which may jeopardize public order and public safety. The Police do not maintain statistics on fund-raising activities by organizations without permits along public procession routes.

We understand that the public are increasingly concerned about the transparency and legality of fund-raising activities. To facilitate public inspection of the relevant details of approved fund-raising activities for non-charitable purposes, the Home Affairs Bureau has been, since July 2016, uploading details of such activities upon approval of their applications, including the date, time, venue and organizer, onto the GovHK website <http://www.gov.hk/fundraising> and DATA.GOV.HK website <http://data.gov.hk>.

Also, the administrative guidelines and licensing conditions for the issue of fund-raising permits for non-charitable purposes have also been uploaded onto the Home Affairs Department website <http://www.had.gov.hk/tc/public_forms/forms.htm> to strengthen public understanding of the relevant legislative requirements. The guidelines set out the considerations taken by the Secretary for Home Affairs in processing permit applications and the additional licensing conditions usually imposed.

The Police will continue to keep close liaison with organizers of public order events and appeal to participants to obtain the permits required before conducting any fund-raising activities. The Police will also maintain contact with the relevant government departments regarding any suspected fund-raising activities held without permits in public places, and take actions in accordance with the law.

Follow-up actions on the alleged misconduct of a Senior Land Executive of the Lands Department

8. MR LAM CHEUK-TING (in Chinese): President, it was reported in the press in August 2016 that a government officer, being a Senior Land Executive ("SLE") of the Lands Department ("LandsD") at the relevant time, had bought an entire block of small house from an indigenous villager in 2014. As the father of
the said SLE (i) had worked as a SLE in LandsD before his retirement, (ii) sold, upon his retirement and before the aforesaid small house was constructed, the land on which the small house was situated to the said indigenous villager and (iii) had signed on the seller's behalf the sale and purchase agreement in respect of the aforesaid property transaction, coupled with the fact that the transaction price of the property was unreasonably low, suspicion had arisen that the said small house was actually a property developed upon the acquisition of small house concessionary rights. In response to subsequent media enquiries, LandsD stated that any case suspected of involving acts of misconduct or deception in the applications for small houses, regardless of the identities and backgrounds of the parties concerned, would be referred to the law enforcement agencies for investigation as necessary, and it would offer cooperation in the investigation. In this connection, will the Government inform this Council, since the publication of the aforesaid press report, whether:

(1) LandsD has referred the aforesaid case to law enforcement agencies to investigate if anyone has committed any unlawful acts; if so, of the details of the referral and the outcome of the investigations; if not, the reasons for that;

(2) the Civil Service Bureau has initiated a disciplinary hearing against the SLE who bought the small house; if so, of the details and outcome; if not, the reasons for that; and

(3) LandsD has arranged transfer of the SLE who bought the small house to a position whose duties are unrelated to the vetting and approval of small house applications; if so, of the details; if not, the reasons for that?

SECRETARY FOR DEVELOPMENT (in Chinese): President, my reply to Mr LAM Cheuk-ting's question is as follows:

(1) The Lands Department ("LandsD") will take appropriate follow-up action on any suspected case of contravention of law or the Civil Service Code. If necessary, the department will make the required referral based on the circumstances of the case and cooperate with the relevant law enforcement agencies for conducting criminal investigation. In fact, if an individual government officer is prosecuted for criminal offence, the prosecution will be openly conducted according to the system.
(2) In general, LandsD will not make any public comment on the referral and follow-up investigation of individual disciplinary cases.

(3) LandsD is committed to avoiding conflicts of interest in posting its staff. The current work of the officer mentioned in the press report referred to in the question is not related to the vetting and approval of small house applications.

Protecting children from sexual assaults and implementing sex education at schools

9. DR CHIANG LAI-WAN (in Chinese): President, to answer a call of a social movement on the social media, quite a number of people, who came from the political, education, sports sectors, etc. around the world, broke their silence in recent months to disclose their experiences of being sexually harassed or assaulted many years ago and even before their adulthood. On protecting children from sexual assaults and implementing sex education at schools, will the Government inform this Council:

(1) of the number of reports received in each of the past three years by the authorities about children being sexually assaulted, broken down by the occupation of the suspects (if known);

(2) whether it has required all schools to formulate policies on and measures for protecting children from sexual assaults, and assisted them in this respect; if so, of the details; if not, the reasons for that;

(3) of the measures to raise the alertness and response capabilities of children to sexual assaults, and whether it will enhance the provision of psychological counselling and support for children who have been sexually assaulted and their family members, so as to help them recover from their traumas and resume a normal living; and

(4) whether the Education Bureau will review and amend the Guidelines on Sex Education in Schools (1997 edition), including requiring all schools to (i) develop sex education programmes in accordance with the Guidelines, and (ii) establish a mechanism to review the learning effectiveness of such programmes; if so, of the details and the timetable; if not, the reasons for that?
SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Government attaches great importance to the well-being of children and firmly believes that every child has a right to protection against sexual abuse.

Having consulted relevant bureaux and departments, including Education Bureau, Security Bureau, Social Welfare Department ("SWD") and Hong Kong Police Force ("the Police"), my consolidated reply to the question is as follows:

(1) For the statistics regarding the newly reported child sexual abuse cases and the occupation of the abusers of the child sexual abuse cases captured by SWD during the period from 2015 to September 2017, please refer to Annex.

From 2015 to 2017, the Police has in each year received 504, 477 and 478 reported cases involving "sexual crimes against children"(1) respectively. The Police does not maintain information on the occupation of the related offenders.

When collecting the case figures, SWD and the Police adopt their own statistical definitions and bases in accordance with their different operational needs, and hence the statistics cannot be compared directly.

(2) The Education Bureau has been taking various measures to assist schools in creating a sexual-harassment-free (including sexual abuse) working and learning environment. The Sex Discrimination Ordinance (Cap. 480) was amended in 2008 to extend the definition of sexual harassment to include any conduct of a sexual nature in educational settings. Consequent to the amendment to the Ordinance that came into effect, the Education Bureau reminds schools through the Education Bureau Circular No. 2/2009 "Amendment to the Sex Discrimination Ordinance (Cap. 480)" of their responsibilities to ensure that all individuals, including students and staff members, are able to study or work in a safe and sexually hostile-free environment. The Education Bureau advises schools to

(1) It refers to such sexual crimes as rape, indecent assault and unlawful sexual intercourse involving a victim who is under 17 years of age, irrespective of the nature of relationship between the victim and the offender, as well as crimes involving an offender who has blood relationship with the victim as specified under other legislation, such as incest.
take reasonable and practicable steps, including developing a school policy in written form to eliminate sexual harassment, and establishing a comprehensive complaint-handling and support mechanism. In addition, education and training should be provided to create a gender-equal and respectful school culture so as to prevent sexual harassment. Meanwhile, to help schools formulate a school-based policy on preventing sexual harassment, the Education Bureau has worked with the Equal Opportunities Commission ("EOC") to provide guidelines and arrange briefing sessions for schools to help formulate measures for eliminating and preventing sexual harassment, and develop procedures for handling such complaints, etc. Relevant information has been uploaded onto the Education Bureau's website for schools' reference.

The Education Bureau attaches great importance to the well-being and safety of children, and has all along reminded schools through various channels of the need of early identification and provision of support to students in need. The Education Bureau has stated clearly in the circular and related documents to all schools (including secondary schools, primary schools and kindergartens) the procedures on handling child abuse cases (including sexual abuse) and areas which the schools should pay attention to. Schools are advised to keep an eye on the behaviour and emotion of students for early identification of whether they have been abused or sexually abused, and take appropriate measures according to the "Procedural Guide for Handling Child Abuse Cases (Revised 2015)" issued by SWD with a view to providing necessary assistance to the child suspected of abuse.

To raise the awareness of teachers of secondary and primary schools as well as kindergartens in protection of students, the Education Bureau organizes talks and seminars annually in collaboration with SWD to advise them on early identification, intervention and support of student victims of child abuse (including sexual abuse). The Government is actively preparing to strengthen respective training for staff in schools. The Education Bureau is now jointly organizing a number of briefings with SWD and the Police scheduled for end of January to early February this year. The educational psychologists and representatives from related
departments will explain how to identify and make referrals of the suspected child abuse cases so as to strengthen teachers' ability to identify the symptoms of child abuse, raise their sensitivity and enhance their understanding of the handling procedures with a view to early identifying and intervening in child abuse cases.

Besides, to guard against the appointment of improper persons as teachers, the Education Bureau reminds schools through the Education Bureau Circular No. 16/2017 "Measures for Strengthening the Protection of Students: Appointment Matters of Schools" that they should request prospective employees to undergo Sexual Conviction Record Check at the advanced stage of the employment process for verifying the sexual conviction records as declared for protection of students' safety. At the same time, the Education Bureau also reminds schools to put in place a stringent selection process and strengthen the administrative measures on appointment and related matters. These include requiring the applicants to declare in the application forms and/or other related documents whether they have been convicted of any criminal offence in Hong Kong or elsewhere, or whether their teacher registration has been cancelled/refused, and to provide the details accordingly. In addition, schools should state clearly on the application forms and/or other related documents the dire consequences of criminal prosecution that the appointees may face for providing false information or withholding material information. Furthermore, the Education Bureau encourages schools, upon seeking the appointees' consent, to verify the documents submitted, such as to apply to the Education Bureau for releasing information regarding their registration status, check carefully the certificates of service issued by their previous employers or even consult their previous employers about their performance, etc.

(3) The Family and Child Protective Services Units ("FCPSUs") of SWD provide comprehensive services for the victims of child abuse, such as temporary residential care service and counselling service, etc. In the course of providing follow-up services, the social worker will continuously review the situation of the children and their families and provide them with necessary assistance. Apart from helping the victims of child abuse, the social worker will
provide necessary services for their families, including the perpetrators. The services include regular visits, counselling services (such as emotional management and counselling, parent-child relationship), financial assistance, and referral for psychological assessment when necessary, so as to ensure the protection of the well-being of the children. Besides, social workers of FCPSUs will arrange group counselling and developmental programmes for the affected children and their families to help them overcome the negative impact of the incidents, develop their resilience and self-confidence, and re-establish their interpersonal and family relationship.

In order to raise the awareness of the public (including children) on sexual abuse, SWD has been using different means of media to convey the message of prevention of child sexual abuse, including the production of short videos and a series of docudrama covering topics such as the risk of child sexual abuse and Internet porn trap, and launching the online short-film cum storyboard creation competition on prevention of child sexual abuse, etc.

The Government attaches great importance to students' awareness of self-protection. At present, the school curriculum covers topics related to understanding the body and protecting oneself, for example, "To Protect Our Body, Including Private Parts" and "Be Alert, Protect Ourselves", etc. The expected learning outcomes of moral and civic education curriculum also include "Learning to Protect Oneself and Strictly Resist Offensive Language and Behaviour". The Education Bureau also encourages schools to organize sex-related preventive and developmental guidance activities for students to further enhance sex education at weekly assemblies, class teacher lessons, talks or through other learning experiences to teach students how to protect their bodies, say no when they feel offended and seek help when necessary, from family members, counsellors or relevant organizations. Besides, schools are also encouraged to use the teaching resources provided by the Education Bureau, such as "Self-protection" lesson plans when providing guidance services, and strengthen related parent education.
Further, if sexual abuse occurs in a school, the Education Bureau will contact the school immediately to understand the incident and its needs, keep close contact with the school, give advice and render appropriate support, including guidance services. The school social worker/student guidance personnel will certainly follow up the concerned case. If required, the social workers who will follow up the case, clinical psychologist, child psychiatrist or teachers, etc. will attend the multidisciplinary case conference to recommend support measures and formulate a welfare plan for the concerned child, his/her siblings and caretakers. They will also arrange the clinical psychologist or child psychiatrist to provide counselling or therapy to the concerned child and his/her family as required.

To help sexually-abused students reintegrate into their school life, professional staff of schools (including school social workers, student guidance personnel and school-based educational psychologists) will provide a variety of guidance programmes as required, such as induction/adjustment programme, peer support scheme and therapeutic group work, etc. They will also work in collaboration with social workers of SWD or non-governmental organizations to help these students and their parents adapt and solve their corresponding problems.

(4) Sex education is part of values education, an integral component of the school curriculum. It is neither an independent subject nor limited narrowly to "sex" related education but interrelated with moral education, affective education, health education and life education, etc. The Hong Kong Education Department (now renamed as the Education Bureau) issued the "Guidelines on Sex Education in Schools" in 1997 for schools' reference. Since the introduction of curriculum reform in 2001, the Education Bureau has been advocating a holistic learning experience and encouraging schools to plan their curricula and other learning activities holistically and systematically for implementing values education (including sex education). Taking cultivation of students' positive values and attitudes as the direction, schools should coordinate the learning elements and learning activities in values education across different subjects for strengthening their connection, so as to provide students with holistic learning experiences conductive to their whole-person development.
Learning elements related to sex education such as personal development, hygiene, puberty, making friends, dating, marriage, protecting the body and gender equality are included in the Key Learning Areas, subjects and the curricula of moral and civic education of primary and secondary schools, and will be updated in a timely manner. Taking into consideration the Education Bureau's latest curriculum guides and documents, their mission, school-based circumstances and needs of students, schools should plan for a suitable school-based sex education curriculum professionally, and organize related learning activities such as weekly assemblies, class-teacher lessons, extra-curricular activities, talks, visits and exhibitions, etc. for the enhancement of students' understanding of the relevant areas. Social atmosphere also exerts influence on values and sex education. Therefore, the Education Bureau has produced relevant learning and teaching resources and encouraged schools to adopt life events as the main learning contents, and engage students in exploring issues like dating and falling in love, traps in making friends via mobile apps and public display of affection, etc. By establishing a meaningful connection between students' learning and their experience in personal growth, teachers can impart knowledge to students and help them develop positive values and attitudes.

The Education Bureau will meet and exchange views with stakeholders, understand how the schools implement the values education curriculum (including sex education), provide appropriate advice and listen to their views through different channels, such as school curriculum visits and external school review so as to enhance curriculum development, and learning and teaching effectiveness. Schools will also formulate their assessment policy and constantly review and improve their school-based curriculum and related contents.

To support schools in implementing sex education, the Education Bureau has been producing web-based learning and teaching resources on various subjects. For example, it has commissioned the Family Planning Association of Hong Kong to produce sex education animation resources and lesson plans, covering topics such as gender equality, prevention of sexual abuse and sexual harassment
among peers. The Education Bureau has also commissioned/invited tertiary institutions, related government departments and organizations/bodies (e.g. EOC) to co-organize courses/seminars/workshops, etc. on a range of themes such as "How to Promote Sex Education Effectively in Primary/Secondary Schools", "Mass Media, Gender Role and Gender Equality Education" and "Gender Equality Education and Prevention of Sexual Harassment and Dating Violence", etc.

Curriculum development is a continuous task and requires constant updating. The Education Bureau will keep a close eye on the comments of members of the public about the curricula, and conduct reviews and enhancement regarding sex education in a timely manner.

Annex

The statistics of the newly reported child sexual abuse cases

<table>
<thead>
<tr>
<th>Type</th>
<th>2015</th>
<th>2016</th>
<th>2017 (January to September)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of cases</td>
<td>273</td>
<td>294</td>
<td>237</td>
</tr>
</tbody>
</table>

The statistics of the occupation of the abusers of the child sexual abuse cases

<table>
<thead>
<tr>
<th>Occupation</th>
<th>2015</th>
<th>2016</th>
<th>2017 (January to September)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business/factory or company proprietor</td>
<td>2 (0.7%)</td>
<td>3 (1.0%)</td>
<td>1 (0.4%)</td>
</tr>
<tr>
<td>Professional/administrative/managerial work</td>
<td>12 (4.3%)</td>
<td>18 (6.0%)</td>
<td>7 (2.9%)</td>
</tr>
<tr>
<td>Clerical/Secretarial work</td>
<td>0 (0.0%)</td>
<td>1 (0.3%)</td>
<td>1 (0.4%)</td>
</tr>
<tr>
<td>Sales/Shop-keeper/stall owner/hawker</td>
<td>2 (0.7%)</td>
<td>3 (1.0%)</td>
<td>1 (0.4%)</td>
</tr>
<tr>
<td>Service/technical work</td>
<td>23 (8.3%)</td>
<td>21 (7.0%)</td>
<td>21 (8.7%)</td>
</tr>
<tr>
<td>Production work</td>
<td>6 (2.2%)</td>
<td>13 (4.3%)</td>
<td>11 (4.5%)</td>
</tr>
<tr>
<td>Unemployed</td>
<td>14 (5.1%)</td>
<td>6 (2.0%)</td>
<td>6 (2.5%)</td>
</tr>
</tbody>
</table>
### Electronic payment services

10. **MR KENNETH LAU** (in Chinese): *President, some members of the finance industry have relayed that financial technologies ("Fintech") are becoming new engines of economic growth. Among such technologies, electronic payment services have become the major development projects around the world. The emergence of cashless cities is no longer a fiction. However, since the issuance of the first batch of stored value facilities ("SVF") licences by the Hong Kong Monetary Authority ("HKMA") in 2016, the development of electronic payment services in Hong Kong has progressed at a slow pace. According to HKMA's information, the total value of SVF transactions in the second quarter of 2017 was HK$31.8 billion, representing an increase of only $2.1 billion and a rate of increase of only 7% over that of $29.7 billion in the fourth quarter of the year before. Such members have also pointed out that although a number of mobile payment services are currently available on the market (e.g. TNG Wallet, Alipay, Apple Pay), quite a number of Hong Kong people are hesitant to use newly emerged electronic payment services. A Report on the Applications and Security of 10 Mobile Payment Services released by the Consumer Council last year also indicated that some mobile payment service providers had retained the particulars of their clients for as long as seven years, which has aroused concerns about the protection of consumers' privacy. In this connection, will the Government inform this Council:

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Year</th>
<th>2015</th>
<th>2016</th>
<th>2017 (January to September)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homemaker</td>
<td></td>
<td>2(0.7%)</td>
<td>2(0.7%)</td>
<td>2(0.8%)</td>
</tr>
<tr>
<td>Student#</td>
<td></td>
<td>68(24.6%)</td>
<td>83(27.8%)</td>
<td>64(26.4%)</td>
</tr>
<tr>
<td>Retired</td>
<td></td>
<td>6(2.2%)</td>
<td>2(0.7%)</td>
<td>3(1.2%)</td>
</tr>
<tr>
<td>Unknown</td>
<td></td>
<td>129(46.7%)</td>
<td>127(42.5%)</td>
<td>119(49.2%)</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td>12(4.3%)</td>
<td>20(6.7%)</td>
<td>6(2.5%)</td>
</tr>
<tr>
<td>Total*</td>
<td></td>
<td>276(100%)</td>
<td>299(100%)</td>
<td>242(100%)</td>
</tr>
</tbody>
</table>

Notes:

* The number of abusers of the child sexual abuse cases and the number of cases are not the same because one abuser may abuse more than one child and a child may be abused by more than one abuser.

# The abuser is a school-attending person, e.g. the more senior student in the same school of the child who is sexually abused.
(1) as the Government has indicated in the Policy Agenda published in October last year that the Government will set up an interdepartmental platform to promote e-commerce and proactively encourage the development of mobile payment channels, apart from HKMA’s efforts in establishing a Faster Payment System, how the Government will further promote the development of electronic payment services;

(2) given that Singapore has taken a step towards building a cashless city by launching in July last year an inter-bank fund transfer service named PayNow, under which payers can transfer funds through mobile phones simply by inputting the identity card numbers or the mobile phone numbers of the payees, whether the Government has drawn reference from the experience of various places around the world in developing electronic payment services, including local and cross-boundary electronic payment services, so as to formulate a work plan for the development of such services in Hong Kong; and

(3) how the Government currently regulates the electronic payment services provided by the operators concerned to ensure that such services comply with the requirements under the Personal Data (Privacy) Ordinance (Cap. 486); how HKMA and relevant organizations such as the Office of the Privacy Commissioner for Personal Data will cooperate to ensure that electronic payment services can provide convenience to consumers’ lives on the one hand, and fully protect their privacy on the other?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, Hong Kong has a well-developed and mature electronic payment ecosystem. Various electronic payment means, including conventional and contactless credit cards, Octopus and EPS, have long been available and are widely adopted by the public for making payments. Electronic payment now accounts for about 60% of total private consumption expenditure.

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

(1) To promote wider adoption of mobile retail payments as well as provide greater convenience to both merchants and customers, the Hong Kong Monetary Authority ("HKMA") and the industry have established a working group on common QR code standard for retail
payments to explore how to enable merchants to use a single QR code to accept payments from different Stored Value Facilities ("SVFs"). The working group has completed the technical standard setting, and will sort out the implementation details.

To facilitate the development of the SVF market, the Financial Services and the Treasury Bureau is exploring with a number of government departments on a pilot scheme under which the public can pay government bills by scanning the barcodes on the bills and make payments through the e-wallet applications on mobile phones anytime and anywhere.

Regarding payments for public transport, the Transport Department ("TD") issued "Guidelines on the introduction of a new electronic payment system for the collection of fares in the public transport sector" in June last year. TD will continue to facilitate public transport operators' plans in introducing new electronic payment systems for public transport fare collection, having regard to the systems' reliability, user-friendliness and efficiency. TD is also providing "stop-and-go" electronic payment facilities at the manual toll booths of government tolled tunnels and roads in Hong Kong progressively, providing motorists with an additional and convenient payment means for tunnel tolls.

TD will progressively install a new generation of parking meters from 2019-2020. The new parking meters will support payment of parking fees through multiple means, such as contactless stored value cards, contactless credit cards and e-wallets on mobile phones. TD also recommends that the new parking meter system should include a "parking meter mobile application" to facilitate remote payment by motorists through the use of mobile phones.

(2) HKMA has been keeping an eye on the development of electronic payment around the world and has introduced different measures and systems to facilitate the development of electronic payment in Hong Kong. For example, the introduction of Stored Value Facility Licensing and Faster Payment System ("FPS") in recent years is among the forefront in the world in terms of their functionality and protection to users.
FPS is scheduled for launch in September 2018. FPS provides full connectivity between banks and SVF operators to facilitate retail payments among personal and corporate customers. FPS will operate on a round-the-clock basis and support real-time payments. Funds transfers or payments to customers of different banks or SVFs can be made anytime and anywhere through using mobile phone numbers or email addresses.

(3) HKMA supervises the SVF licensees in accordance with the Payment Systems and Stored Value Facilities Ordinance to ensure that their operations are conducted in a safe and sound manner. In respect of personal data and privacy protection, SVF licensees are required to put in place robust information security measures and to comply with the Personal Data (Privacy) Ordinance as well as any relevant guidelines issued by the Office of the Privacy Commissioner for Personal Data ("PCPD") to ensure that their customers' personal information are handled in a proper manner. In its supervision, HKMA also reminds the SVF licensees from time to time to communicate with PCPD should they have any question about the implementation of the Ordinance and relevant guidelines.

In addition, banks are required to comply with the relevant guidelines of HKMA, including the "Risk Management of E-banking" module in the Supervisory Policy Manual when they launch mobile payment services. These guidelines seek to ensure adequate risk management and security measures, striking an appropriate balance between facilitating the development of mobile payment services and customer protection. Further, HKMA requires that banks' mobile payment services should conform to other requirements including the Personal Data (Privacy) Ordinance. The Code of Banking Practice issued by the banking industry associations has also listed principles on protection of personal data and privacy.

Project delay of the Tuen Mun-Chek Lap Kok Link

11. **MR JEREMY TAM** (in Chinese): President, it has been reported that the Hong Kong-Zhuhai-Macao Bridge ("HZMB") is expected to be commissioned in the second quarter of this year. However, due to construction difficulties, the Tuen Mun-Chek Lap Kok Link ("TM-CLKL") cannot be completed on schedule
within this year in tandem with the commissioning of HZMB. The project is anticipated to be completed in 2020 at the earliest. The Lantau Link (comprising the Tsing Ma Bridge, the Ma Wan Viaduct and the Kap Shui Mun Bridge), which is currently the only vehicular access to the Lantau Island, will have to bear the additional vehicular flow brought by the commissioning of HZMB in the coming years, and traffic congestion is expected to deteriorate. It has also been reported that some of the steel cells of the steel cellular seawalls on the artificial island for HZMB Hong Kong Boundary Crossing Facilities have recently settled at an unusually quick pace, and that they may break the subsea tunnel of TM-CLKL underneath the steel cells in a worst-case scenario. In this connection, will the Government inform this Council:

(1) of the design capacity of the Tsing Ma Bridge;

(2) of the respective average hourly (i) traffic volumes and (ii) volume/capacity ratios of the Tsing Ma Bridge during the morning peak hours (eastbound), the morning peak hours (westbound), the evening peak hours (eastbound) and the evening peak hours (westbound) in the past three years (set out in a table);

(3) of the respective average hourly (i) traffic volumes and (ii) volume/capacity ratios of the Tsing Ma Bridge during the morning peak hours (eastbound), the morning peak hours (westbound), the evening peak hours (eastbound) and the evening peak hours (westbound) during the period between the commissioning of HZMB and that of TM-CLKL, as estimated by the Government (set out in a table); and

(4) whether it has assessed if the aforesaid settlement problem will further delay the completion of the TM-CLKL project; if so, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, regarding the commissioning date of the Hong Kong-Zhuhai-Macao Bridge ("HZMB"), the Governments of the three places are currently striving to improve the clearance conditions of the boundary crossing facilities. The commissioning date of HZMB will be reported to the Central Authorities and will be announced once confirmed. In respect of the Tuen Mun-Chek Lap Kok Link
("TM-CLKL") (see Annex 1 for its alignment), as stated in the press release issued by the Highways Department ("HyD") in March 2017, the Southern Connection could be completed in the first half of 2019 at the earliest; while the Northern Connection in 2020 the earliest.

(1) and (2)

The design capacities of the eastbound and westbound of the Tsing Ma Bridge are both about 4,700 vehicles per hour. The hourly traffic volumes and volume/capacity ("v/c") ratios of the Tsing Ma Bridge (eastbound and westbound) during the morning and the evening peak hours on weekdays from 2014 to 2016, based on information from the Transport Department ("TD"), are set out respectively in Annex 2. As the traffic statistics of 2017 are still being consolidated by TD, the traffic volumes and v/c ratios of the Tsing Ma Bridge of 2017 are not yet available.

(3) When TM-CLKL was planned, it was already anticipated that its Northern Connection would only be completed two years after the commissioning of HZMB. Based on the traffic forecast at that time, in the scenario without TM-CLKL, the projected v/c ratios of the Lantau Link (both eastbound and westbound) during the morning peak hours in 2021 (see Annex 3) showed that the traffic conditions would be acceptable. Thus, we believe that the Lantau Link will not be congested during the period when HZMB has been commissioned but TM-CLKL has not yet opened. In any case, the Government will pay heed to the traffic condition upon the commissioning of HZMB and take appropriate measures to ensure smooth traffic.

(4) It has been reported earlier that the steel cells at the artificial island for the HZMB Hong Kong Boundary Crossing Facilities ("HKBCF") have settled unusually, and might even affect the subsea tunnel of TM-CLKL underneath the steel cells. In response to such speculation, HyD stated that the reclaimed land of the artificial island for the HZMB HKBCF had not shown any unusual settlement. The steel cells referred to in the media reports are temporary structures needed during the construction stage of the seawalls and reclamation. Normally, the settlement rate of steel cells is faster
when the seawalls are being constructed and when the reclamation works are in progress. Upon the completion of the seawalls and the reclamation works, the settlement rate will slow down. According to the assessment by the consulting engineer for the HKBCF artificial island reclamation works, the settlement of both the permanent seawalls and reclaimed land meets the settlement standard, i.e. with residual settlement of 500 mm in 50 years after the completion of the reclamation works.

To tie in with the designed alignment of TM-CLKL subsea tunnel, in the course of devising the design for the HKBCF artificial island reclamation works, the consulting engineer adopted for the two steel cells (which are used for building the seawalls above the tunnel) an arrangement different from the other steel cells. Unlike the other 83 steel cells which rest their bottoms in the alluvium, these two steel cells have to rest their bottoms at the shallower marine mud, where stone columns have been installed. This arrangement is to maintain a safe distance of at least 5 m away from the tunnel, so that the TM-CLKL Subsea Tunnel boring machines can enter the HKBCF artificial island from underneath the steel cells. Consulting engineer of the HKBCF artificial island reclamation works has anticipated that the settlement of these two steel cells will be larger than the remaining 83 steel cells during and after the reclamation works. The consulting engineer has also confirmed that the current settlement of the steel cells would not affect the structure and safety of the permanent seawall.

The consulting engineer for the HKBCF artificial island reclamation works has also conducted a detailed analysis on the settlement rate and condition of the two steel cells. Based on the findings of the analysis, the consulting engineer for TM-CLKL is of the view that the settlement of the two steel cells will not affect the structure and safety of the subsea tunnel of TM-CLKL. Also, the consulting engineer for the HKBCF artificial island reclamation works has further reviewed all steel cells, and no unusual settlement has been found for any of the steel cells.

As mentioned above, based on the present condition, HyD anticipates that the TM-CLKL Northern Connection can be completed in 2020 at the earliest.
屯門至赤鱲角連接路
Tuen Mun – Chek Lap Kok Link

香港口岸
Hong Kong Boundary Crossing Facilities

香港國際機場
Hong Kong International Airport

東涌
Tung Chung

屯門
Tuen Mun

收費廣場
Toll Plaza

隧道北面出入口
Northern Landfall

圖例
Legend

隧道
Tunnel

高架道
Viaduct

擬建屯門西繞道
Proposed Tuen Mun Western Bypass

海底隧道
Sub-sea Tunnel

屯門至赤鱲角連接路
Tuen Mun – Chek Lap Kok Link

屯門至赤鱲角連接路之前期填海工程
（正由工務計劃項目846TH號進行）
Advanced reclamation works of Tuen Mun–Chek Lap Kok Link
(being carried out under PWP Item No. 846TH)
Annex 2

Hourly traffic volumes and v/c ratios of the Tsing Ma Bridge (eastbound and westbound) during morning and evening peak hours on weekdays between 2014 and 2016

<table>
<thead>
<tr>
<th>Year</th>
<th>Peak hours(^{(1)})</th>
<th>Traffic volume (Number of vehicles per hour)</th>
<th>V/C ratio(^{(2)})</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>Morning (eastbound)</td>
<td>1 880</td>
<td>0.4</td>
</tr>
<tr>
<td></td>
<td>Morning (westbound)</td>
<td>2 990</td>
<td>0.6</td>
</tr>
<tr>
<td></td>
<td>Evening (eastbound)</td>
<td>3 050</td>
<td>0.6</td>
</tr>
<tr>
<td></td>
<td>Evening (westbound)</td>
<td>2 140</td>
<td>0.5</td>
</tr>
<tr>
<td>2015</td>
<td>Morning (eastbound)</td>
<td>2 030</td>
<td>0.4</td>
</tr>
<tr>
<td></td>
<td>Morning (westbound)</td>
<td>3 270</td>
<td>0.7</td>
</tr>
<tr>
<td></td>
<td>Evening (eastbound)</td>
<td>3 320</td>
<td>0.7</td>
</tr>
<tr>
<td></td>
<td>Evening (westbound)</td>
<td>2 220</td>
<td>0.5</td>
</tr>
<tr>
<td>2016</td>
<td>Morning (eastbound)</td>
<td>2 090</td>
<td>0.4</td>
</tr>
<tr>
<td></td>
<td>Morning (westbound)</td>
<td>3 750</td>
<td>0.8</td>
</tr>
<tr>
<td></td>
<td>Evening (eastbound)</td>
<td>3 500</td>
<td>0.8</td>
</tr>
<tr>
<td></td>
<td>Evening (westbound)</td>
<td>2 360</td>
<td>0.5</td>
</tr>
</tbody>
</table>

Notes:

(1) The morning peak hours refer to 7:00 am to 10:00 am; the evening peak hours refer to 4:00 pm to 7:00 pm (Monday to Friday, excluding public holidays).

(2) V/C ratio is an indication of the traffic conditions of roads during peak hours. A v/c ratio equals to or less than 1.0 is considered acceptable. A v/c ratio between 1.0 and 1.2 indicates a manageable degree of congestion. A v/c ratio above 1.2 indicates more serious congestion.

Annex 3

V/C ratio of the Lantau Link during morning peak hours (eastbound and westbound) in 2021 in the scenario without TM-CLKL

<table>
<thead>
<tr>
<th>Year</th>
<th>Peak hour</th>
<th>V/C ratio(^{note})</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Morning (eastbound)</td>
<td>0.75</td>
</tr>
<tr>
<td></td>
<td>Morning (westbound)</td>
<td>0.90</td>
</tr>
</tbody>
</table>

Note:

V/C ratio is an indication of the traffic conditions of roads during peak hours. A v/c ratio equals to or less than 1.0 is considered acceptable. A v/c ratio between 1.0 and 1.2 indicates a manageable degree of congestion. A v/c ratio above 1.2 indicates more serious congestion.
Combating malpractices of financial intermediaries and regulating the trade

12. **MR CHAN CHUN-YING** (in Chinese): President, to combat the malpractices of financial intermediaries ("intermediaries"), the Government implemented in 2016 measures in four major areas, namely enhancement of law enforcement, enhancement of public education and publicity, enhancement of advisory services to the public, and the imposition of more stringent licensing conditions on money lender licences. On the other hand, some intermediaries' persons-in-charge have relayed to me that the varying quality of the practitioners in the trade has cast a negative image of the trade among members of the public and resulted in an ever-shrinking room for survival for the trade. They therefore hope that the Government will introduce a licensing system for intermediaries to separate the wheat from the chaff, with a view to regaining public confidence in intermediaries. In this connection, will the Government inform this Council:

(1) (i) of the number of complaints involving unscrupulous intermediaries received by the Government since the implementation of the aforesaid measures and, among them, the number and details of those with contraventions substantiated and the penalties imposed on the offenders;

(ii) whether the Licensing Office of the Hong Kong Police Force has, since the implementation of the aforesaid measures, initiated investigations into cases of money lenders suspected of having breached the licensing conditions; if so, of the number of such cases and, among them, the number and details of those found substantiated as well as the penalties imposed on the persons concerned; and

(iii) whether the Police and the Companies Registry have held exchange meetings with the Hong Kong Monetary Authority and other financial regulators in respect of the business operations of money lenders and intermediaries; if so, whether such meetings are held regularly; if not, of the reasons for that;

(2) as the Government indicated earlier on that it would conduct a review on the aforesaid measures in the third quarter of last year, whether the review has been completed; if so, of the outcome; if not, the expected completion date; and
(3) whether the Government will consider enacting legislation to introduce a licensing system for intermediaries; if so, of the details and the implementation timetable; if not, the reasons for that?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, to address public concerns that some fraudsters claiming themselves to be financial intermediaries use deceptive tactics to induce borrowers to engage them for arranging loans from money lenders and charge the borrowers high fees under different pretexts, the Government implemented in 2016 a four-pronged approach to tackle these malpractices, viz. imposition of more stringent licensing conditions on money lender licences, enhanced enforcement, enhanced public education and publicity, and enhanced advisory services to the public. In particular, the more stringent licensing conditions which took effect on 1 December 2016 require all money lenders to undertake due diligence checks before entering into a loan agreement with a borrower to ensure that, where a third party is involved in the process, that third party is an appointed intermediary of the money lender and does not charge the borrower any fees; ensure better protection of privacy; enhance transparency and disclosure; and remind the public of prudent borrowing.

Our consolidated reply to the question raised by Mr CHAN Chun-ying is set out below:

According to the Security Bureau, the Police has all along been concerned about crimes arising from money lending activities, especially those involving malpractices of financial intermediaries. Since the implementation of the above mentioned measures, the number of reports relating to financial intermediaries received by the Police significantly dropped from 597 in 2016 to 144 in 2017. Among the reports received in 2017, 82 involved criminal elements. The Police also took enforcement action and arrested a total of 196 persons in 2017 for the offences of "conspiracy to defraud", etc. Most of these cases are under investigation.

In November 2017, the District Court delivered its judgment on a fraud case involving financial intermediaries which took place in 2016. The nine defendants of the case lured victims into applying for loans and charged exorbitant consultant fees. The persons involved were subsequently arrested by the Police, and sentenced to four to six years' imprisonment for the offences of
"conspiracy to defraud" and "conspiracy to money laundering". The District Court will also hear three other cases involving financial intermediaries in March 2018.

The Police will launch investigation upon receipt of reports or complaints involving money-lending companies, and will, in light of the circumstances of individual cases, institute prosecution or serve summons or warning letters based on the evidence and pursuant to the law. The Police will also consider applying to the licensing court for revocation or suspension of the money lender's licence concerned, or consider raising objection to the licensing court when examining the licence renewal application of the money lender concerned.

At the same time, since the imposition of the more stringent licensing conditions, the Companies Registry ("CR") has been conducting site inspections on money lenders and monitoring advertisements by money lenders to ensure their compliance with the new requirements. For cases where non-compliance was identified, CR has taken prompt follow-up actions which included issuing advisory letters and warning letters as well as arranging follow-up site inspections, etc. Depending on the severity of the non-compliance, CR will also consider making an objection to the Licensing Court upon application for licence renewal by the money lender concerned.

The Police and CR hold regular liaison meetings to exchange information on enforcement efforts against money lenders and unscrupulous intermediaries and communicate on the malpractices by money lenders and intermediaries.

We have completed a review of the effectiveness of the four-pronged approach, and will report to the Legislative Council Panel on Financial Affairs on the outcome of the review on 5 February. Details of the review outcome are set out in the discussion paper CB(1)530/17-18(05).

The more stringent licensing conditions mentioned above require money lenders to report their appointment of intermediaries to CR for inclusion in the Register of Money Lenders for public inspection. In fact, as at 31 December 2017, the list of appointed intermediaries on CR's website has already been downloaded for almost 140 000 times. Considering that members of the public can now check the list of appointed intermediaries to verify the identity of an intermediary and, if a loan application involves intermediary that is not on the list
the money lender is not allowed to grant a loan, coupled with the other measures, we are of the view that there is currently no need to introduce a licensing regime for intermediaries.

Provision of residential facilities by the Hong Kong Science and Technology Parks Corporation

13. **MR JIMMY NG** (in Chinese): President, the Chief Executive of the last term announced in the Policy Address, which he delivered in January last year, that to further foster the development of the innovation and technology ecosystem in Hong Kong, the Government supported the construction by the Hong Kong Science and Technology Parks Corporation ("HKSTPC") of an "InnoCell" adjacent to the Hong Kong Science Park ("HKSP") to provide 500 residential units with flexible design and such facilities as shared working spaces for leasing to the persons-in-charge of the tenants/incumbent in HKSP, as well as their overseas or Mainland employees and visiting scientists/researchers. In addition, the Government anticipates that the monthly rental of a furnished InnoCell unit in 2020 will be in the range of $8,000 to $10,000, which is about 60% of the market rent of the properties of similar quality in nearby areas. In this connection, will the Government inform this Council if it knows:

(1) given that while the InnoCell will provide 500 residential units upon commissioning in 2020, it has been projected in a relevant consultancy study that the demand for such residential units will be around 580 units in 2020-2021, representing a shortfall of 80 residential units, whether HKSTPC has plans to provide more such residential facilities; if HKSTPC does, of the details; if not, the reasons for that;

(2) as local employees do not meet the preliminary criteria proposed by HKSTPC for admission to the InnoCell, whether HKSTPC will consider providing residential facilities for local talents in the Park; if HKSTPC will, of the details; if not, the reasons for that;

(3) as the findings of the study conducted by the consultant concerned have shown that the InnoCell is estimated to generate a direct value added of around $110 million, as well as an indirect and induced value added of $56 million per year (at 2014 prices), the methods and assumptions adopted by the consultant for computing such amounts; and
(4) the mechanism and criteria based on which HKSTPC determines (i) the rental level at the time of launch of the InnoCell units and (ii) the rate of rental adjustment in future?

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Chinese):
President, the missions of the Hong Kong Science and Technology Parks Corporation ("HKSTPC") are to develop suitable premises, manage and control the land and other facilities to support technology-based companies and related activities; to facilitate the research and development and application of technologies in the manufacturing and service industries in Hong Kong; and to support the development, transfer and use of new or advanced technologies in Hong Kong. The InnoCell project is an important new infrastructure of the Hong Kong Science Park ("HKSP") to help foster the development of the Innovation and Technology ("I&T") ecosystem in Hong Kong.

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

(1) During the early planning stage of the InnoCell, HKSTPC commissioned a consultant to conduct a market survey, inquiring of Science Park tenants and stakeholders of the I&T industry about their demand for accommodation. The survey revealed that there was a strong demand in affordable accommodation in the vicinity of HKSP. Based on the findings of the survey, it was projected that the relevant demand would be around 580 units in 2020-2021.

Taking into account the size and the height restriction of the site for developing the InnoCell, the InnoCell can provide a maximum of 500 units. As these units have great flexibility and the rental periods range from short- to medium- term, it is considered that 500 units can cope with the demand. HKSTPC will continue reviewing the demand.

(2) The target tenants of the InnoCell are mainly principals of tenants/incubatees in HKSP; Mainland/overseas employees of tenants/incubatees; and visiting scientists/researchers from the Mainland or overseas.
Based on a preliminary estimate, tenants from the Mainland and overseas will account for about half of the total tenants in the InnoCell. Local I&T talents can also be admitted as tenants of the InnoCell if they fulfil the admission criteria and pass the score-based assessment.

The aforesaid mix of tenant groups in the InnoCell is only a preliminary estimate. HKSTPC will maintain close communication with the tenants and incubees of HKSP to understand their need and opinion, and adjust the mix of tenant groups, admission criteria and scoring system correspondingly as appropriate.

(3) The consultancy study's Direct Gross Value Added ("GVA") is the result by multiplying the estimated direct employment by the "GVA per employee" for various industries published by the Census and Statistics Department. The calculation is as follows: the InnoCell will create 200 new direct employments\(^{(1)}\), and GVA per employee in the I&T industry in 2014 is approximately $470,000 annually; at the same time the InnoCell will create 100 supporting staff\(^{(2)}\), and GVA per employee in the accommodation and food services sector in 2014 is approximately $255,000 annually. The sum of the two (200×470,000+100×255,000) is the direct GVA of $110 million per year.

Indirect and induced value added refers to other related expenditures (for example, for purchasing goods and utilizing transportation, professional, financial and other services) by tenants and visitors attracted to or retained at HKSP due to the InnoCell.

(1) "Direct employment opportunities" refers to new tenants or employees that are attracted to HKSP due to the development of the InnoCell. They may include new incubatees/overseas or Mainland employees/visitors of the existing tenants.

(2) Based on the ratio of 1 (units): 0.2 (supporting staff), the consultant estimated that the InnoCell needs 100 supporting staff. They can be classified into three categories: (1) Administrative staff (for example, managing staff, officers responsible for marketing and event organizing, etc.); (2) Technical staff (for example, electrical and mechanical engineers, repairing staff, etc.); and (3) staff responsible for daily operation (for example, customer service, room attendants, security staff, etc.). As the InnoCell will operate 24/7, HKSTPC will need to arrange its manpower based on a roster system. Based on a preliminary estimation, among these 100 supporting staff, 20% to 30% of them are substitute staff. HKSTPC is studying carefully the operating mode of the InnoCell, including the details of manpower arrangement.
The consultant, with reference to the reasonable multiplier provided in the "Economic Benefits Analysis Study for Stage 1 of the Science Park Expansion Programme", estimated that the indirect value added is approximately 33% of the direct value added, while the induced value added is approximately 16% of the direct value added.

(4) Our objective is to set the rental level of the InnoCell at around 60% of the market rent of properties of similar quality in the nearby areas. When setting the rental of the InnoCell, HKSTPC will make reference to the prevailing market situation, the rental level of properties of similar quality in the nearby areas as well as the affordability of the applicants and their companies, and will review the rental level according to changes in these factors from time to time. We will take into account the income level and affordability of small- and medium-sized enterprises, start-ups and incubatees, and may charge them lower rental.

At present, the monthly rental of a flat of similar quality with a saleable floor area of about 250 square feet ("sq ft") is about $10,000(3), and is expected to reach about $12,000 on average by 2021 (excluding utilities and management fees). For a furnished unit in the InnoCell (including management fees, furniture, rates, water and electricity as well as fees for using common facilities), the monthly rental is expected to be set at about $8,000 to $10,000 on average in 2021.

The InnoCell, apart from being furnished, will adopt "Smart Home" products developed in HKSP as appropriate and will also provide other common facilities as well as shared working space to facilitate tenants' interaction and collaboration, thereby creating an atmosphere favourable to the development of I&T. These would make the facility a preferred choice for I&T talents. In addition, the proposed rent is considered reasonable and competitive for premises with dual functions both as working space and short- to medium-term accommodation. Its proximity to HKSP, the shared facilities available and synergy with the technology community are add-on and unique benefits.

(3) At present, the rental level per sq ft (in saleable floor area) of an unfurnished residential unit in Tai Po and Sha Tin is $32 to $45 (excluding utilities and management fees). The average market rent of a unit of about 250 sq ft is about $10,000, i.e. (32+45)/2×250.
Complaint handling mechanism of the Medical Council of Hong Kong

14. **MS ALICE MAK** (in Chinese): President, at present, the Medical Council of Hong Kong ("MCHK") is responsible for handling complaints about the professional conduct of registered medical practitioners in Hong Kong. The mechanism for handling such complaints is as follows: (1) initial consideration by the chairman and the deputy chairman of the Preliminary Investigation Committee ("PIC") in consultation with a lay member of that committee to decide whether the complaint is groundless, frivolous or not pursuable, or that it should be referred to PIC for full consideration, (2) PIC to decide whether there is a prima-facie case such that the complaint should be referred to MCHK for an inquiry, and (3) MCHK to conduct an inquiry. In this connection, will the Government inform this Council:

(1) whether the aforesaid mechanism has specified:

(i) the circumstances under which the chairman and the deputy chairman of PIC are required to seek assistance from external experts; whether channels are currently available for the complainants to gain access to or knowledge of the views and opinions submitted by such experts; if so, of the details; if not, the reasons for that;

(ii) the matters to be considered and the procedure to be followed by PIC when deciding whether to refer a case to MCHK for an inquiry; if so, of the details;

(iii) that the defendant must submit to PIC a written explanation for or testimony of his conduct or of any matter alleged in the complaint, and the circumstances under which the complainant may have access to such explanation or testimony;

(2) given that under the existing legislation, if PIC decides that no inquiry is to be held in respect of a case, the complainant does not have any right of access to any information or document relating to the case submitted to PIC by any other person, resulting in the complainant having no way of knowing all of the information relating to the decision, and thus having difficulty in deciding whether to continue to pursue the complaint, whether the authorities
will consider reviewing that provision, with a view to enhancing the transparency of the complaint handling mechanism and strengthening the protection of the rights of complainants; and

(3) whether it knows the number of cases in which complainants applied to MCHK in the past five years for access to the information or documents relating to their cases after an inquiry by MCHK was completed; and among them, the respective numbers of applications approved and rejected; of the criteria adopted by MCHK for deciding whether or not to grant approval?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Medical Council of Hong Kong ("MCHK") handles complaints related to doctors in accordance with the procedures stipulated in the Medical Registration Ordinance (Cap. 161) and the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161E) ("the Regulation").

Currently, upon receipt of a complaint, the chairman or deputy chairman of the Preliminary Investigation Committee ("PIC") under MCHK will decide on whether the complaint should be referred to PIC for consideration. If it is considered that the complaint is frivolous or groundless and should not proceed further, the PIC chairman and deputy chairman will, in consultation with a lay member of PIC, decide whether to dismiss the case.

My reply to the three parts of the question raised by Ms Alice MAK is as follows:

(1) When considering a complaint, the PIC chairman or deputy chairman and PIC may seek assistance and advice from external experts to facilitate their consideration. Generally speaking, if the case is related to medical treatment, the PIC chairman or deputy chairman will seek expert assistance and advice to facilitate their consideration as and when necessary. Depending on the nature, type and complexity of each complaint, the PIC chairman or deputy chairman will seek the views of different independent experts or even legal advice in order to determine, in an objective, fair and impartial manner, whether or not the case is frivolous or groundless and should not proceed further. PIC may seek further expert advice if needed.
For a case which should be referred to PIC for consideration, the PIC chairman or deputy chairman shall direct the Secretary to fix a date upon which PIC is proposed to meet to consider the case. The Secretary shall invite the defendant doctor to submit to PIC in writing any explanation of his/her conduct or of any matter alleged in the complaint. PIC will, having considered any written explanation submitted by the doctor involved and all the materials put before it by the Secretary (including the complaint received, medical reports and expert reports), decide whether or not the complaint should be referred to MCHK for an inquiry.

As prescribed by section 12(2) of the Regulation, if PIC decides that no inquiry is to be held, neither the complainant nor the defendant has any right of access to any information or documents (including the expert advice and written explanation or testimony of the defendant doctor) relating to the case submitted to PIC by any other person. To ensure compliance with section 12(2) of the Regulation, PIC will not provide the complainant with any of the above information or documents before deciding whether to refer the case to MCHK for an inquiry.

If the PIC chairman and deputy chairman decide in consultation with the lay member of PIC, or PIC decides upon detailed consideration of the case that the case should be dismissed and no inquiry should be held, the Secretary will inform the complainant and the defendant doctor of the decision in writing. The Secretary will also inform the complainant of the reasons and justifications for the decision.

(2) To enhance the transparency of the complaint handling mechanism of MCHK, the Government proposes in the Medical Registration (Amendment) Bill 2017 that the restriction on disclosing relevant documents to any other person by PIC under section 12(2) of the Regulation be lifted.

(3) The number of cases in which complainants applied to MCHK for access to the information or documents relating to their cases after the completion of inquiries by MCHK and the number of applications approved in the past five years (from 2013 to 2017) are set out in the Annex.
When considering whether to disclose to the complainant any information or documents relating to the complaint, MCHK, apart from complying with section 12(2) of the Regulation, will also consider whether the disclosure is fair to both the complainant and the defendant doctor.

Annex

Number of cases in which complainants applied to MCHK for access to the information or documents relating to their cases after the completion of inquiries by MCHK (from 2013 to 2017)

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
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<tr>
<td>Number of applications</td>
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<td>0</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Number of applications approved</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Number of application rejected</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Unauthorized display of items in country parks

15. **MR CHAN HAK-KAN** (in Chinese): President, it has been reported that in recent years, there have been from time to time people displaying large vertical banners on prominent cliff faces within country parks to express their appeals. As a result, the authorities have to deploy public money and manpower to remove such items. For example, in December last year, a huge vertical banner measuring 25 metres tall and 3 metres wide was displayed on the cliff face of the Lion Rock within the Lion Rock Country Park. It took about one hour for three firemen to reach the hilltop by a helicopter of the Government Flying Service and abseil down the cliff face to remove the vertical banner. In this connection, will the Government inform this Council:

(1) of the number of reports on unauthorized display of items such as vertical banners within country parks received by the authorities in each of the past three years; in respect of the operations to remove the items in each case, (i) the government departments and equipment involved, (ii) the manpower deployed, (iii) the time spent, (iii) the amount of public expenditure incurred, and (v) whether any staff member was injured during the operation; and
(2) given that section 10 of the Country Parks and Special Areas Regulations (Cap. 208 sub. leg. A) provides that no person shall, within a country park or special area except in accordance with a permit in writing granted by the Country and Marine Parks Authority, display any sign, notice, poster, banner or advertisement, whether the authorities, in the past three years, (i) invoked the provision to institute prosecution against those persons who displayed items within country parks, and (ii) recovered from them the public expenditure incurred in removing such items; if so, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, reply to the questions by Mr CHAN is as follows:

(1) According to records of the Agriculture, Fisheries and Conservation Department ("AFCD"), there were three (2015), four (2016) and three (2017) cases of illegal display of banners in country parks in the past three years. For cases which were located in difficult terrains, joint operation might have been carried out by various government departments, including the Fire Services Department ("FSD"), Government Flying Service ("GFS"), Hong Kong Police Force ("HKPF") and AFCD to remove the concerned banners. Information of the concerned cases such as the number of officers involved, equipment required, duration of operation and cost is set out in the Annex.

(2) According to the Country Parks and Special Areas Regulations, Cap. 208A ("the Regulation"), it is an offence to display any sign, notice, poster, banner and advertisement in country parks or special areas without a permit granted by the Country and Marine Parks Authority. Contravention of the relevant regulations is liable to a maximum fine of $2,000 and imprisonment for three months. AFCD will carry out investigation and prosecute the offender under the Regulation if there is sufficient evidence. For the 10 cases mentioned above, no suspect could be identified in those cases of illegal display of banners, and so no further action could be taken.
## Handling of illegal display of banners in country parks (2015-2017)

<table>
<thead>
<tr>
<th>Date and Location</th>
<th>Department</th>
<th>Number of officers involved</th>
<th>Equipment required</th>
<th>Duration of operation (Hours)</th>
<th>Cost ($)</th>
<th>Any staff member was injured during the operation</th>
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</thead>
<tbody>
<tr>
<td>3 January 2015</td>
<td>AFCD</td>
<td>6</td>
<td>Nil</td>
<td>about 6 hours</td>
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<tr>
<td>Lion Rock Country Park</td>
<td>FSD</td>
<td>10</td>
<td>2 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 3.5 hours</td>
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<td></td>
<td>GFS</td>
<td>8</td>
<td>2 helicopters</td>
<td>about 1.9 hours</td>
<td>62,757*</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>HKPF</td>
<td>4</td>
<td>Nil</td>
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<td>No</td>
</tr>
<tr>
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<td>10</td>
<td>2 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 4.5 hours</td>
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<td>No</td>
</tr>
<tr>
<td>Sai Kung East Country Park</td>
<td>GFS</td>
<td>10</td>
<td>3 helicopters</td>
<td>about 3.3 hours</td>
<td>105,546*</td>
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</tr>
<tr>
<td></td>
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<td>3</td>
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<td>Department</td>
<td>Number of officers involved</td>
<td>Equipment required</td>
<td>Duration of operation (Hours)</td>
<td>Cost ($)</td>
<td>Any staff member was injured during the operation</td>
</tr>
<tr>
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<td>----------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>22 February 2015</td>
<td>AFCD</td>
<td>3</td>
<td>Nil</td>
<td>about 8 hours</td>
<td>#</td>
<td>No</td>
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<td>21</td>
<td>5 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 4.8 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>GFS</td>
<td>12</td>
<td>3 helicopters</td>
<td>about 1.9 hours</td>
<td>62,757*</td>
<td>No</td>
</tr>
<tr>
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<td>No</td>
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<td>17 May 2016</td>
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<td>Nil</td>
<td>about 5 hours</td>
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<td>No</td>
</tr>
<tr>
<td>Lion Rock Country Park</td>
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<td>2 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 2.5 hours</td>
<td>#</td>
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</tr>
<tr>
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<td>GFS</td>
<td>6</td>
<td>3 helicopters</td>
<td>about 4.2 hours</td>
<td>59,892*</td>
<td>No</td>
</tr>
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<td>Nil</td>
<td>about 3 hours</td>
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<td>Department</td>
<td>Number of officers involved</td>
<td>Equipment required</td>
<td>Duration of operation (Hours)</td>
<td>Cost ($)</td>
<td>Any staff member was injured during the operation</td>
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<td>20 May 2016</td>
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<td>about 5 hours</td>
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</tr>
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<td>4</td>
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<td>about 2.3 hours</td>
<td>#</td>
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<tr>
<td>20 June 2016</td>
<td>AFCD</td>
<td>3</td>
<td>Nil</td>
<td>about 5 hours</td>
<td>#</td>
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<tr>
<td></td>
<td>FSD</td>
<td>21</td>
<td>4 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 1.8 hours</td>
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<td></td>
<td>HKPF</td>
<td>4</td>
<td>Nil</td>
<td>about 2 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td>Date and Location</td>
<td>Department</td>
<td>Number of officers involved</td>
<td>Equipment required</td>
<td>Duration of operation (Hours)</td>
<td>Cost ($)</td>
<td>Any staff member was injured during the operation</td>
</tr>
<tr>
<td>------------------</td>
<td>------------</td>
<td>-----------------------------</td>
<td>--------------------</td>
<td>-------------------------------</td>
<td>----------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>26 March 2017</td>
<td>AFCD</td>
<td>4</td>
<td>Nil</td>
<td>about 6 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td>Lion Rock Country Park</td>
<td>FSD</td>
<td>15</td>
<td>3 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 5.5 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>GFS</td>
<td>8</td>
<td>2 helicopters</td>
<td>about 2 hours</td>
<td>90,040*</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>HKPF</td>
<td>4</td>
<td>Nil</td>
<td>about 3.5 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td>30 December 2017</td>
<td>AFCD</td>
<td>3</td>
<td>Nil</td>
<td>about 7 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td>Lion Rock Country Park</td>
<td>FSD</td>
<td>16</td>
<td>4 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 3 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>GFS</td>
<td>8</td>
<td>2 helicopters</td>
<td>about 1.8 hours</td>
<td>81,036*</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>HKPF</td>
<td>4</td>
<td>Nil</td>
<td>about 5.3 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td>Date and Location</td>
<td>Department</td>
<td>Number of officers involved</td>
<td>Equipment required</td>
<td>Duration of operation (Hours)</td>
<td>Cost ($)</td>
<td>Any staff member was injured during the operation</td>
</tr>
<tr>
<td>-------------------</td>
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<td>-------------------------------</td>
<td>----------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>31 December 2017</td>
<td>AFCD</td>
<td>2</td>
<td>Nil</td>
<td>about 5 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td>Lion Rock Country Park</td>
<td>FSD</td>
<td>21</td>
<td>5 fire appliances, mountain rescue and high angle rescue equipment</td>
<td>about 1.3 hours</td>
<td>#</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>HKPF</td>
<td>5</td>
<td>Nil</td>
<td>about 1.5 hours</td>
<td>#</td>
<td>No</td>
</tr>
</tbody>
</table>

Notes:

# The department does not keep separate breakdown on the expenditure incurred for individual incidents.

* This item was calculated according to the direct operating cost of the relevant helicopters deployed for the operation. It has not taken into account the staff involved in handling the case.

Transport planning for Kowloon East

16. **MR WU CHI-WAI** (in Chinese): President, the Government indicated last year that the Energizing Kowloon East Office under the Development Bureau was considering the development of an underground car park in the district open space at Sze Mei Street, San Po Kong. In addition, the Government proposes to provide more combinations of interchange routes with fare concessions at the bus stops in San Po Kong outside the Latitude in order to strengthen the transport linkage between Kowloon East and places such as the Kai Tak Development Area. On the other hand, the Government completed an interim public
consultation exercise for the Detailed Feasibility Study for an Environmentally Friendly Linkage System ("EFLS") for Kowloon East in the middle of last year. Regarding the transport planning for Kowloon East, will the Government inform this Council:

(1) as there are views that, upon the commissioning of the general hospital in Kai Tak, the roads in the San Po Kong Industrial Area and its vicinity as well as Kai San Road will become the main access roads for ambulances travelling from Wong Tai Sin to the hospital, whether, in respect of the aforesaid car park development proposal, it has assessed (i) the impact of the proposal on the traffic flow of the area, (ii) if the proposal will worsen the existing traffic congestion problem in the area, and (iii) if the proposal will lengthen the time taken by ambulances for travelling from Wong Tai Sin to the hospital; if it has assessed, of the outcome; if not, whether it will conduct such an assessment immediately; of the measures to relieve the traffic congestion in the area;

(2) as there is a suggestion that the aforesaid bus stops for bus-bus interchange should be relocated to somewhere outside the Regal Oriental Hotel on Prince Edward Road East so that those bus routes via the Choi Hung Road Flyover can be included in the combinations of interchange routes with fare concessions, whether the Government has studied the feasibility of this suggestion; if so, of the outcome; if not, the reasons for that; and

(3) as the EFLS alignment currently proposed by the Government is to connect EFLS with the MTR Kwun Tong Station via Hoi Yuen Road or King Yip Street, whether the Government will consider changing the connecting point to the Yau Tong Station, so as to avoid exacerbating the existing problems of (i) frequent traffic congestion in the vicinity of Hoi Yuen Road, Kwun Tong, and (ii) passenger patronage at the Kwun Tong Station being over the capacity during peak hours; if so, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my reply to various parts of Mr WU Chi-wai’s question is as follows:
(1) To mitigate the demand for public car park in Wong Tai Sin District, the Government proposes to utilize part of the underground space beneath Sze Mei Street Open Space (i.e. the existing East Kai Tak Playground) for providing a public car park. In the first quarter of this year, Energizing Kowloon East Office will commence the "Feasibility Study on Pedestrian Environment and Traffic Improvement of San Po Kong Business Area", which includes an assessment of the traffic impact of the construction of underground car park at Sze Mei Street Open Space on the district and its vicinity and proposals on the necessary mitigation measures. The Government will be mindful of the traffic impact caused by the future developments in its vicinity (such as various development projects inside the Kai Tak Development Area, including the general hospital in Kai Tak, etc). Besides, with the commissioning of the road network in the Kai Tak Development Area, there will be additional routes for accessing the area. Vehicles can access the Kai Tak Development Area via different road connections along the peripheral of Kai Tak, such as To Kwan Wan Road, Olympic Avenue, the east and west bounds of Prince Edward Road East, Wang Kwong Road and Kai Shing Street, and then via the road network in Kai Tak to access the future general hospital in Kai Tak. Upon the commissioning of the concerned roads, traffic conditions of the roads heading to the Kai Tak Development Area (including Kai San Road and its surroundings) is expected to be relieved.

(2) Currently, the franchised bus company provides interchange concessions at the bus stop near the Regal Oriental Hotel on Prince Edward Road East for some of the bus routes passing through Choi Hung Road, so as to facilitate the interchange of passengers for Tsz Wan Shan and Choi Wan. The Transport Department will continue to explore with the franchised bus company the offering of more concessionary interchange schemes at eastbound and westbound bus stops near the Regal Oriental Hotel to enable passengers to travel conveniently to more destinations. The Kowloon Motor Bus Company (1933) Limited also plans to install seats and real-time arrival information display panels at the concerned eastbound and westbound bus stops within this year with a view to further providing convenience to the waiting and interchanging passengers.
According to the Development Bureau, the Civil Engineering and Development Department is currently taking forward the Stage 2 detailed feasibility study on the Environmentally Friendly Linkage System ("EFLS") for Kowloon East, so as to formulate an EFLS proposal covering its alignment, network coverage and implementation programme, etc., and to review its connections with the adjacent developments along the alignment including those with MTR stations according to the latest development of Kowloon East. When studying the alignment of EFLS, traffic conditions of the nearby areas and the operation of the related railway stations will be taken into account. Regarding the study outcome of the Stage 2 study, public consultation will be conducted to collect public views on it later this year.

Major infrastructure projects experiencing cost overruns

17. **MR PAUL TSE** (in Chinese): President, major infrastructure projects have experienced serious cost overruns one after another in recent years. After checking the relevant information over the past few years and comparing the initial cost estimates of a number of major infrastructure projects with their final or latest project costs, an economist has found that all such works projects have experienced serious cost overruns. He has also indicated that just counting the projects of Sha Tin to Central Link, the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, the Hong Kong-Zhuhai-Macao Bridge, the Central-Wan Chai Bypass, the Expansion of Hong Kong International Airport into a Three-Runway System and the West Kowloon Cultural District, the cost overruns involved have totalled "$80 billion, if not $100 billion". According to calculations made on the basis that the current average construction cost of a public rental housing ("PRH") unit stands at around $700,000, such a sum of cost overruns is sufficient to fund the construction of 110 000 to 140 000 PRH units. He considers that the aforesaid situation has reflected that the Government's cost estimation work is blatantly flawed, and it is therefore not surprising that members of the public have criticized that major infrastructure projects are mostly "white elephant" projects. Some members of the public have pointed out that major infrastructure projects experiencing serious cost overruns has not only undermined their confidence in the Government's management of public finances, but also become the pretext used by some Members of this Council to filibuster or procrastinate the vetting
and approval of funding proposals at meetings of the Finance Committee ("FC"), thereby hindering the normal funding allocation procedure. In this connection, will the Government inform this Council:

(1) whether it has assessed the reasons why a number of infrastructure projects have repeatedly experienced cost overruns in recent years, and how projects experiencing cost overruns has undermined public confidence in the Government's management of public finances and the negative impact thus caused;

(2) of the number of works projects the cost estimates of which have been reviewed by the Project Cost Management Office ("PCMO") since its establishment by the Development Bureau in 2016, and the total expenditure thus reduced; whether the Government will broaden the functions of PCMO to cover the vetting and monitoring of the cost estimation work of works projects that are implemented under the concession approach; and

(3) as the aforesaid economist has pointed out that the causes for a number of major infrastructure projects experiencing cost overruns in the past might involve deliberate underestimation of the initial costs of works projects by government officials in an attempt to push up the rates of return of the works projects, thereby making it easier to obtain FC's approval for the funding proposals concerned, whether the Government has conducted/will conduct an investigation to see if there was deliberate underestimation of the costs of infrastructure projects?

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Government has been implementing public works projects in an appropriate and orderly manner with a view to improving people's quality of living, enhancing the long-term competitiveness and promoting the economic development of Hong Kong. Our infrastructure facilities have been instrumental in serving the community in the long run, and more significantly improving people's livelihood. The allegations that infrastructure projects are mostly "white elephants" are groundless.
Notwithstanding that there have been instances of cost overruns in the delivering of certain mega projects in recent years due to unforeseeable circumstances that arose in the course of project implementation, we have maintained consistently good performance for projects under the Capital Works Programme as a whole. In retrospect, the Finance Committee ("FC") approved a total of about 570 Category A works projects with a total provision of $800 billion in the past 10 years. Among them, about 70 projects required application to FC for additional funding, which totalled around $65 billion. In other words, additional funding was required in approximately 10% of the projects and the amount represented some 8% of the total provision. In addition, although there were projects that required additional funding owing to individual circumstances, we generally managed to complete the projects under the Capital Works Programme within the original Approved Project Estimates ("APE") and even with surplus. About 850 Category A projects had the final accounts settled in the past 10 years. Their original approved estimates totalled about $240 billion as compared with the total final expenditure of about $210 billion. Though some projects needed to apply for additional provisions from FC, the surplus from other projects were not only able to offset the cost overruns but also managed to leave behind a balance of $30 billion. In short, the total expenditures of these projects at final settlement accounted for only about 85% of their original APE.

There are some commentaries interpreting "cost overrun" when the project's funding application to FC is higher than the preliminary estimate at the project initiation. We have to point out that it normally takes several years to well over 10 years for a project to submit funding application after its initiation. The project estimate is subject to updates for reasons of various requirements, ups and downs in the external economies, the changes of construction costs and prices as a result of inflation, detailed refinements to design and changes in project requirements as a result of consultation, etc. before it can be submitted for Legislative Council's funding approval. This should be differentiated from the situation where the project estimates have been approved but additional provisions are required afterwards.

We understand the public concern on the performance in project estimation and cost control. The Development Bureau established the Project Cost Management Office ("PCMO") in June 2016 to enhance the cost management of public works projects, uplift the cost-effectiveness of the projects and ensure the effective use of public funds. One of the main tasks of PCMO is to enhance the
project management standard for public works projects, including the performance in project cost estimation. PCMO is working on ways to enhance the methodologies for formulation of project cost estimation.

My reply to the three parts of Mr TSE's question is as follows:

(1) As mentioned above, we have maintained consistently good performance in cost estimation for projects under the Capital Works Programme as a whole. There were only some individual mega projects that needed to apply for additional provisions due to unforeseeable circumstances.

In the Global Construction Survey\(^{(1)}\) published by KPMG in October last year, Prof Bent FLYVBJERG of the University of Oxford has pointed out that Hong Kong and the Netherlands are better than other districts in the performance of project cost estimation according to the findings of his study covering over 100 districts.

Nevertheless, Government will continue to enhance the cost estimation of public works projects in order to maintain the public confidence on Government's management of public finance.

(2) Since its establishment in June 2016, PCMO has reviewed the cost estimates of over 130 public works projects in the planning and design stage and achieved savings exceeding $25 billion.

Currently, PCMO's effort on cost control has covered all capital works projects. Where necessary, PCMO will assist in enhancing the performance in cost management of new railway projects.

(3) Same as the response in part (1) above, the performance of Hong Kong in project cost estimation has been surpassing other districts. Moreover, the project estimates are prepared by works departments and the professionals of their consultants based on the established mechanisms under the Administration, objective data and professional analysis. The project estimates cannot be adjusted upward nor downward arbitrarily. Besides, all works departments

\(^{(1)}\) Global Construction Survey 2017—Make it, or break it
have set up dedicated committees in accordance with the guidelines under the Administration to review and monitor the estimates of the public works projects under their purview. Thus, there are no such circumstances that the project costs are underestimated deliberately. Nevertheless, we will continue to enhance the methodologies for formulation of project cost estimation for uplifting the performance in the cost estimation of public works projects.

Government's requests for information disclosure and removal made to information and communication technology companies

18. **MR CHARLES PETER MOK** (in Chinese): President, it has been reported that quite a number of advanced countries/regions have enacted laws to regulate the access to residents' electronic communication records and personal data by law enforcement agencies. Such laws include the Regulation of Investigatory Powers Act 2000 of the United Kingdom, the Telecommunications (Interception and Access) Act 1979 of Australia and the Communication Security and Surveillance Act of Taiwan. Those countries/regions also require law enforcement agencies to proactively make public, on a regular basis, statistics and reports on access to such information, so as to ensure that there is a certain degree of transparency in law enforcement actions. On the other hand, the Interception of Communications and Surveillance Ordinance (Cap. 589) of Hong Kong regulates only matters such as "postal interception" and "telecommunications interception", and does not regulate the interception of communication records and personal data stored in media such as web servers. In this connection, will the Government inform this Council:

(1) of the following details of the requests for information disclosure made by the Government respectively in the first and the second halves of 2017 to information and communication technology ("ICT") companies (set out the information in a table, broken down by government department):

(i) total number of ICT companies involved,

(ii) names and types of ICT companies involved (e.g. Internet service providers, device producers, social media and search engines),
(iii) total number of requests made,

(iv) total number of user accounts involved,

(v) types of information requested for disclosure (e.g. user names, Internet Protocol addresses and contact methods) and the respective numbers of the requests concerned,

(vi) nature of information requested for disclosure (i.e. metadata and/or content of communication) and the respective numbers of the requests concerned,

(vii) reasons for making the requests concerned (e.g. investigation of cases, law enforcement and other reasons) and the respective numbers of the requests concerned,

(viii) number of requests made under court orders,

(ix) number of requests acceded to, and

(x) reasons why some requests were not acceded to (e.g. the request not made under a court order, failure to provide appropriate legal documents, insufficient justifications, not in compliance with the policies of ICT companies, and other reasons) and the respective numbers of the requests concerned;

if such information cannot be provided, of the reasons for that;

(2) of the following details of the requests for information removal made by the Government respectively in the first and the second halves of 2017 to ICT companies (set out the information in a table, broken down by government department):

(i) total number of ICT companies involved,

(ii) names and types of ICT companies involved,

(iii) total number of requests made,
(iv) volume of information requested for removal,

(v) types of information involved (e.g. videos, text, images) and the respective numbers of the requests concerned,

(vi) nature of information involved (e.g. indecent content, illegal advertisements, copyright infringement and false information) and the respective numbers of the requests concerned,

(vii) reasons for making the requests concerned (e.g. for investigation of complaints, law enforcement and other reasons),

(viii) number of requests made under a court order,

(ix) number of requests acceded to, and

(x) reasons why some requests were not acceded to and the respective numbers of the requests concerned;

if such information cannot be provided, of the reasons for that;

(3) given that information technology is advancing and changing rapidly and the methods adopted by law enforcement agencies for collecting evidence have also changed, whether it has plans to review and amend the relevant laws such as Cap. 589, so as to ensure that members of the public in Hong Kong continue to fully enjoy the rights to freedom of speech and privacy of communication, etc., as safeguarded under Articles 27 to 30 of the Basic Law; and

(4) whether the Government has plans to amend its internal guidelines and codes of practice, so as to regulate the making of requests by various law enforcement agencies for information disclosure and removal (including the aspect of enhancing transparency); if not, of the reasons for that?
SECRETARY FOR INNOVATION AND TECHNOLOGY (in Chinese): President, having consulted relevant bureaux and departments, our reply to the four parts of the question is as follows:

(1) and (2) Details of the requests for information disclosure and information removal made by the Government to information and communications technology ("ICT") companies in 2017 are set out in Table 1 and Table 2 respectively.

(3) According to the Security Bureau, the Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO") regulates interception of communications and covert surveillance by the four designated law enforcement agencies for prevention and detection of serious crimes and protection of public security. The covert operations regulated by ICSO do not cover general government law enforcement agencies' requests to the Internet Service Providers during their day-to-day work for information that does not involve non-open communications, such as user information, IP addresses, login records, etc.

ICSO was amended in June 2016, and the Code of Practice issued by the Secretary for Security under section 63 of ICSO was also updated in the same month. The Government will closely keep in view the application of ICSO and has no plan to further amend ICSO in the near future.

(4) If officers of individual government departments and LEAs, in carrying out their duties, need to request for information or cooperation from relevant persons or organizations (including ICT companies), they will make the requests in accordance with duty-related laws, procedures or guidelines, and will ensure that relevant requests would only be made when necessary for performing duties. The mechanism and procedures or guidelines above have been functioning properly and effectively. At present, the Government does not have a plan to make any change.
Requests for information disclosure made by the Government to ICT companies in 2017

<table>
<thead>
<tr>
<th>Department</th>
<th>Period (2017)</th>
<th>Total number of ICT companies involved</th>
<th>Total number of requests made</th>
<th>Total number of user accounts involved</th>
<th>Types of information requested for disclosure (e.g. user names, Internet Protocol addresses and contact methods) and the respective numbers of the requests concerned</th>
<th>Nature of information requested for disclosure (i.e. metadata and/or content of communication) and the respective numbers of the requests concerned</th>
<th>Reasons for making the requests concerned (e.g. investigation of cases, law enforcement and other reasons) and the respective numbers of the requests concerned</th>
<th>Number of requests made under court orders</th>
<th>Number of requests accorded to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs and Excise Department</td>
<td>January to June</td>
<td>23 ISP/Online Platform/ Website</td>
<td>98</td>
<td>98</td>
<td>User account details or IP address</td>
<td>Crime Prevention and Detection</td>
<td>0</td>
<td>97</td>
<td>Not in compliance with the policies of the service provider</td>
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<tr>
<td></td>
<td>July to December</td>
<td>27 ISP/Online Platform/ Website</td>
<td>230</td>
<td>230</td>
<td>User account details or IP address</td>
<td>Crime Prevention and Detection</td>
<td>0</td>
<td>230</td>
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</tr>
<tr>
<td>Home Affairs Department—Office of the Licence Authority</td>
<td>January to June</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td></td>
<td>July to December</td>
<td>2 Telephone service provider</td>
<td>2</td>
<td>2</td>
<td>Name of telephone number holder (2 requests)</td>
<td>User information (2 requests)</td>
<td>0</td>
<td>1</td>
<td>Not made under a court order (1 request)</td>
</tr>
<tr>
<td>Hong Kong Police Force</td>
<td>January to June</td>
<td>Relevant statistics are not available</td>
<td>1 649</td>
<td>1 649</td>
<td>User’s information</td>
<td>Metadata</td>
<td>Crime prevention and detection (primarily involving technology crimes or crimes relating to the use of the Internet)</td>
<td>Relevant statistics are not available</td>
<td>Partially</td>
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<tr>
<td>Department</td>
<td>(i)</td>
<td>(ii)</td>
<td>(iii)</td>
<td>(iv)</td>
<td>(v)</td>
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<td>(viii)</td>
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<td>(c)</td>
<td>(d)</td>
<td>(e)</td>
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<tr>
<td><strong>Inland Revenue Department</strong>&lt;sup&gt;(3)&lt;/sup&gt;</td>
<td>January to June</td>
<td>1</td>
<td>Cannot be provided</td>
<td>2</td>
<td>2</td>
<td>Cannot be provided</td>
<td>Cannot be provided</td>
<td>To enforce the Business Registration Ordinance (Cap. 310) and the Inland Revenue Ordinance (Cap. 112) by requiring persons carrying on business through the Internet to register their businesses and pay profits tax</td>
<td>2</td>
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<tr>
<td><strong>Period (2017)</strong></td>
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<td><strong>Total number of ICT companies involved</strong></td>
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<td><strong>Total number of requests made</strong></td>
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<tr>
<td><strong>Total number of user accounts involved</strong></td>
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<tr>
<td><strong>Types of information requested for disclosure (e.g., user names, Internet Protocol addresses and contact methods) and the respective numbers of the requests concerned</strong></td>
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<tr>
<td><strong>Nature of information requested for disclosure (i.e., metadata and/or content of communication) and the respective numbers of the requests concerned</strong></td>
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<tr>
<td><strong>Reasons for making the requests concerned (e.g., investigation of cases, law enforcement and other reasons) and the respective numbers of the requests concerned</strong></td>
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<tr>
<td><strong>Number of requests made under court orders</strong></td>
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<tr>
<td>Reasons why some requests were not acceded to (e.g., the request not made under a court order, failure to provide appropriate legal documents, insufficient justifications, not in compliance with the policies of ICT companies, and other reasons) and the respective numbers of the requests concerned</td>
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<td><strong>Local and foreign service providers</strong></td>
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<td><strong>Users' information</strong></td>
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</tr>
<tr>
<td><strong>Metadata</strong></td>
<td>Crime prevention and detection (primarily involving technology crimes or crimes relating to the use of the Internet)</td>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Relevant statistics are not available</strong></td>
<td>Partially</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>In some cases, user accounts or records that do not exist are involved, or the registered user or Internet Protocol address is not in Hong Kong. Under these circumstances, the service providers cannot provide the information.</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Department</td>
<td>Period (2017)</td>
<td>(i)</td>
<td>(ii)</td>
<td>(iii)</td>
<td>(iv)</td>
<td>(v)</td>
<td>(vi)</td>
<td>(vii)</td>
<td>(viii)</td>
</tr>
<tr>
<td>----------------------------------------</td>
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<td>---------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Legislative Council</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Total number of ICT companies involved (e.g. Internet service providers, device producers, social media and search engines)</td>
<td>Total number of requests made</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office of the Communications Authority</td>
<td>July to December</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>Cannot be provided</td>
<td>Cannot be provided</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office of the Communications Authority</td>
<td>January to June</td>
<td>5</td>
<td>19</td>
<td>20</td>
<td>19</td>
<td>Registrant information of the senders of commercial electronic messages, including user names, user addresses, telephone numbers and any other relevant information (19 requests)</td>
<td>See (v) for nature of information requested</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total number of requests made under court orders</th>
<th>Number of requests made</th>
<th>Number of requests accorded</th>
</tr>
</thead>
<tbody>
<tr>
<td>6200</td>
<td>1</td>
<td>N/A</td>
</tr>
<tr>
<td>Department</td>
<td>Period (2017)</td>
<td>Total number of ICT companies involved</td>
</tr>
<tr>
<td>------------</td>
<td>----------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>July to December</td>
<td>2</td>
<td>Internet service providers</td>
</tr>
</tbody>
</table>

Notes:

(1) Since the question involves commercial information of a large number of service providers, the names of individual service providers cannot be made public.

(2) Metadata includes IP addresses, user information and/or login records.

(3) Except for the information provided herein, other information cannot be provided due to the secrecy provisions under the Business Registration Ordinance (Cap. 310) and the Inland Revenue Ordinance (Cap. 112).
## Requests for information removal made by the Government to ICT companies in 2017

<p>| Department                                                                 | Period (2017) | Total number of ICT companies involved | Names and types of ICT companies involved | Total number of requests made | Volume of information requested for removal | Types of information involved (e.g. video, text, images) and the respective numbers of the requests concerned | Nature of information involved (e.g. indecent content, illegal advertisements, copyright infringement and false information) and the respective numbers of the requests concerned | Reasons for making the requests concerned (e.g. for investigation of complaints, law enforcement and other reasons) | Number of requests made under a court order | Number of requests acceded to | Reasons why some requests were not acceded to and the respective numbers of the requests concerned |
|---------------------------------------------------------------------------|---------------|---------------------------------------|-------------------------------------------|-------------------------------|--------------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Customs and Excise Department                                              | January to June | 4                                     | ISP/Online Platform/Website               | 47                            | 47                            | User account or hyperlink                                                                 | User account or hyperlink                                                                                                         | Stoppage of Infringing Activities                                                                                             | 0                                                                                | 47                                                     | N/A                                                                                                                                  |
| Department of Health—Chinese Medicine Division                            | January to June | 1                                     | Internet platforms/Webites               | 5                             | Hyperlinks                    | Hyperlinks which contain information on suspected auction or sale of Chinese herbal medicines without trader licence/unregistered proprietary Chinese medicines (6 requests) | Auction or sale of Chinese herbal medicines without trader licence (2 requests) and auction or sale of unregistered proprietary Chinese medicines (5 requests) | Suspected auction or sale of Chinese herbal medicines without trader licence/unregistered proprietary Chinese medicines | 0                                                                                | 5                                                     | N/A                                                                                                                                  |
|                                                                            | July to December | 1                                     | Internet platforms/Webites               | 6                             | Hyperlinks                    | Hyperlinks which contain information on suspected auction or sale of Chinese herbal medicines without trader licence/unregistered proprietary Chinese medicines (6 requests) | Auction or sale of Chinese herbal medicines without trader licence (4 requests) and auction or sale of unregistered proprietary Chinese medicines (3 requests) | Suspected auction or sale of Chinese herbal medicines without trader licence/unregistered proprietary Chinese medicines | 0                                                                                | 6                                                      | N/A                                                                                                                                  |</p>
<table>
<thead>
<tr>
<th>Department of Health—Drug Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>January to June</td>
</tr>
<tr>
<td>July to December</td>
</tr>
<tr>
<td>Housing Department</td>
</tr>
<tr>
<td>January to June</td>
</tr>
<tr>
<td>July to December</td>
</tr>
<tr>
<td>Department</td>
</tr>
<tr>
<td>------------</td>
</tr>
<tr>
<td>Hong Kong Police Force</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Office of the Communications Authority</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Notes:

1. Since the question involves commercial information of a large number of service providers, the names of individual service providers cannot be made public.

2. Viewthreads relating to "觀眾群星呈彗星盤".

3. Each request corresponds to one item of information and one user account only.

4. Phishing websites are the fake websites for stealing others' login names and passwords.
Application of renewable energy by the Government

19. **MR KENNETH LEUNG** (in Chinese): President, one of the energy-saving targets set out in the Energy Saving Plan for Hong Kong's Built Environment 2015~2025+ published by the Government in May 2015 was a 5% reduction in electricity consumption in government buildings within the period from 2015 to 2020. Furthermore, the Government stated in the Hong Kong's Climate Action Plan 2030+ published in January last year that the public sector would take the lead in applying renewable energy ("RE") on a wider and larger scale in the immediate years ahead, and that consideration would be given to implementing a trial scheme as soon as practicable in the public sector and participation of the private sector would be encouraged. In this connection, will the Government inform this Council:

1. of the total electricity consumption of various government buildings in each of the past five years, together with a breakdown by the major type of services (e.g. water supply and waste water treatment, municipal services, disciplinary forces, government offices and quarters, street lighting, and other government services) provided therein;

2. of the government buildings and infrastructures (including buildings newly built and existing buildings in which major retrofitting works have been completed) that have been installed with RE power generation installations, and in respect of each installation, (i) the RE type, (ii) the year in which the installation works were carried out and (iii) the power generating capacity;

3. regarding the power generation installations mentioned in (2), of (i) the percentage that the annual total electricity generated represents in the total electricity consumption of the buildings concerned in the same period in each of the past five years, and (ii) the usage of the electricity generated in the past five years; whether it has placed at prominent positions near such installations display panels indicating the quantity of electricity generated, in order to promote the concept of RE to members of the public;
(4) whether it now regularly (i) carries out routine maintenance on the power generation installations mentioned in (2) to ensure that aged and damaged installations will be timely replaced and fixed, and (ii) makes improvements to the power generation efficiency of those installations; if so, of the details (including the relevant expenses incurred in respect of the various installations in each of the past five years); if not, the reasons for that; and

(5) given that the Government issued a technical circular on "Adoption of Energy Efficient Features and Renewable Energy Technologies in Government Projects and Installations" in as early as 2005, requiring various government departments to consider adopting RE technologies when undertaking major retrofitting works in government buildings, whether the Government has plans to update the relevant requirements or guidelines in light of the latest development of RE technologies and the annual electricity consumption of the Government; if not, of the reasons for that; if so, the details, including whether the updating will cover the four technical aspects of safety, equipment protection, reliability and power quality?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, for part (1) of the question, the total electricity consumption of government buildings and the electricity consumption by types of government services are shown at Annex 1.

For parts (2) to (4) of the question, the types and year of installation of the renewable energy ("RE") power generation installations in relevant government buildings and other public infrastructure facilities, as well as their power generation capacity, amount of power generated and usage of power are shown in Annex 2.

For part (5) of the question, the Government issued a circular on "Green Government Buildings" in 2009 to supersede the circular on "Adoption of Energy Efficient Features and Renewable Energy Technologies in Government Projects and Installations" issued in 2005, and to set environmental protection guidelines for new and existing government buildings, including arrangements on RE
adoption. When installing RE installations, the Government will follow the code for selecting, installing, inspecting, testing and maintaining RE installation in the latest version of the Code of Practice for the Electrical (Wiring) Regulations issued by the Electrical and Mechanical Services Department.

The Government updated the circular on "Green Government Buildings" respectively in 2015 and in 2017. The 2017 version has upgraded the target of RE use in government buildings and required departments, where appropriate, to install display panels showing the amount of RE generated at prominent locations in new schools and educational buildings, as well as open spaces and public parks to promote the concept of RE to the public.

There are 11 display panels placed at the RE power generation installations listed at Annex 2.

Annex 1

Electricity Consumption in Government Buildings from the Financial Year 2011-2012 to 2015-2016

<table>
<thead>
<tr>
<th>Types of Services for Government Buildings</th>
<th>Electricity Consumption (Million kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Services and Sewage Treatment</td>
<td>947</td>
</tr>
<tr>
<td>Municipal Services</td>
<td>537</td>
</tr>
<tr>
<td>Disciplined Services</td>
<td>303</td>
</tr>
<tr>
<td>Government Offices and Quarters</td>
<td>268</td>
</tr>
<tr>
<td>Street Lighting</td>
<td>137</td>
</tr>
<tr>
<td>Other Government Services</td>
<td>406</td>
</tr>
<tr>
<td>Total Electricity Consumption</td>
<td>2 598</td>
</tr>
</tbody>
</table>

Note:
The data on the Government's total electricity consumption in 2016-2017 are being processed and are not available yet.
RE Power Generation Installations
in Relevant Government Buildings and Infrastructures

<table>
<thead>
<tr>
<th>Name of Project</th>
<th>Type of RE installation</th>
<th>Year of Completion</th>
<th>Generating Capacity (kW)</th>
<th>Power Generation* (kWh)</th>
<th>Application of Power Generated by RE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local open space at Chung Yee Street, Kowloon City</td>
<td>Photovoltaic system</td>
<td>2013-2014</td>
<td>6</td>
<td>3 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Construction of fire station-cum-ambulance facility at Cheung Yip Street, Kowloon Bay</td>
<td>Photovoltaic system</td>
<td>2013-2014</td>
<td>16**</td>
<td>5 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Redevelopment of Tai Lam Centre for Women</td>
<td>Photovoltaic system</td>
<td>2016-2017</td>
<td>63**</td>
<td>25 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Public library and indoor recreation centre in Area 3, Yuen Long</td>
<td>Photovoltaic system</td>
<td>2015-2016</td>
<td>23**</td>
<td>9 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Sports Centre and Community Hall in Area 101, Tin Shui Wai</td>
<td>Photovoltaic system</td>
<td>2012-2013</td>
<td>47**</td>
<td>6 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Hydropower system for Tuen Mun Water Treatment Works</td>
<td>Hydropower system</td>
<td>2013-2014 (Stage 1)</td>
<td>500</td>
<td>Stage 1: 1 500 000</td>
<td>Grid-connected</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2016-2017 (Stage 2)</td>
<td></td>
<td>Stage 2: 3 000 000</td>
<td></td>
</tr>
<tr>
<td>Extension of Man Kam To food inspection facilities</td>
<td>Photovoltaic system</td>
<td>2012-2013</td>
<td>16**</td>
<td>3 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>New Civil Aviation Department Headquarters</td>
<td>Photovoltaic system</td>
<td>2012-2013</td>
<td>19</td>
<td>21 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Floating photovoltaic system at Shek Pik Reservoir</td>
<td>Photovoltaic system</td>
<td>2016-2017</td>
<td>100</td>
<td>120 000</td>
<td>Grid-connected</td>
</tr>
<tr>
<td>West Kowloon Law Courts Building</td>
<td>Photovoltaic and wind power systems</td>
<td>2015-2016</td>
<td>46**</td>
<td>50 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Sports centre, community hall and district library in Area 14B, Sha Tin</td>
<td>Photovoltaic system</td>
<td>2015-2016</td>
<td>57**</td>
<td>11 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Relocation of part of the offices of the Department of Justice to the Main and East Wings of the Former Central Government Offices</td>
<td>Photovoltaic system</td>
<td>2014-2015</td>
<td>25</td>
<td>25 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Reprovisioning of Wo Hop Shek Crematorium</td>
<td>Photovoltaic system</td>
<td>2012-2013</td>
<td>8</td>
<td>6 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Reprovisioning of Cape Collinson Crematorium</td>
<td>Photovoltaic system</td>
<td>2014-2015</td>
<td>2</td>
<td>3 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Redevelopment of Victoria Park Swimming Pool Complex</td>
<td>Photovoltaic system</td>
<td>2015-2016</td>
<td>468**</td>
<td>39 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Redevelopment of Kwun Tong Swimming Pool Complex and Kwun Tong Recreation Ground</td>
<td>Photovoltaic system</td>
<td>2014-2015</td>
<td>337**</td>
<td>15 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Name of Project</td>
<td>Type of RE installation</td>
<td>Year of Completion</td>
<td>Generating Capacity (kW)</td>
<td>Power Generation* (kWh)</td>
<td>Application of Power Generated by RE</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>-----------------------------------------</td>
<td>-------------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Development of Aberdeen fire station-cum-ambulance depot</td>
<td>Photovoltaic system</td>
<td>2013-2014</td>
<td>12</td>
<td>9 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Redevelopment of Fire Services Training School</td>
<td>Photovoltaic and wind power systems</td>
<td>2015-2016</td>
<td>98</td>
<td>36 000</td>
<td>General Lighting and Power and hot water supply</td>
</tr>
<tr>
<td>Fanling Highway Noise Barriers photovoltaic system installation pilot programme</td>
<td>Photovoltaic system</td>
<td>2015-2016</td>
<td>8.4</td>
<td>3 000</td>
<td>Lighting for Cycleway</td>
</tr>
<tr>
<td>Conversion of secondary pool of Lai Chi Kok Park Swimming Pool into indoor heated pool</td>
<td>Photovoltaic system</td>
<td>2012-2013</td>
<td>54</td>
<td>5 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Construction of an Annex Building at the Ko Shan Theatre</td>
<td>Photovoltaic system</td>
<td>2013-2014</td>
<td>10</td>
<td>13 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Construction of Trade and Industry Tower in Kai Tak Development Area</td>
<td>Photovoltaic system</td>
<td>2015-2016</td>
<td>46</td>
<td>28 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Cruise terminal building and ancillary facilities for the Kai Tak cruise terminal development</td>
<td>Photovoltaic system</td>
<td>2013-2014</td>
<td>61</td>
<td>24 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Town park, indoor velodrome-cum-sports centre in Area 45, Tseung Kwan O</td>
<td>Photovoltaic system</td>
<td>2013-2014</td>
<td>193</td>
<td>150 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>District open space, sports centre and library in Area 74, Tseung Kwan O</td>
<td>Photovoltaic system</td>
<td>2014-2015</td>
<td>78</td>
<td>20 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Construction of rank and file quarters for Immigration Department at Wo Yi Hop Road, Kwai Chung</td>
<td>Photovoltaic system</td>
<td>2012-2013</td>
<td>9</td>
<td>10 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Construction of a station for the new Terminal Doppler Weather Radar</td>
<td>Photovoltaic system</td>
<td>2014-2015</td>
<td>2</td>
<td>4 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>Photovoltaic system at Wan Chai No.2 Salt Water Pumping Station</td>
<td>Photovoltaic system</td>
<td>2014-2015</td>
<td>11.7</td>
<td>13 000</td>
<td>Grid-connected</td>
</tr>
<tr>
<td>Kwun Tong promenade (Stage 2)</td>
<td>Photovoltaic system</td>
<td>2014-2015</td>
<td>47</td>
<td>31 000</td>
<td>General Lighting and Power</td>
</tr>
<tr>
<td>RE installations of Drainage Services Department</td>
<td>Photovoltaic systems</td>
<td>Commissioned at 13 sewage treatment facilities (including sewage treatment works and sewage pumping stations) between 2012-2013 and 2016-2017</td>
<td>1 268</td>
<td>471 422</td>
<td>Equipment and plant energy consumption</td>
</tr>
<tr>
<td>Name of Project</td>
<td>Type of RE installation</td>
<td>Year of Completion</td>
<td>Generating Capacity (kW)</td>
<td>Power Generation* (kWh)</td>
<td>Application of Power Generated by RE</td>
</tr>
<tr>
<td>-----------------</td>
<td>-------------------------</td>
<td>-------------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Combined heat and power (CHP)*** and micro-turbine generator systems</td>
<td>Commissioned at 3 major sewage treatment works between 2012-2013 and 2016-2017</td>
<td>2 310</td>
<td>7 200 000</td>
<td>Support daily operation of the entire facility, with surplus electricity exported to public power grid.</td>
<td></td>
</tr>
<tr>
<td>T · PARK Waste-to-Energy</td>
<td>2015-2016</td>
<td>14 000</td>
<td>1 226 000 000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:

* The figures denote the estimation of annual power generation made during the design of the RE installations.

** The figures include the power saving from systems such as solar water heating.

*** CHP generators generate both electricity and heat. The above summary only sets out the electricity generation capacity of CHP generators and the amount of electricity generated.

(1) The maintenance of the RE power generation installations listed above is undertaken by the Electrical and Mechanical Services Trading Fund or the relevant departments owning the RE power generation installations (i.e. Water Services Department, Highways Department and Drainage Services Department). The contracts between the Trading Fund and government departments have no separate breakdown for the maintenance of a particular facility. The Water Services Department and Highways Department regularly examine the installations (including the RE components) in the facilities under their management. There is no breakdown for the expenditure on maintenance of RE components. The Drainage Services Department is responsible for the maintenance of its own RE installations and the total maintenance and repair cost in the past five years is about $24 million.

Apart from the above, T · PARK is a sludge treatment facility. The project is being implemented under a Design-Build-and-Operate contract arrangement. The maintenance costs, services costs and all other expenses have been included in the operation cost and individual items are not being charged separately.

(2) Due to technical, site, resources and other different constraints, the scales of the above RE installations are varied. Some of them are small-scale pilot schemes and others are relatively large projects. The electricity generated from some installations will only be used by the relevant buildings or facilities, while some facilities have been connected to the power grid. In general, there may be more room for development of RE for facilities in the New Territories than in the urban area. Provision of RE installations at existing buildings is usually subject to more constraints which will affect electricity output. As for new buildings or facilities, provision of RE power generation installations will be considered holistically at the design stage so as to achieve better results in electricity generation. Besides, the electricity generated by some facilities will only be used by specific parts of the relevant buildings or facilities, and the relevant departments do not have breakdown on the electricity consumption of the specific parts concerned. Therefore, there would be technical difficulty in comparing the proportion of the electricity generated by different RE installations in the total electricity consumption of the relevant facilities, which may also not fully reflect the potential, circumstances and effectiveness of RE adoption in such places.
Diagnoses and treatments for patients with cancers, uncommon diseases and terminal illnesses

20. **DR ELIZABETH QUAT** (in Chinese): President, at present, there are four categories of drugs in the Hospital Authority Drug Formulary ("HADF"), i.e. General Drugs, Special Drugs, Self-Financed Items ("SFIs") with Safety Net ("Safety Net drugs") and SFIs without Safety Net. Some patient groups have relayed that it takes up to 10 years for a new drug to go through the process from application for its registration in Hong Kong, approval given for its registration, its being listed on HADF as a Safety Net drug by the Hospital Authority ("HA"), to its being reclassified as a General or Special Drug. During such period, there may be quite a number of patients (especially those with cancers) who have missed the golden opportunity for receiving treatments with the new drugs. On the other hand, the Government advised at a meeting with a concern group in November last year that a mechanism would be established to support patients with uncommon diseases. Regarding the provision of diagnoses and treatments for patients with cancers, uncommon diseases and terminal illnesses, will the Government inform this Council:

1. given that at present, an application for registration of a pharmaceutical product containing a new chemical or biological entity must be accompanied by official evidence of registration approval of the product in two or more specified countries, whether the Government has made a comparison to see if (i) the relevant requirements in neighbouring countries/regions (e.g. Taiwan, Singapore, Malaysia, Korea and Thailand) are less stringent than those in Hong Kong and (ii) the time taken for registration of pharmaceutical products in those countries/regions is shorter than that in Hong Kong; if it has compared and the outcome is in the affirmative, of the details, and whether it will expeditiously study the relaxation of the relevant registration requirements in order to expedite the registration process for pharmaceutical products; if so, of the details; if not, the reasons for that;

2. given that the Drug Advisory Committee ("DAC") under HA currently meets once every three months to vet and approve applications for listing of new drugs on HADF, but the health conditions of some cancer patients may deteriorate rapidly within a short period of time, whether the Government knows if HA will
(i) request DAC to meet more frequently and provide it with the necessary manpower and resources, so as to expedite the vetting and approval of applications for listing of new drugs on HADF, and
(ii) introduce a fast-track mechanism for vetting and approval of applications for listing of drugs for treating cancers on HADF; if HA will, of the details; if not, the reasons for that;

(3) as the main reason for the applications for listing of drugs for treating cancers on HADF being rejected in the past two years was that the justification of the treatments' cost of the drugs in relation to their benefits was insufficient, but the listing of such drugs as SFIs without Safety Net (i) will not increase HA's expenditure, (ii) will provide more treatment options for patients to choose, and (iii) will help HA accumulate clinical data, whether the Government knows if HA will consider afresh the applications for the listing of such category of drugs on HADF as SFIs without Safety Net;

(4) of the details of the mechanism to be established by the Government for supporting patients with uncommon diseases, including the government department responsible for and the progress of its coordination work; whether it knows if HA will establish specialties to provide treatments to such patients; if HA will, of the specific arrangements;

(5) given that most uncommon diseases are hereditary diseases, whether the Government will step up publicity on premarital health check-up, so as to enable newly-wed couples to know the chances of their next generation having such diseases before reproduction; if so, of the details; if not, the reasons for that;

(6) whether it knows (i) the current number of public hospitals with palliative care specialty; if so, of the types of terminally-ill patients receiving palliative care and the service quotas, with a breakdown of such information by name of hospital, and (ii) if HA has adopted the Quality of Death Index in reviewing the services provided by such specialty; and
(7) given that according to the Quality of Death Index published by a think tank in 2015, Hong Kong was ranked 22nd among 80 countries and regions, whether the Government will review and improve palliative and healthcare in terms of the environment, human resources, affordability of the services, quality of the services and community engagement, so as to raise the ranking of Hong Kong in that index?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to different parts of the question raised by Dr Elizabeth QUAT is as follows:

(1) Under the Pharmacy and Poisons Ordinance (Chapter 138), pharmaceutical products should meet the criteria of safety, efficacy and quality, and be registered with the Pharmacy and Poisons Board ("PPB") before they can be sold in Hong Kong. For pharmaceutical products containing new chemicals or biological entities (i.e. active ingredients which have not been registered in Hong Kong), applications should be submitted to PPB for approval. In such cases, legislative amendments are required in order to incorporate the new chemicals or biological entities into the relevant schedules to the Ordinance.

For registration of a pharmaceutical product containing new chemicals or biological entities, a "secondary review" approach is adopted in Hong Kong, i.e. the approval of the product should make reference to the reviews conducted by drug regulatory authorities of two or more designated reference countries. When applying for registration of a pharmaceutical product containing a new chemical or biological entity in Hong Kong, the applicant should provide supporting documents as set out in the "Guidance Notes on Registration of Pharmaceutical Products/Substances", including expert evaluation reports on the safety, efficacy and quality of the new product, and documentary proof of registration of the product (such as free sale certificates) issued by the drug regulatory authorities of two or more designated reference countries.
The Drug Office of the Department of Health ("DH") has published and uploaded to its website a detailed guide on the registration of pharmaceutical products to help the pharmaceutical industry better understand the registration requirements of pharmaceutical products. In addition, DH regularly organizes talks on the registration of pharmaceutical products to explain the registration requirements to the industry and answer enquiries. Stakeholders are also encouraged to direct their enquiries to and seek assistance from DH.

DH has always emphasized service efficiency and has pledged that at least 90% of applications for pharmaceutical product registration would be processed within five months upon the submission of all required documents by the applicants. In 2016-2017, DH fulfilled the above performance pledge with about 99% of applications processed within five months. DH will continue to maintain close communication and liaison with the pharmaceutical industry, and review and improve the registration mechanism for pharmaceutical products in due course.

(2) and (3)

Being the major provider in the publicly-funded public health care services, the Hospital Authority ("HA") places high importance on providing appropriate treatment for all patients while ensuring rational use of public resources so as to protect public health and patients' interests.

As for introduction of new drugs, HA has an established mechanism under which experts conduct meeting once every three months to evaluate new drugs (including drugs for treating cancers and uncommon disorders). The evaluation process follows principles such as evidence-based medical practice, rational use of public resources, targeted subsidy, opportunity cost consideration and facilitation of patients' choice, and takes into account safety, efficacy and cost-effectiveness of the drugs and other relevant factors, including international recommendations and practices, advance in technology, actual experience in the use of drugs as well as the views of relevant professionals and patient groups. HA will include approved new drugs in HA Drug Formulary ("HADF") or in the scope of subsidies under the safety net as appropriate.
Drug evaluation is an ongoing process driven by evolving medical evidence, latest clinical developments and market dynamics. Currently, some newly developed drugs for treating uncommon disorders and anti-cancer drugs are very expensive or even ultra-expensive. HA notes that there is normally a lack of large-scale scientific research data and evidence of long-term efficacy, and that these drugs vary greatly in terms of evidence in safety and efficacy as well as the clinical response of patient. Hence, when evaluating applications of these new drugs, apart from adhering to the principles and considering the factors stated above, the relevant committee takes into account internationally published scientific research data. In respect of treatment, HA will monitor the clinical conditions of individual patients and consider the drug efficacy and the risks involved in individual patients through an independent expert panel, so as to evaluate their suitability of using the drugs concerned.

The Government and HA understand the financial pressure and burden on patients as well as their strong aspirations for the listing of certain Self-Financed Items on HADF. HA will continue to pay close attention to international medical research studies and the health care policies on uncommon disorders in other regions, listen to views and suggestions of patient groups, and continue to keep HADF under review having regard to the principles of effective use of limited public resources and maximizing health benefits for more patients.

(4) In August 2017, the Government and HA introduced a new Community Care Fund ("CCF") Medical Assistance Programme to provide subsidy for eligible patients in need to purchase ultra-expensive drugs (including those for treating uncommon disorders), and implemented on a pilot basis the adjusted financial assessment criteria and patients' co-payment mechanism. A consultancy study has been commissioned to review the mechanism, and it is expected that recommendations for improvement measures will be put forward in the first half of 2018 with a view to refining the financial assessment criteria for CCF programme and lowering the patient's maximum contribution to drug expenses.
The Government and HA are also examining the extension of the scope of CCF Medical Assistance Programme to provide patients with subsidies for specific drug treatments according to individual patients' special clinical needs, including subsidizing eligible patients to participate in compassionate programmes of individual pharmaceutical companies. HA is in active discussion with the pharmaceutical company concerned, and specific arrangements and details of relevant programmes are being considered. The Government and HA will announce the details in due course.

(5) Genetic diseases are diseases caused by abnormalities in genetic materials. Most of the uncommon disorders are either hereditary or due to genetic mutation. The Newborn Screening Programme for Inborn Errors of Metabolism is now underway. Certain relatively common inborn errors of metabolism can be detected and thus early follow-up care can be provided. Among various genetic diseases, thalassaemia is an autosomal recessive genetic disease relatively common in Hong Kong and can readily be diagnosed with blood tests.

The Family Health Service ("FHS") of DH provides Woman Health Service for women aged at or below 64 years at its three Women Health Centres and 10 Maternal and Child Health Centres, which covers such services as health education, assessments and counselling. The health assessments include taking personal and family medical history, performing physical examinations and conducting investigations (such as blood tests and cervical screening). If a woman indicates that she is planning for pregnancy and gives a history of possible familial genetic conditions, the health care personnel will refer her to the Clinical Genetic Service of DH for genetic counselling and testing as necessary. In addition, FHS has put in place, in collaboration with HA's obstetric departments, an antenatal shared-care programme for pregnant women, under which thalassaemia screening is provided. Pregnant women identified to have risk factors including familial genetic conditions will be referred to HA's obstetric departments for follow-up.
Currently, palliative care service in Hong Kong is mainly provided by HA. Palliative care service of HA provides holistic care and support for patients suffering from life-threatening or life-limiting illnesses and their families to meet their physical, psychological, social and spiritual needs, so as to facilitate a more peaceful dying process. Currently, palliative care service is provided by HA in all its seven clusters, which includes inpatient service, outpatient service, day care service, home care service and bereavement counselling. With the aim to provide holistic care for patients, HA has been providing appropriate palliative care with a comprehensive service model for terminally-ill patients and their families through a multidisciplinary team, which comprises doctors, nurses, medical social workers, clinical psychologists, physiotherapists, occupational therapists, etc.

The palliative care service provided by HA is led by palliative care specialists under the specialties of Medicine and Oncology. In the past, the service focused mainly on the care of advanced cancer patients. In the last decade, it has been gradually extended to cover patients with other diseases, such as patients suffering from end-stage organ failure (e.g. renal failure and chronic obstructive pulmonary disease).

Inpatient palliative care service provides care for those with more complex conditions or dying patients. HA also provides a range of ambulatory palliative care services including outpatient services for patients with less acute or complex symptoms, day care services for rehabilitation and psychosocial support, and home care services to optimize symptom control in the community and to empower informal caregivers. In addition, families are supported by bereavement care before and after patients' death. Statistics on the utilization of various palliative care services provided by HA in 2014-2015, 2015-2016 and 2016-2017 (up to 31 December 2016) are set out at the Annex.

In 2017, HA developed the "Strategic Service Framework for Palliative Care" to guide the development of palliative care service in the coming five to 10 years. The framework is to set out specific guidelines on its service model and system infrastructure.
Measures will be introduced to provide palliative care and end-of-life care services for an increased number of terminally-ill patients within hospital settings and in the community. Such measures include offering home palliative care service, increasing the frequency of home visits by nurses each year and providing training for the staff of residential care homes for the elderly. Moreover, enhancing medical-social collaboration with community partners, such as non-governmental organizations, patient groups and volunteers, for supporting patients and their families or carers is also highlighted among the strategies.

With the aim of formulating the long-term development direction of health care services in response to the challenges of an ageing population, including palliative care service, the Food and Health Bureau commissioned in 2015 The Chinese University of Hong Kong to conduct a three-year research study on the quality of health care for the ageing. By making reference to the findings and recommendations of the study, the Government will continue to enhance the palliative care service in Hong Kong, including considering amendment to the relevant legislation.

Annex

Statistics on Utilization of HA's Palliative Care Services in 2014-2015, 2015-2016 and 2016-2017 (up to 31 December 2016)

<table>
<thead>
<tr>
<th>Palliative Care Service</th>
<th>Number of Attendances</th>
<th>2014-2015</th>
<th>2015-2016</th>
<th>2016-2017 (up to 31 December 2016) [Provisional Figures]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palliative care inpatient service(^{(1)}) (1) (2) (total number of inpatient/day inpatient discharges and deaths)</td>
<td>8 254</td>
<td>7 970</td>
<td>6 006</td>
<td></td>
</tr>
<tr>
<td>Palliative care specialist outpatient service(^{(1)}) (1)</td>
<td>9 449</td>
<td>9 058</td>
<td>7 130</td>
<td></td>
</tr>
</tbody>
</table>
Palliative Care Service

<table>
<thead>
<tr>
<th>Service</th>
<th>2014-2015</th>
<th>2015-2016</th>
<th>2016-2017 (up to 31 December 2016) [Provisional Figures]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palliative home visit(^{(2)})</td>
<td>33 199</td>
<td>34 311</td>
<td>30 273</td>
</tr>
<tr>
<td>Palliative day care attendance</td>
<td>12 275</td>
<td>12 231</td>
<td>9 560</td>
</tr>
<tr>
<td>Bereavement service</td>
<td>3 034</td>
<td>3 436</td>
<td>2 942</td>
</tr>
</tbody>
</table>

Notes:

(1) The above statistics refer to the throughput in Palliative Care Specialty only.

(2) Data definition was refined in April 2016. Therefore, the statistics are not comparable before and after April 2016.

The "First-Hire-Then-Train" Pilot Programme

21. **MR POON SIU-PING** (in Chinese): President, the Employees Retraining Board ("ERB") has implemented the "First-Hire-Then-Train" Pilot Programme ("the Pilot Programme") since 2015-2016 to assist people who are unemployed and aged 40 or above (mainly homemakers) in being appointed as care workers for elderly homes. ERB has indicated that under the Pilot Scheme, work arrangements (including working hours and leave schedule) may be modified to cater for the family commitments of trainees, and on-the-job training and other related support measures are provided for trainees during their employment to encourage them to stay in employment. In this connection, will the Government inform this Council if it knows:

(1) in each year since the introduction of the Pilot Programme, (i) the number of participants in the Pilot Programme, (ii) the number of participants who completed the relevant training courses and became care workers for elderly homes and, among them, the number of those who still stayed in employment after the completion of the six-month placement follow-up period, as well as (iii) the number of participants in the Pilot Programme who dropped out before completing the training courses, and whether ERB has assessed the reasons for their dropping out; and
(2) whether ERB will review if the remuneration and fringe benefits provided for the jobs under the Pilot Programme at present are generous enough to attract people who are unemployed and aged 40 or above to work in the care industry on a long-term basis?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, since 2015-2016, the Employees Retraining Board ("ERB") introduced the "First-Hire-Then-Train" Pilot Scheme ("the Pilot Scheme") for health care industry mainly to assist middle-aged women and homemakers to land on jobs in elderly homes as care worker trainees. Participating employers provide job vacancies with one-year employment contracts. During the one-year contract period upon employment, trainees will in parallel receive on-the-job training, including the completion of designated training courses of ERB lasting for around half year so as to obtain five Foundation Certificates in Practical Skills for Care Worker (Part-time), and practical training in elderly homes. Employers will suitably modify the working hours and leave arrangements to cater for the family commitments of trainees, and provide support measures to encourage trainees to stay in employment. A cumulative total of four employers have participated in the three rounds of courses for health care industry since the launch of the Pilot Scheme. My reply to the Member's question is as follows:

(1) The relevant statistics of the Pilot Scheme by year since its launch are set out as follows. As trainees have already been recruited by respective employers upon their enrolment in the Pilot Scheme, ERB does not need to provide placement follow-up services when the trainees have completed relevant training courses.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of trainees recruited</th>
<th>Number of trainees dropped out before completion of training courses (percentage of the number of trainees recruited)</th>
<th>Number of trainees having completed designated training courses (percentage of the number of trainees recruited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-2016</td>
<td>25</td>
<td>4 (16%)</td>
<td>21 (84%)</td>
</tr>
<tr>
<td>2016-2017</td>
<td>65</td>
<td>11 (17%)</td>
<td>54 (83%)</td>
</tr>
<tr>
<td>2017-2018(1)</td>
<td>40</td>
<td>Not available yet</td>
<td>Not available yet</td>
</tr>
</tbody>
</table>
Note:

(1) Figures as at 15 January 2018. Designated training courses are expected to finish between March and April 2018. Employment contracts between respective employers and trainees are expected to expire between December 2018 and February 2019.

Most trainees under the Pilot Scheme have completed relevant skill training of the designated training courses. Even if individual trainees quitted in the midst of the Pilot Scheme, they can re-enter the health care industry on their own choices anytime in the future. ERB has also consulted participating employers of the Pilot Scheme on the reasons for trainees' departure. The main reasons include commitments to take care of family members and difficulties in adapting to the work environment and job nature, etc., while some had secured jobs as care workers in other institutions.

(2) The job vacancies, employment terms, remuneration and benefits packages of the care worker trainees under the Pilot Scheme are determined by the participating employers in view of the market conditions. ERB noted that the salaries offered by these employers have been increasing every year since the launch of the Pilot Scheme in 2015-2016. Furthermore, to encourage trainees to stay in employment, employers provide various support measures to assist trainees in work adaptation. The measures include arranging experienced mentors to provide trainees with additional on-the-job practical training, arranging designated personnel to help trainees in work and study adaptation, forming support groups to provide trainees with placement counselling or information on community services and resources, offering monetary incentives to trainees with outstanding work performance and training assessment results, etc. ERB regularly reviews the Pilot Scheme to ensure the fulfilment of the objective of assisting trainees to join the health care industry.

Regulation of vessels licensed as Class III vessel—fish carriers

22. MR KWONG CHUN-YU: President, under section 3(i) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg. E), marine fish (including edible crustaceans, molluscs and other similar edible products derived from the sea) arriving in Hong Kong direct from fishing grounds on fishing craft
registered or licensed in Hong Kong are exempted from the requirements to make import and export declarations. However, under sections 4 and 5 of the above Regulations, vessels licensed as Class III vessel—fish carriers under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) ("local fish carriers"), are not exempted as they are not fishing craft, and must make import and export declarations to the Customs and Excise Department ("C&ED") for all live marine fish they carry. Also, it is learnt that local fish carriers have been exempted by the Director of Marine from complying with the requirements to obtain arrival and port clearances. Some conservationists have relayed to me that local fish carriers collect all or most of the live marine fish they import to Hong Kong from a collection point in the waters outside Hong Kong and convey the marine fish to Hong Kong. These conservationists are concerned that due to the aforesaid exemptions and the lack of regulation and oversight by the Government, local fish carriers may easily become accomplices in the illegal fishing activities conducted in the waters of other jurisdictions where the live marine fish originated. In addition, there is evidence that some local fish carriers have not made declarations of their live marine cargos on entry to the Hong Kong waters and that some of them have smuggled their cargos into the waters of Mainland China. In this connection, will the Government inform this Council:

(1) of the existing number of local fish carriers; the number of law enforcement actions taken by C&ED in 2017 against the smuggling of live marine fish by local fish carriers into and out of Hong Kong;

(2) of the number of local fish carriers which made import and re-export declarations for live marine fish in each month in 2017, and the total quantity of live marine fish so declared by such carriers in 2017;

(3) of the measures currently put in place by the Government to regulate and monitor the imports and re-exports of live marine fish by local fish carriers to curb illegal fishing and live marine fish trade activities in Hong Kong and across the boundary;

(4) why local fish carriers have been exempted from complying with the requirement to obtain arrival and port clearances, which may render it difficult for C&ED to check if local fish carriers have complied with the import and re-export declaration requirements in respect of non-exempted live marine fish;
(5) whether, to guard against local fish carriers' conveying into Hong Kong live marine fish obtained from illegal fishing in the waters outside Hong Kong and then re-exporting to Mainland China, the Government will step up law enforcement actions on the requirement for local fish carriers to make declarations on their imports and re-exports of live marine fish; if so, of the details; if not, the reasons for that;

(6) given that under the Marine Fish (Marketing) Ordinance (Cap. 291), except for live marine fish, all fresh marine fish are required to be landed and sold wholesale at the wholesale fish markets operated by the Fish Marketing Organization, of the reasons for the authorities to exclude live marine fish from the Ordinance and whether it will enact legislation to abolish the exclusion; if so, of the details; if not, the reasons for that; and

(7) of the current number of fish carriers of 300 gross tonnage or above fitted with an automatic identification system ("AIS"); whether the Government will enact legislation to require that fish carriers must be fitted with an AIS and that the AIS must at all times be switched on, to facilitate the authorities' monitoring of the sea trips made by such vessels?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT:
President, in consultation with the relevant Policy Bureaux, I provide a consolidated reply to the various parts of the question as follows:

(1) According to the Transport and Housing Bureau, there are four categories of local vessels under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D). For fishing vessels, which come under Class III, the detailed breakdown of various types of vessels concerned as at end 2017 is as follows:

<table>
<thead>
<tr>
<th>Class III Vessels—Types</th>
<th>Total no. of licensed vessels (as at end 2017)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fish carrier</td>
<td>30</td>
</tr>
<tr>
<td>Fishing sampan</td>
<td>1,942</td>
</tr>
<tr>
<td>Fishing vessel</td>
<td>1,949</td>
</tr>
<tr>
<td>Outboard open sampan</td>
<td>2,581</td>
</tr>
<tr>
<td>Total</td>
<td>6,502</td>
</tr>
</tbody>
</table>
According to the Customs and Excise Department ("C&ED"), in 2017, the Department conducted over 4,600 searches on fish carriers and fishing vessels licensed in and outside Hong Kong as part of its efforts to detect and deter smuggling activities. A total of 25 smuggling cases were effected (with seizure valued at about $6.5 million) as a result of those searches;

(2) The Government maintains statistics on import and export by mode of transport. Statistics on import and export of live edible marine fish transported by ocean and river modes in 2017 are at Annex. Further breakdown by type of conveyance such as local fish carrier or the number of carriers making such declarations is not available;

(3) and (5)

Import and export of live marine fish are not prohibited in Hong Kong, unless the fish being imported or exported is a scheduled species listed under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) or regulated under other Hong Kong legislation.

So long as the Import and Export Ordinance (Cap. 60) is concerned, if live marine fish are imported or exported as cargo by a vessel, the master of the vessel is required to record such cargo in a manifest and furnish the same to C&ED upon request, when the vessel enters or leaves Hong Kong. The person who imports or exports such cargo is required to lodge with C&ED an import or export declaration within 14 days after the import or export. C&ED takes enforcement action on a regular basis against non-compliance with the above requirements regarding manifests and trade declarations, as well as smuggling activities.

In addition, we understand from the Food and Health Bureau that the Agriculture, Fisheries and Conservation Department has all along been working to combat illegal fishing in Hong Kong waters through random and targeted patrols, joint operations with relevant government departments, and exchange of information and intelligence with relevant government departments and Mainland authorities;
According to the Transport and Housing Bureau, unless otherwise exempted, vessels have to go through arrival and departure clearance procedures with the Marine Department ("MD"), when they arrive in the Hong Kong waters and before they depart the Hong Kong waters. However, for fishermen, they often need to depart and enter Hong Kong waters for conducting fishing activities outside Hong Kong waters, and their destinations and schedules vary and are contingent on different factors, including weather and sea conditions. Having regard to the mode of operation of Class III vessels, it is considered impractical to impose on these vessels the requirements of reporting departures and arrivals. These vessels (including fish carriers) are therefore exempted, by the power of the Director of Marine vested under section 69 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), from such arrival and departure clearance procedures;

According to the Food and Health Bureau, the Marine Fish (Marketing) Ordinance (Cap. 291) provides for the wholesale marketing of marine fish at the seven wholesale fish markets operated by the Fish Marketing Organization ("FMO"). Since marine fish caught by local fishing vessels are mainly kept and sold in fresh form, fresh marine fishes are required to be landed and wholesaled at FMO markets, as a measure to assist the local fishing industry with a centralized trading platform. For live marine fish traders, they are also welcomed to make use of this trading platform and conduct their wholesaling activities at FMO markets, in addition to their own established distribution channels for selling imported live marine fish direct to retailers/consumers; and

According to the Transport and Housing Bureau, the Automatic Identification System ("AIS") is a shipborne navigational equipment which aims to prevent collision for enhancing marine safety. AIS sends navigational information of a vessel automatically to other vessels and shore stations, and such information helps coxswains to take appropriate navigational decisions. As far as local vessels are concerned, certain types of vessels are required to be installed with AIS in the light of their higher risk level (having regard to factors
such as their size, the number of passengers and the nature of goods they may carry). As stipulated by the relevant legislation, Class I vessels permitted to carry more than 100 passengers, Class II vessels of 300 gross tonnage or above fitted with propulsion engines and Class II vessels used for carrying dangerous goods are required to be equipped with AIS. Due to the different level of risk involved, MD does not have plans to impose the same requirement on other classes of local vessels across the board. MD has no information on the current number of fish carriers fitted with AIS.

Annex

Statistics of import and export of live edible marine fish transported by ocean and river modes (2017)

<table>
<thead>
<tr>
<th>Month</th>
<th>Import</th>
<th>Re-export</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of Declaration Record</td>
<td>Number of live edible marine fish (in kg)</td>
<td>Number of Declaration Record</td>
</tr>
<tr>
<td>January</td>
<td>233</td>
<td>266 586</td>
<td>10</td>
</tr>
<tr>
<td>February</td>
<td>271</td>
<td>302 460</td>
<td>8</td>
</tr>
<tr>
<td>March</td>
<td>288</td>
<td>190 204</td>
<td>8</td>
</tr>
<tr>
<td>April</td>
<td>246</td>
<td>193 535</td>
<td>11</td>
</tr>
<tr>
<td>May</td>
<td>248</td>
<td>264 124</td>
<td>8</td>
</tr>
<tr>
<td>June</td>
<td>218</td>
<td>193 205</td>
<td>4</td>
</tr>
<tr>
<td>July</td>
<td>278</td>
<td>274 333</td>
<td>8</td>
</tr>
<tr>
<td>August</td>
<td>240</td>
<td>223 367</td>
<td>10</td>
</tr>
<tr>
<td>September</td>
<td>232</td>
<td>274 003</td>
<td>12</td>
</tr>
<tr>
<td>October</td>
<td>221</td>
<td>246 283</td>
<td>6</td>
</tr>
<tr>
<td>November</td>
<td>215</td>
<td>216 329</td>
<td>11</td>
</tr>
<tr>
<td>December</td>
<td>231</td>
<td>295 821</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>2 921</td>
<td>2 940 250</td>
<td>106</td>
</tr>
</tbody>
</table>
GOVERNMENT BILLS

First Reading and Second Reading of Government Bill

First Reading of Government Bill


GUANGZHOU-SHENZHEN-HONG KONG EXPRESS RAIL LINK (CO-LOCATION) BILL

CLERK (in Cantonese): Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-Location) Bill.

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

Second Reading of Government Bill


GUANGZHOU-SHENZHEN-HONG KONG EXPRESS RAIL LINK (CO-LOCATION) BILL

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I move that the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") be read the Second time.

The construction works of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") are now at the final stage. With 98.6% of the works having been completed as at the end of 2017, the rail is expected to be commissioned in the third quarter this year. In addition to continuing its close monitoring of the project management work of the MTR Corporation Limited ("MTRCL") to ensure the timely completion of the project, the Special Administrative Region ("SAR") Government is actively
making preparations for various operational matters ahead of the commissioning, which include making operational arrangements in respect of the train schedule, frequency and fares of the Hong Kong section of XRL, as well as negotiating with the Kowloon-Canton Railway Corporation and MTRCL over the details of a service concession and operating agreement. More importantly, the Government is implementing the co-location arrangement at the West Kowloon Station to ensure the maximum convenience to passengers and the greatest possible transportation, social and economic benefits unleashed by the XRL project.

A smooth implementation of the co-location arrangement will enable passengers to travel conveniently between Hong Kong and different regions across the country. Though just 26 km in length, the Hong Kong section of XRL will play the strategic role of connecting Hong Kong to the national high-speed rail network covering a distance of 25 000 km. As set out in the Memorandum of Understanding on the Arrangements for Preparation of Key Operational Issues for the Hong Kong Section of the XRL, signed by the SAR Government and the China Railway Corporation two days ago (29 January 2018), at the early stage of the commissioning of the Hong Kong section of XRL, short-haul trains will run between West Kowloon Station and the Futian, Shenzhen North, Humen and Guangzhou South stations. There will also be direct long-haul trains to cities including Beijing, Shanghai, Kunming, Quilin, Guiyang, Shijiazhuang, Zhengzhou, Wuhan, Changsha, Hangzhou, Nanchang, Fuzhou, Xiamen and Shantou. With the implementation of the co-location arrangement at the West Kowloon Station in future, passengers will be able to complete clearance procedures of both Hong Kong and the Mainland at the West Kowloon Station in one go. Passengers departing from Hong Kong will be able to go to all cities on the national high-speed rail network without having to undergo clearance procedures again on the Mainland. Passengers coming to Hong Kong in future will also be able to board trains at any station of their choice on the national high-speed rail network and go through Mainland departure clearance and Hong Kong arrival clearance at the West Kowloon Station, without being constrained by whether a particular Mainland city has clearance facilities. As the most desirable and appropriate option, the co-location arrangement will allow Hong Kong to provide direct high-speed rail service to an increasing number of Mainland cities in the days to come in order to cater for future demands for railway service.
The co-location arrangement is by nature a measure facilitating cross-boundary transport and bringing convenience to the people, of which similar examples can be found in other parts of the world. It merits examination by the Hong Kong community with objectivity, impartiality and openness.

Obviously, the co-location arrangement must be constitutional and lawful. The Central Authorities and the SAR Government have all along been handling the issue of its legal basis seriously. Following the announcement of the proposed "Three-step Process" by the SAR Government on 25 July 2017, the community of Hong Kong has conducted widespread discussions on the issue of co-location arrangement. The Legislative Council also passed a motion on 15 November 2017, supporting the SAR Government in taking forward the follow-up tasks of the co-location arrangement at the West Kowloon Station of XRL, which reflects the public views on commencing the "Three-step Process" by the SAR Government.

On 18 November 2017, the SAR Government signed the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("the Co-operation Arrangement") with the Mainland, taking the first step in the "Three-step Process". Subsequently, on 27 December 2017, the Standing Committee of the National People's Congress ("NPCSC") made a decision ("the Decision") approving the Co-operation Arrangement. The Decision marks the completion of the second step in the "Three-step Process" and provides a sound legal basis for the work of implementing the co-location arrangement at the West Kowloon Station.

At this juncture, we are only one step from the completion of the "Three-step Process" for the co-location arrangement. In the Decision, NPCSC definitively confirmed that the Co-operation Arrangement is consistent with the Constitution of the People's Republic of China and the Basic Law of the Hong Kong SAR, while stating clearly that the Hong Kong SAR should enact legislation to ensure the implementation of the Co-operation Arrangement. By introducing the Bill to the Legislative Council in accordance with the Decision of NPCSC and the approved Co-operation Arrangement today, the SAR Government is taking the third and final step: enactment of local legislation. The Bill seeks to implement the Co-operation Arrangement and provide a legal
basis for implementing the co-location arrangement at the West Kowloon Station. In the drafting process of the Bill, we drew on the experience of the Shenzhen Bay Port in its implementation of co-location arrangement while drawing reference from the Shenzhen Bay Port Hong Kong Port Area Ordinance passed by the Legislative Council in 2007.

In gist, the Bill declares a designated area situated on B2, B3 and B4 levels of the West Kowloon Station as the West Kowloon Station Mainland Port Area, and provides that a train compartment of a passenger train in operation on the Hong Kong Section of XRL is to be regarded as part of the West Kowloon Station Mainland Port Area.

To clearly specify the application of laws and delineation of jurisdiction in the Mainland Port Area, the Bill defines the concepts of reserved matter and non-reserved matter. A reserved matter is a matter to which the laws of Hong Kong apply, and over which Hong Kong exercises jurisdiction, under Article 3 or 7 of the Co-operation Arrangement; and a non-reserved matter is a matter to which the laws of the Mainland apply, and over which the Mainland exercises jurisdiction, under Article 4 of the Co-operation Arrangement.

The Bill provides that except for reserved matters, the Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland for the purpose of the application of the laws of the Mainland, and of the laws of Hong Kong, in the Mainland Port Area; and for the purpose of the delineation of jurisdiction (including jurisdiction of the Courts) over the Mainland Port Area. Furthermore, the Bill also makes supplementary provisions for certain rights and obligations and related matters and for the interpretation of certain documents in relation to rights and obligations.

In parallel with the processing of the Bill through the Legislative Council, we will be pressing ahead with discussion with the Mainland for acquiring the right to use the Mainland Port Area as well as the duration and licence fee involved; such will be provided for by an agreement to be signed by both sides. The relevant content of the agreement will be announced by the SAR Government when a consensus is reached by both sides. The Security Bureau is also coordinating the discussions between the relevant departments and the Mainland side, with a view to ensuring the smooth daily operation and clearance
arrangement at the West Kowloon Station port under the co-location arrangement, and establishing an emergency rescue mechanism to handle potential emergency incidents arising from the operation of the high-speed rail.

Deputy President, over the past period of time, we appreciated the different opinions of various sectors in society on the co-location arrangement. We will not underestimate the difficulty of the local legislation work. The SAR Government will make every effort to do a good job of explaining the arrangement to Members and the public in order to win the support of the Council and society.

We hope that Members will scrutinize the Bill in a pragmatic and rational manner and pass it early, thus enabling the commissioning of the Hong Kong section of XRL in the third quarter this year as scheduled, and allowing the people of Hong Kong to enjoy the long-awaited high-speed rail service and usher in together the new era of high-speed rail for Hong Kong.

I so submit, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill be read the Second time.

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

(A number of Members chanted a slogan aloud: "Co-location arrangement emasculates Hong Kong!")

DEPUTY PRESIDENT (in Cantonese): Will Members please keep quiet.

(A number of Members kept chanting the slogan aloud)

DEPUTY PRESIDENT (in Cantonese): Will Members please keep quiet.
Resumption of Second Reading Debate on Government Bill


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

Resumption of debate on Second Reading which was moved on 14 June 2017

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

MR KENNETH LEUNG: Deputy President, in my capacity as Chairman of the Bills Committee on Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill"), I wish to report on the work of the Bills Committee. I shall focus on the major issues considered by the Bills Committee.

The purpose of the Bill is to amend the Protection of Endangered Species of Animals and Plants Ordinance to implement a three-stage plan to enhance regulation on import and re-export of elephant ivory and elephant hunting trophies and to phase out the local ivory trade; and increase the penalties on smuggling and illegal trading of endangered species. The Bills Committee has held six meetings with the Administration and received views from the public. The Bills Committee supports the Bill in principle.

The Bills Committee has asked the Administration to explain the reasons for imposing a total ban on ivory trade which is stricter than the European Union ("EU") regime where intra-EU ivory trade and re-export of ivory from EU for commercial purposes are still allowed.

The Administration has explained that Hong Kong has been identified by the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("the Convention") as one the places of primary concern regarding the poaching of elephants and illegal ivory trade. There have been frequent
international criticisms against Hong Kong for providing a front for illegal ivory through possible laundering with its local trade in registered ivory. A total ban of local ivory trade is necessary for elimination of any potential front for illegal ivory markets. The Administration has pointed out that intra-EU ivory trade and re-export of ivory from EU for commercial purposes are allowed only under limited circumstances. The Administration has stressed that an increasing number of countries and places have implemented control or even a ban on their domestic ivory trade at a pace suitable to their own situations. Further restricting or banning ivory trade has become a global trend. In the Mainland, the State Council of the People's Republic of China already announced that the commercial processing and sale of ivory in the Mainland will be banned in phases by the end of 2017.

The Bills Committee has expressed concern that the proposed ivory ban may affect the livelihood of local ivory craftsmen and deal a heavy blow to businesses related to the ivory trade. Some members of the Bills Committee are also concerned whether the Bill has the possible effect of depriving or limiting the property rights of the ivory owners, and hence, is not consistent with Articles 6 and 105 of the Basic Law.

The Administration does not agree that the proposed measure is inconsistent with Articles 6 and 105 of the Basic Law because the proposed ivory ban does not involve any formal expropriation of property or any de facto expropriation. The owners of ivory would retain possession of their ivory and there would not be any transfer of title of the owners' property. Moreover, the owners' ivory would not be denied all meaningful use. The ivory would still have other beneficial uses such as possession, donation, exhibition, and artistic or cultural uses.

The Bills Committee has explored with the Administration appropriate measures to assist local ivory traders and practitioners to dispose of their ivory stockpile, including the feasibility of providing a voluntary licence surrender scheme or implementing a voluntary buy-out scheme for the licensed ivory traders, and the feasibility of providing compensation to the ivory traders as well as local workers in the ivory trade. Some other members, however, are against any form of compensation to the trade lest it might convey a wrong message to the community that the poaching of elephants for ivory is justified.
The Administration has explained that provision of compensation in any form to the ivory trade may send a wrong message to lawbreakers that there is a prospect of compensation, and hence may accelerate or intensify the proliferation of the poaching of elephants and stimulate smuggling of a large amount of illegal ivory into Hong Kong to launder with the legal stock for seeking compensation. Besides, other jurisdictions which have banned the ivory trade do not provide any form of compensation to the affected traders. Meanwhile, the Administration is working with relevant organizations such as the Employees Retraining Board on suitable retraining courses to assist ivory craftsmen to switch to other employment.

Under the Bill, since the total ban of local ivory trade will only come into effect on 31 December 2021, there will effectively be a grace period of five years before the proposed ban of local ivory trade fully takes effect. Some members of the Bills Committee consider that the grace period should be shortened, and that the existing Licences to Possess should be curtailed as early as possible to advance the local ban so as to prevent laundering of ivory during the grace period. Some other members, however, opine that a longer grace period should be given for the trade to dispose of the ivory in their possession.

The Administration has explained that many of the ivory traders have already undergone business transformation or switched to the trading of other commodities not under the Convention's control, such as mammoth ivory. The Administration considers that a grace period of around five years up to late December 2021 after all existing and prospective Licences expire, is reasonably sufficient to enable local traders to undergo business transformation and dispose of the ivory in their possession.

In response to members' concern about the application of various provisions under the Bill relating to different regulatory control on "elephant hunting trophy" and "elephant ivory" in different stages of the proposed ivory ban, the Administration has explained that generally speaking, stricter regulation will apply at Stage 1 if an item is an "elephant hunting trophy" or post-Convention ivory. The stricter regulation will extend to pre-Convention ivory at Stage 2 which is proposed to take effect three months after the commencement of Stage 1.

The Bills Committee notes that the Administration has retained specific exemptions applicable to "antique elephant ivory" and ivory of personal or household effects other than tourist souvenirs, as well as ivory used for the
purposes of scientific studies, education, and law enforcement. Members of the Bills Committee are concerned that Hong Kong has set the reference date at 1925 for defining "antique elephant ivory", which is a stricter definition than that adopted in France. In response to the request of the Bills Committee, the Administration has provided information on the enhanced measures adopted by other jurisdictions on restriction of local ivory trade and relevant exemptions, as well as the complementary measures implemented in other jurisdictions whilst imposing a ban on local ivory trade.

Regarding the proposed increase in penalties on smuggling and illegal trading of endangered species, the Bills Committee has sought clarification on whether reference has been drawn from penalties of similar offences in other jurisdictions and other legislation in Hong Kong. The Administration has advised that the proposed penalties, particularly the imprisonment terms, are more stringent than the references from the United Nations on wildlife crimes and are on the high side in comparison with the international norm. The Administration considers that the proposed penalties are of an appropriate level of severity, given the necessity to pitch the revised penalties at a level that is severe enough to provide a strong deterrent against illicit wildlife trade and to show that the Government is very serious about deterring these crimes.

The deliberations of the Bills Committee are set out in the written report. The Bills Committee supports resumption of the Second Reading debate on the Bill, and will not propose any amendment.

Deputy President, I would also like to take this opportunity to thank all the members in the Bills Committee and especially, Deputy Chairman, Dr Elizabeth QUAT, in scrutinizing this Bill and taking it to fruition. Hereinafter is my personal comment on the Bill.

MR KENNETH LEUNG (in Cantonese): Deputy President, the Second Reading debate on the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 has now been resumed. Just now, I delivered my speech in English in the hope of drawing the attention of the international community to the fact that Hong Kong is already at the front line of protecting endangered wildlife and will impose a total ban on the ivory trade. Simply put, the Bill will take effect in three stages.
Stage 1, ban the import, export 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 the Convention on International Trade in Endangered Species of Wild Fauna and Flora. This stage will take effect on the first commencement date of the Bill, that is, the day to be appointed by the Secretary for the Environment by notice published in the Gazette.

Stage 2, ban the import and re-export of pre-Convention ivory (save for antique ivory) and subject the commercial possession of pre-Convention ivory in the local market to licensing control three months after the first commencement date.

Stage 3 of the Bill, ban the possession for commercial purposes of all ivory including pre-Convention ivory and post-Convention ivory by restricting the issue, etc. of a Licence to Possess to only cases of exceptional circumstances (specific and stringent circumstances including scientific studies, education, law enforcement and personal or household effects). The third stage will take effect on 31 December 2021.

The Bill has also made provisions for increased penalties. Currently, under Cap. 586, a person committing an offence with respect to the illegal import, introduction from the sea, export, re-export or possession of Appendix I species (including ivory) is liable on conviction to a fine of $5 million and imprisonment for two years. For Appendices II and III species, a person committing any of the aforementioned offences is liable on conviction to a maximum fine of $500,000 and to imprisonment for one year. According to the proposed amendments to the penalties, a maximum fine of $10 million and imprisonment for ten years shall be imposed for indictable offences concerning Appendix I species (including ivory), and a maximum fine of $1 million and imprisonment for seven years be imposed for indictable offences concerning Appendices II and III species.

Deputy President, these penalties are very frightening, but why should the legislation be amended? Illegal ivory trade has actually swept the world, and Hong Kong is reportedly the world's largest ivory smuggling centre. It is pointed out in a study that Hong Kong is the world's largest city for the selling of ivory products. As regards smuggling activities, according to the information provided by the Agriculture, Fisheries and Conservation Department, 41 tonnes
of smuggled ivory in total were intercepted by the Customs and Excise Department during the period from 1990 to 2016. Certainly, traders are still allowed to sell ivory at the present stage after obtaining the licences, but due to the differentiation between pre-Convention ivory and post-Convention ivory, some traders seek to pass off the latter as the former, making law enforcement difficult. Upon the implementation of the third stage as provided for in the Bill, all ivory-related trading for commercial purposes will be prohibited.

Since elephants are under a threat of extinction due to smuggling activities, members of the Bills Committee and I consider that the penalties should be increased and a total ban be imposed on ivory trade. Deputy President, the protection of endangered species should not be confined to ivory only. Actually, as part of planet Earth, humans should respect the survival rights of other species, in order that nature can maintain a balance and be protected. As regards the various technical issues of this Bill, I hope to make a more detailed elaboration at the Committee stage.

With these remarks, Deputy President, I support the resumption of the Second Reading debate on the Bill.

MR MICHAEL TIEN (in Cantonese): Deputy President, I lend my full support to the passage of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill").

In the civilized world nowadays, I believe we have reached a consensus that animals should no longer be slaughtered for purposes of decoration, collection, production of utensils, etc. Such purposes can all be served using other materials, and so why must they be fulfilled with lives, which resulted in frequent huntings of endangered species? We are all residents on planet Earth. Why must we exterminate them?

It has never come to my attention previously that the trade of elephant poaching kills not only elephants, but humans, too. In the past 10 years, over 1 000 rangers were killed in the line of duty of protecting wild animals, meaning about two rangers were killed every week. Not only 1 000 lives were lost, but 1 000 families were broken as a result. I really cannot imagine there could be such a brutal trade.
I note that some members of the trade admitted that the poaching activities were brutal but then claimed that they engaged in legitimate trade and the poachers, not the traders, should be denounced. But then again, as a graduate of the Master of Business Administration programme of Harvard University, I have always believed that when there is no market, there is no supply; when there is no supply, there is no poaching, isn't it? Only two types of elephants, namely African elephants and Asian elephants, remain on earth. Since 2006, there has been a surge of poaching of African elephants for tusks. Between 2006 and 2015, the number of African elephants dropped from 510,000 to 410,000, meaning over 10,000 African elephants were killed each year for their tusks.

Hong Kong ranks among the top in many international rankings, including competitiveness, economic freedom, rule of law and education, which all make us proud. Deputy President, the co-location arrangement will later be added to the list. However, we have indeed earned some undignified ranking—Hong Kong is widely known as the biggest centre of ivory trade in the world. We have been striving to become so many "centres", but to no avail for a lot of them. Never has it occurred to us that we would become such a "centre". In the last 40 years, the Agriculture, Fisheries and Conservation Department has seized 41 to 42 tonnes of ivory—Mr Kenneth LEUNG said 41 tonnes just now. In June last year, the Customs and Excise Department cracked the biggest case of ivory trafficking in the past 30 years, intercepting a total of 7.2 tonnes of illegal ivory worth $72 million, suggesting that at least 700 elephants were believed to have been killed. Among the intercepted ivory, many pieces were small in size, showing that even baby elephants were not spared. There is still a market for ivory trafficking.

The present problem is there are the so-called legal trading and illegal trading in the ivory market, rendering it practically impossible to effectively regulate legal trading. It was reported that a member of the press had pretended to be a buyer in an undercover story. The ivory trader told the "buyer" that the product had been registered back then and after it was sold, a new piece was made using illegal materials and then swapped as the registered product for sale again; the Government was simply unable to regulate. As traders have no self-discipline and an effective regulatory regime is lacking, the market remains. It brings no benefit to society and, therefore, a total ban is expected as a matter of course.
In fact, not only is Hong Kong banning ivory trade, it has become a global trend to further restrict or prohibit ivory trade. Mainland China, which used to be the biggest ivory market, already imposed a total ban on ivory trade before 31 December 2017. France has announced a ban on domestic trade in ivory and ivory products. The United Kingdom has commenced public consultation on a ban on domestic trade of ivory products. The European Union ("EU") has long since implemented regulatory measures stricter than the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The import and export of ivory to and from EU and intra-EU ivory trade for commercial purposes have generally been prohibited. Intra-EU ivory trade and re-export of ivory from EU for commercial purposes are allowed only under limited circumstances. At the same time, the European Commission has adopted a guidance document requiring EU countries to stop re-export of raw ivory with effect from 1 July 2017 and ensure strict enforcement of those EU laws regulating the approval of intra-EU ivory trade and re-export of worked ivory from EU. Besides, EU has commenced consultation in September 2017 to solicit information and feedback on taking further measures to restrict or prohibit ivory trade. Why is Hong Kong lagging behind others?

Deputy President, the question that remains is whether it is necessary to provide compensation for ivory traders. It is common sense that the provision of compensation to a market characterized as illegal de facto encourages the market to continue to exist. Such a law always stands. Therefore, various countries do not provide compensation in banning ivory trade, only through which the policy objective can be achieved.

If we say ivory traders will suffer losses, according to the ABCs of economics, any business entails risks, such as market risk, environmental risk, geographical risk, raw material risk, and one of them is policy risk. This year, the manufacturers of electric vehicles is the most encumbered by policy risk—ivory traders will have to wait for their turn. The policy changes in ivory trade have been under discussion for at least 10 to 20 years. It has been highly predictable, unlike the first registration tax of electric vehicles, which came strongly all of a sudden, as if the whole world had changed overnight. For so many years, ivory traders have not disposed of their stock and trafficking activities are still rampant. It shows that some traders have continued to restock. Do they still need the Government to help them? Then does the Government need to make compensation to electric vehicle manufacturers and tobacco companies? And if fuel-engined vehicles are banned later, is it necessary to
compensate automobile manufacturers? It is common knowledge that it will happen sooner or later. If the traders have not started to transform their business, what are they waiting for? It is the policy risk that stakeholders in every industry need to consider.

Deputy President, elephants can no longer wait. With one more day of delay, a few more of them will die. I support the passage of the Bill to make Hong Kong more civilized. Deputy President, I so submit.

DR ELIZABETH QUAT (in Cantonese): I have waited for the introduction of this piece of legislation into the Legislative Council for a long time and hopefully, it will be passed today. Deputy President, I love animals ever since I was small and to me, all animals are cute and interesting.

For over three decades, I have insisted on following a vegetarian diet and one major reason is that I find animals very lovely and cannot bear to eat them. In 2013, many animal protection groups approached me and I learnt that African elephants were facing the crisis and threat of extinction. At that time, I was surprised to hear that because I had little understanding of this issue. Like many Hong Kong people, we often see ivory being sold in the streets and there are shops selling ivory but it has never occurred to me that nowadays, elephants are endangered and facing the threat of extinction.

Elephants are a kind of animal that I like very much. They are such a unique type of living thing, with long trunks and big ears and I love them ever since I was small. I began to think that I needed to understand this issue more. Some friends told me that Hong Kong plays a very important role and it turns out that Hong Kong is an international trade centre of black-market ivory. I was even more astonished to hear this. Hong Kong is a financial centre and a transport hub but I did not know that Hong Kong has such a bad name, that is, "black-market ivory trade centre".

I thought Hong Kong had an unshirkable responsibility but I wanted to see personally how the reality was like and how bad the situation was. For this reason, I travelled to Africa on two separate occasions, in September 2014 and July 2015, to Kenya and to Kenya and Tanzania respectively, in relation to the problem of the poaching of African elephants. There, I paid visits to experts and academics who had been engaged in the protection of animals for decades, the
Chinese ambassadors posted there and some religious leaders. I even went to some backward villages to personally understand how the village heads and villagers looked at the issue of African elephants.

I also became acquainted with a group of rangers, who told me that each day, they risked their lives to protect endangered African animals, including elephants. Many rangers showed me the scars left by the gunshot wounds on their bodies. They told me they had to receive training in the use of firearms and each day, they would carry their automatic rifles to protect elephants. I asked them, "Why is it necessary to carry guns to protect elephants?" They said, "You have no idea. Because it is like a battlefield out there and each day, it is like going into a battle."

Before going to Africa, I thought it was still African villagers who hunted and killed African elephants and that in doing so, maybe they use spears or some rather backward tools but it turned out it was not the case. Nowadays, elephants are hunted with automatic rifles or AK47s. What puzzled me even more was that buying these guns, the provision of training, tracking, and so on, actually cost a lot of money. Subsequently, I learnt that nowadays, elephant poaching and ivory smuggling is actually a highly organized serious crime and apart from drugs, firearms and human trafficking, it has become one of the most serious organized crimes in the world.

Why are organized criminal syndicates so interested in selling ivory? It turns out the profit is extremely handsome. I asked the locals about this and they said that killing an elephant to get a pair of tusks did not actually give them a great deal of income and it only amounted to about US$2,000. However, this sum of US$2,000 already amounted to two to three years of their family income. Normally, they would not do such a thing but when they needed money urgently for medical treatment or when they ran into troubles, they might take the risk and do this kind of thing out of desperation.

At present, in many African countries, people poaching elephants or endangered species are liable to life imprisonment and this is actually a very heavy penalty but people may still take the risk. However, if this pair of tusks bought at US$2,000 is smuggled out of Africa—we can look at these container shipping routes leading to Hong Kong—they may pass through the Middle East and Europe and circuitously through a number of ports before reaching Hong Kong and their price after smuggling may increase by tens of times and even by more than one hundred times. The black-market price of a pair of carved large
elephant tusks may reach over US$1 million. Indeed, the profit margin from US$2,000 to over US$1 million is very large, so many large criminal syndicates are attracted to such activities. For this reason, we can see that in the battlefields in Africa, people protecting elephants carry guns and people poaching elephants also carry guns but not only do the latter kill elephants, they also kill people. Over the past decade or so, more than 1,000 rangers were killed because of their protection of elephants, rhinoceros, and so on.

I gained a better understanding of these issues in Africa and some rangers personally took me on a trip to find elephant carcasses and look at them first hand. Before going to Africa, I thought killing elephants was only about knocking their tusks off but this is actually not the case. I learnt that the most valuable part of an elephant tusk is actually the section joining the face and the eye socket and the longer and thicker an elephant tusk is, the more valuable it is. For this reason, after an elephant has been shot and killed, due to its enormous size, it would not die immediately after being shot but would lie on the ground bleeding, perhaps for several days before it dies. However, these poachers will not wait because they may be arrested, so they use an axe to chop off the elephant's trunk and face to remove the tusks before it is dead. This is how the gory business of elephant tusk extraction is carried out and this is the reality. I looked first hand at several elephant carcasses and honestly, it was really foul-smelling and such foul smell could not be washed off for several weeks. On one of the elephants, I personally found 49 bullets—49—and this is as true as it can be. The ranger who took me there was the person who saw the people poaching the elephant. He was also on the run from his would-be assassins because he was accused of being a "snitch", so someone wanted to kill him. He risked his life to take me there to have a look and let me see how the reality was like.

I also came to know many heroes who spent their whole lives protecting African animals and I have great admiration for one of them. He was the founder of the PAMS Foundation. For some 10 to 20 years, he personally conducted surveys in Africa, as well as reported and arrested many criminals of smuggling syndicates. However, in August 2017, I received the most terrible piece of news. He was assassinated in Tanzania. After getting off the plane and boarding a taxi, the taxi was intercepted and he was killed by two gunshots in the head. He was 51 years old, survived by two daughters. I was greatly pained and very heart-broken on receiving this piece of news. What seems to be far removed from us is actually happening right before our eyes.
I still remember that on that day when I went to his centre, he was training several dozens rangers in the use of firearms. I personally thanked this group of rangers for risking their lives to protect the remaining endangered species on earth. He told me, "'EQ', I admire you for coming to Africa. Do you know that it is very dangerous for you to come here and do this kind of work?" In response, I said I thought it was more dangerous for them to do their work there on a daily basis. Then, he told me to be careful and I told him to be careful too. Subsequently, we maintained correspondence. Yet, he was murdered last year and this is the blood-soaked fact. Every elephant tusk that we see is actually soaked in blood.

After coming back to Hong Kong, I have all along wanted to take forward the enactment of legislation to ban ivory trade because I know that the slaughter will stop only if the trade stops. In December 2015, I proposed the motion on "Strengthening the combat against the crime of wildlife smuggling", which includes enacting legislation to ban ivory trade. Before I proposed the motion, many friends told me not to talk about the protection of elephants anymore because Hong Kong people do not care about elephants. They told me not to propose this kind of motions anymore, or else not only would the public stop voting for me in District Council elections, they would even stop voting for me in Legislative Council elections because elephants have no votes, so they told me not to do this sort of things anymore. Some people also asked me why I did not promote such causes as helping the poor and helping the elderly but wanted to raise the issue of elephant protection in the Legislative Council. In fact, I do not know either but precisely because I do not know if I will still have the chance to speak up for the protection of animals and for elephants, I thought the motion in December 2015 may be my only and last chance to move such a motion, so I insisted on doing so.

On that day, I felt quite grateful to a number of Members in the last Legislative Council. It was rare to win cross-party support from Members of the Legislative Council but it enabled the passage of my motion. It was also due to the passage of the motion that the Government thought it may be able to secure the approval of Members in the Legislative Council if the legislative exercise is initiated, so the whole process was launched.

Do Hong Kong people really not favour enacting legislation to ban the ivory trade and do they really not care much about elephants? This is not true because in March 2017, the World Wide Fund for Nature International collected over 90 000 signatures from the Hong Kong public in support of enacting
legislation to ban ivory trade. Today, I went to the ground floor of the Legislative Council Complex earlier on and many members of the public and children had come to lend me support, as well as telling all Legislative Council Members that they hope all of us would support the Bill to ban ivory trade today.

I support the introduction of this Bill by the Government because although I think stopping ivory trade completely only five years later is a very long time, at least, there will be a law for us to follow. Moreover, according to this three-step process, that is, to increase the penalties and ban pre-Convention ivory three months later, some major loopholes of the existing legislation can also be plugged, so I believe it will serve to ban local ivory trade effectively.

In fact, Hong Kong is neither the first nor the last place to enact legislation to ban local ivory trade. Before we do so, our country has already enacted such legislation. In March 2015, I also took part in lobbying 32 Hong Kong Deputies to the National People's Congress and a proposal was submitted by CHAN Yung, in the hope that our country would enact legislation to ban ivory trade. Our country also passed a law at the end of last year and from this year onwards, Mainland China has put in place legislation to ban ivory trade. Insofar as the situation in Hong Kong is concerned, a five-year grace period is indeed very long, but in order to pre-empt unnecessary judicial reviews and give the Government confidence, I support the Government Bill. I believe a grace period of five years can be considered the most generous in the world. In other places, a full trade ban would be put in place after about one year.

I believe that in Hong Kong, the almost three decades in the past were sufficient time for ivory traders to sell their stock and it has decreased from 700 tonnes back then to tens of tonnes at present. In view of this, I believe this is already a very reasonable period of time and granting another five years is also quite generous. Ultimately, since the business of trading in endangered species is unsustainable, I do not think this kind of business can continue indefinitely. Moreover, if elephants become extinct, no more new ivory will appear in the future.

In the past, the Government also provided figures which indicated that in the past several decades, few local people would buy ivory. Furthermore, it is illegal for tourists to export ivory after buying it. Therefore, there is little genuine ivory trade in Hong Kong and it is not the main source of revenue for any company. Most imported pre-Convention ivory was destined for re-export. In view of this, I do not believe that enacting legislation to ban ivory trade would have a major impact on many people in Hong Kong.
Deputy President, most importantly, elephants can no longer wait. Today, Hong Kong is setting a precedent. Apart from our country, on 1 July 2017, the European Union also started the process of enacting legislation to ban ivory trade. I have in hand an advertisement published today, in which an organization collected the signatures of more than 1.1 million people throughout the world over a period of time to call on the Legislative Council of Hong Kong to pass the legislation banning ivory trade today. I hope that after the Bill is passage today, other places, for example, Japan, which is another major market, can be influenced to join the ranks of elephant protection. Today, many friends of the international community are observing our meeting and I also hope they can appeal to other countries, including Japan, to enact legislation to ban ivory trade, as well as call on the United States Government to ban the import of elephant hunting trophies and refrain from encouraging its citizens to go and hunt any wild animal in Africa, particularly elephants.

I believe the Legislative Council has made history today but actually, many other endangered wild animals also need our rescue and protection. I hope that the Bill can win the support of the great majority of Honourable colleagues in the Legislative Council and be passed, so that Hong Kong can erase its bad name of being a black-market ivory trade centre and become a leading and civilized city in the protection of wild animals and endangered species. Thank you, Deputy President.

MS TANYA CHAN: Deputy President, I speak in support of the motion moved by the Secretary for the Environment on the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill").

Today's Bill marks a momentous occasion for the preservation of elephants worldwide. But before we crack open the champagne, I would like to ask our colleagues in the Chamber, and members of the public, for a moment to reflect on the lives lost over the past decades due to our inaction.

Every year, 20,000 to 30,000 African elephants are killed for their tusks to service the demand for ivory products. Even though the trade has been banned since 1990, smuggling and illegal trading is still rampant around the world, with the large majority of ivory trafficking occurring along the route from East Africa to East Asia.
Since 2000 and until July 2017, according to data compiled by the Environmental Investigation Agency, 251 tonnes of illegal ivory has been seized in large-scale seizures of over 500 kg. Seizures from Hong Kong constituted 30 tonnes, amounting to over 12% of the global amount. More ivory is seized in Hong Kong each year than any other country or region outside Africa. The complicity of this city in the global organized trafficking of ivory, and by extension, the poaching of African elephants, is severe and undeniable.

Yet, that is merely the surface of the problem. Advocacy groups suggest that perhaps less than 10% of the illegal ivory shipments are actually seized. Since 2003, Hong Kong has intercepted around 35 tonnes of illegal ivory, which would mean that around a staggering 350 tonnes of ivory has entered Hong Kong illegally over the past 15 years.

A single elephant killed yields an average of 7.4 kg of ivory. By that count, Hong Kong has handled the proceeds of the illegal slaughtering of close to 48,000 elephants over the past 15 years. Of course, this is not accounting for the tens of thousands killed and trafficked before that.

Today's Bill will not wash away the blood—of both elephants and human—on our hands that was a direct consequence of our role in the illegal ivory trade. However, should this Bill be passed and implemented effectively, the damage, at least to the population of African elephants, could be reversed.

The Bill also marks one of those increasingly rare legislative events where we have the support on both sides of the aisle for a substantive Bill, a constructive and determined Government, and overwhelming public support thanks to the work of international and local advocacy groups.

Back in 2014, WildAid and its preservation partners commissioned a poll on attitudes on the ivory trade in Hong Kong. Survey results showed a strong majority of respondents—76%—supported a ban on ivory sales in Hong Kong, and a vast majority of Hongkongers, over 90%, did not own any ivory products. During that year, large retailers such as Wing On and Yue Hwa also announced banning the sales of ivory products under public pressure.

In December 2015, a Member's motion moved by Elizabeth and amended by the Honourable Claudia MO on combating wildlife smuggling was passed unanimously in this Chamber. By January 2016 and the publication of the Policy Address, the Government promised to take legislative steps to ban the import and export of ivory and phase out the local ivory trade.
In October 2016, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to which Hong Kong and China are signatory parties, passed a resolution calling for the closure of domestic ivory markets that contribute to elephant poaching and illegal trade. By May 2017, the Government brought forward that piece of legislation to this Council.

In particular, it is worth noting that during the Bills Committee stage, the Government held firm on its position to not compensate the ivory traders who have been proven to have played a critical role in facilitating, if not directly participating, in the illegal ivory trade. For that, I applaud the Government who stood firm on this issue against the ivory trade lobby. I will address this issue in Cantonese later in greater detail.

In sum, this is a piece of legislation that this Chamber and the government officials before me should aspire to: the pro-establishment legislators should help move society forward rather than backward; the Government should be principled and determined in bringing the legislation in effect; all of which is backed by changing the public opinion through educating the public in order to arrive at a consensus. Regrettably, this is rarely the case for the majority of non-technical legislation passed in this Chamber.

I would like to turn my attention towards the future, especially on the enforcement of the Bill moving forward.

Mainland China has imposed a complete ban on ivory sales starting this year, and wholesale raw ivory prices have already fallen from about US$2,100 per kilogram in early 2014 to US$730 per kilogram in February 2017.

Under the proposed legislation, the complete ban of commercial possession of all ivory will only happen in 2021. As studies have shown, over 90% of the ivory objects in Hong Kong are bought by Mainland Chinese. Ivory traders have also been documented to encourage buyers to smuggle ivory out of the city without the appropriate export permits.

Even though penalties for wildlife trafficking are raised substantially under the current Bill, I still have my reservations about whether it is sufficient to deter criminal activity. Moving forward, I am certain that my colleagues and I will continue to monitor the implementation of the new laws.
I will set out my comments in response to the ivory trade lobby in Cantonese below.

**MS TANYA CHAN** (in Cantonese): Deputy President, in the course of the Bill's scrutiny, ivory traders kept insisting that the existing stock of ivory was all obtained through legal channels, and that the Government should offer them appropriate compensation as per the damage inflicted as a result of the Bill. I find this argument totally unacceptable.

As many advocacy groups have repeatedly pointed out, ivory traders may have engaged in illegal ivory import with illegal ivory sold in the mix of legal ivory, a practice commonly known as "ivory laundering". Putting such evidence aside, a look at the changes in Hong Kong's licensed stock of ivory over the years would be enough to reveal the existence of ivory laundering.

When I spoke in English just now, I mentioned that over 90% of the ivory objects in Hong Kong are sold to the Mainland. A surge in the wholesale price of ivory began in 2010, as studies showed, with high-quality ivory weighing 1 kg to 4 kg sold for US$2,100 per kg in 2014, nearly doubling the US$750 or so in 2010.

By common sense, stock should fall as the price surges. Legally held ivory stock in Hong Kong in the same period, however, remained steady at a level between 110 tonnes and 120 tonnes. It was not until the Mainland's recent announcement of its plan to ban outright the sales of ivory, causing the price to drop, that the stock of legal ivory in Hong Kong began to shrink, falling to around 75 tonnes in 2017.

Moreover, according to a survey on ivory trade conducted by the Agriculture, Fisheries and Conservation Department ("AFCD") in 2016, around 90% of the post-Convention ivory stock held by ivory trader respondents recorded no sales in the past five years. "Buy low and sell high" is a concept in which the people of Hong Kong is well versed, I believe. With such evidence, the public should have no trouble establishing whether ivory traders in Hong Kong have engaged in the illicit act of "ivory laundering".

In March 2017, by applying carbon-14 dating technique for the first time, AFCD managed to prove ivory products sold by ivory traders were in fact made of "fresh" ivory obtained after 1990. The two ivory traders involved, LEE Chun-man, former vice chairman of The Hong Kong Ivory Industry and
Commerce Association, and LEE Po-kuen, a merchant, pleaded guilty and were each fined HK$6,000 and HK$8,000 respectively. Earlier this month, William LAU Sai-yuan, a member of the Endangered Species Advisory Committee ("the Advisory Committee") was similarly fined HK$8,000 for possessing illegal ivory. It was an absolute disgrace of him and an insult to the people of Hong Kong. He was invited to sit on the Advisory Committee presumably for his knowledge of the ivory trade. But he has illegal ivory in his possession, it turns out. Has he no decency? Environmental groups immediately called for his resignation from the Advisory Committee. At least he felt ashamed enough to quit on his own accord eventually. I really do not understand how anyone can do such a thing. It is, however, just the tip of the iceberg, I am afraid. It would probably be a long time before the problems of the entire trade are fully exposed.

Over the past 28 years, ivory traders in Hong Kong have been participating in and facilitating the illegal ivory trade. The Government, meanwhile, has been deceiving itself, thinking that effective regulation of the ivory trade is possible without banning the sales of ivory outright. Experiences serve to show that such an argument is untenable.

I hope the Environment Bureau and advocates of voluntary regulation will recognize that there should be a time limit for voluntary regulation, and that prolonged but ineffectual implementation of voluntary regulation warrants a change in strategy. I hope that the authorities will, in future, act as boldly and as decisively as in the case of this Bill, showing the Government's determination in regulating acts widely recognized as illegal, acts that traded lives—not just those of elephants, but those of humans as well—for financial gains. Such acts should never be accepted nor recognized.

For these reasons, I hope the Government can redouble its efforts in other Bills with a view to achieving genuine regulation. The Civic Party supports this Bill moved by the Secretary for the Environment.

I so submit.

MR MARTIN LIAO (in Cantonese): Deputy President, I fully support the passage of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") to phase out in three stages the local ivory trade. Moreover, no compensation should be made to the trade.
Deputy President, the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") implements its provisions through enforcement of the Protection of Endangered Species of Animals and Plants Ordinance in Hong Kong. The amendments proposed this time around seek to fulfil an obligation arising from a new resolution adopted in 2016, that is, all Parties and non-Parties are required to take all necessary legislative measures to close their domestic markets for commercial trade in elephant tusks as a matter of urgency, with a view to reducing the poaching of elephants or illegal ivory trade attributed to those markets. Being widely known as the world's largest ivory trading centre, the main transit point for the smuggling of ivory and the world's largest retail market for ivory products, Hong Kong is obliged to shoulder the international responsibility, continuously fulfil the obligation under CITES, expeditiously phase out the local ivory trade by enactment of legislation, protect elephants and maintain Hong Kong's image as a civilized international city.

Deputy President, elephants are currently the largest mammoths on land, with African elephants and Asian elephants being the only remaining elephants. Nevertheless, there has been continuous poaching of African elephants, and their number has dropped from approximately 510,000 in 2006 to approximately 410,000 in 2015. African elephants are now disappearing at a rate of over 20,000 per annum. At this speed, the African elephant species will probably be eliminated in our lifetime. For our grandchildren, such a highly intelligent and emotional mammoth might become a species described in textbooks or by the older generation only.

Both the ecology and humanistic ecology are being dealt a double blow as a result of African elephants facing this threat of extinction. African elephants are actually the key to maintaining the biodiversity and the ecological system of Africa. As one of the representatives of African animals, African elephants are inextricably linked with Africa's safari tourism industry. Moreover, these animals are capable of attracting capital and resources and improving the purposes of the African wilderness, thereby promoting humanistic development. The poaching of African elephants for reaping huge profits from ivory is the main factor leading to the drop in the number of the animal. What is more, the killing process has led to a series of adverse consequences. In the past decade, more than 1,000 park rangers were killed in the course of protecting wild animals, thereby indirectly resulting in numerous broken families. African elephant ivory trade has not only triggered large-scale criminal activities, but the huge profits reaped can only satisfy and further provoke the avarice of unscrupulous traders.
Owing to the worsening of the poaching of elephants in Africa and the smuggling of ivory worldwide, the voices of the international community calling for strengthened control on ivory trade and eliminating illegal smuggling of ivory have become stronger and stronger. Further prohibiting or restricting ivory trade has already become a global trend. According to a CITES resolution endorsed in 2016, 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 legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency. The resolution has received positive responses from the international community. Mainland China already fully banned ivory trade at the end of 2017 and imposed a phased ban on the commercial processing and sale of ivory on the Mainland; France has announced a ban on domestic trade in local ivory and ivory products; and the United Kingdom has also conducted public consultation on such ban. The European Union ("EU") has adopted regulatory measures which are even more stringent that those imposed by CITES. The import and export of elephant ivory into and from EU, or between EU countries for commercial purposes have generally been banned.

Insofar as Hong Kong is concerned, the Government's proposed plan to adopt a gradual and progressive approach in phasing out the local ivory trade deserves our support. Step 1 is to ban import and re-export of all elephant hunting trophies and post-Convention ivory items. Step 2 will take effect three months after Step 1, whereby the import and re-export of pre-Convention ivory (save for antique ivory) shall be banned and the commercial possession of pre-Convention ivory (save for antique ivory) in the local market shall be subject to licensing control. Step 3 is to further tighten the scope of a Licence to Possess to only permissible circumstances including scientific studies, education, law enforcement and personal or household effects. Step 3 is proposed to take effect on 31 December 2021, after which the local trade of all ivory (save for antique ivory) will be completely closed down. The three-step proposal is not only gradual and progressive, but can also strike a reasonable balance between the societal benefits and the rights of the trade.

Deputy President, I would like to emphasize in particular that I do not support making any compensation to ivory traders or acquiring their stock. For one thing, not offering compensation to ivory traders does not constitute infringement of property or the right to compensation for deprivation of property. Articles 6 and 105 of the Basic Law provide that the Hong Kong Special
Administrative Region protect, according to law, private property right and the right to compensation for lawful deprivation of property belonging to individuals and legal persons. Undoubtedly, "ivory" constitutes "property" for the purpose of the Basic Law. Insofar as "deprivation" for the purpose of Article 105 of the Basic Law is concerned, the Court has explained that "deprivation" means "expropriation", and an interpretation in the narrow sense should be adopted, that is, the compulsory acquisition of property by the Government for public purposes. As regards whether there has been deprivation, the Court will look at the substance of the matter rather than at the form. In the absence of a formal expropriation, the question whether there has been de facto deprivation of property is case specific, a question of fact and degree. The Court has ruled that de facto deprivation for the purpose of compensation contemplates the removal or denial of all meaningful use, or all economically viable use, of the property. Under the Bill, although ivory owners are not allowed to engage in commercial trade in ivory, they will not be denied meaningful use of their ivory, such as possession, donation and cultural uses such as exhibition.

On property rights restrictions, it is considered to be a legitimate aim to impose such restrictions on ivory trade for the purpose of combating the poaching of elephants and curbing the smuggling of ivory in Hong Kong. The three-step progressive plan provided for in the Bill is rationally connected to that legitimate aim. Although the Agriculture, Fisheries and Conservation Department ("AFCD") and the Customs and Excise Department ("C&ED") have jointly implemented a series of enhanced regulatory measures, the local trade in the illegal smuggling of ivory has still not been curbed. The passage of the Bill by the Council is actually the last resort, which is no more than is necessary to accomplish that legitimate aim. After the passage of the Bill, the restriction on ivory trading will satisfy the test requirement laid down by the Court of Final Appeal on encroachment in relation to Hysan Development Co. Ltd v Town Planning Board without impairing the property right guaranteed by the Basic Law.

Furthermore, the trade has been notified of and given a grace period. Given Hong Kong's history as a centre of ivory trade in the Asian region in the 1980s, a substantial amount of ivory was already imported legally and in accordance with the CITES provisions into Hong Kong before the international trade ban on ivory in 1990. However, the implementation of an international trade ban on ivory worldwide gave the clear message that ivory trade should be downsized. As such, the trade should have obtained a full picture of the relevant
situation and undergone business transformation, instead of regarding ivory as a rare commodity worth hoarding for making huge profits. The total ban proposed in the Bill will take effect on 31 December 2021, which will have provided the trade in Hong Kong an additional grace period of five years from the Government’s announcement of the three-step plan for phasing out the local ivory trade on 21 December 2016. Actually, the five-year grace period is barely acceptable to me as it is too long.

Deputy President, there are indeed some individual businesses conducting illegal ivory trade in Hong Kong by making use of legal certificates. In June 2017, C&ED detected the largest smuggling operation of ivory in three decades and seized 7.2 tonnes of illegal ivory, including quite many small pieces of ivory. Should the Government make compensation or acquire the ivory stock, it might further encourage unscrupulous businesses to accumulate their stock in an attempt to make excessive profits.

I wish to cite another main reason for not supporting making compensation. Should the Hong Kong Government offer compensation to ivory traders, it will send a wrong message to the international community (including people involved in the illegal poaching of elephants) and fail to demonstrate its determination to protect endangered species. Furthermore, making compensation is inconsistent with the usual practice of the international community, as no other regions or countries in the world offer compensation to ivory traders.

Lastly, Deputy President, I consider that the Government can support the transformation of the trade. According to a survey on ivory trade conducted by AFCD in 2016, many of the ivory traders have already undergone business transformation or switched to the trading of other commodities not subject to CITES control such as mammoth tusks. Furthermore, the Government and the trade can jointly examine the number, age and qualifications of affected ivory craftsmen, with a view to providing targeted training and support to promote skills transformation and job selection.

Deputy President, the earth that we live on is not only the only home for humans, but also the habitat for various species of animals and plants. Actually, the entire ecological and humanistic system is created by humans as well as animals and plants. Over the years, due to the personal desires of some people, African elephants have been consistently killed and are on the brink of extinction.
Protecting the elephants has now become a matter of urgency. The Bill should be regarded as the international responsibility that Hong Kong should shoulder. Moreover, we are obliged to consistently fulfil CITES obligations and strike a reasonable balance between the societal benefits and the rights of ivory owners. As such, I fully support the passage of the Bill and consider that no compensation should be made to the trade.

Deputy President, I so submit.

MR HUI CHI-FUNG: Deputy President, I think we can all agree this is an important time in history to reflect on how we are impacting the environment and the world we are leaving behind for our future generations. It is imperative to make changes in our legislature accordingly because the reality is our children's future is being compromised by short-term monetary benefits of today.

I think we can also all agree that Hong Kong people care deeply about human rights and the rule of law. So it is clearly understandable and it highly makes sense why we should also place equal value on animal rights. Naturally, humans and animals depend on each other for survival and cooperate to shape the well-being of the world and its future. I demand that as human beings, we should do our part in creating a harmonious and sustainable world.

This is especially true in the case of elephants, with which we share so many similarities. Just like us, they hold funerals to lament the death of family members and friends; just like us, they have been observed transferring the corpses of loved ones and burying them; just like us, they express compassion and loyalty; just like us, they reason and display emotions of joy, playfulness, and grief; just like us, they look into the mirror and recognize themselves, a rare feat in the animal kingdom; just like us, they form close bonds with families and friends. The important thing is, just like us, they want to freely live. Perhaps, what largely sets us apart from them is that elephants do not slay humans for profit like we do to them. What kind of an animal does that make us?

I find it fascinating that the leader of the herd is always a matriarch. In addition, they are a keystone species, meaning that their extinction will cause the whole ecosystem to collapse and the extinction of a cascade of other species. I will explain how that works later on.
Elephant poaching activities driven by the insatiable consumer demand in Asia is the reason behind the killing of 33,000 elephants worldwide each year, and that breaks down to around 100 elephants every day, one in every 15 minutes for their tusks. There are only roughly 500,000 elephants left in the world today. Meanwhile, in Africa, more of them are being slaughtered to produce ivory products as our legislation continues to turn a blind eye to the notorious ivory trade situation here in Hong Kong.

This brings me to the main point of my speech today: My support for the Amendment Bill to the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586), the three-step plan to phase out the ivory trade, because Hong Kong can save elephants from going extinct.

I believe in Hong Kong's potential because it has been serving as one of the last havens for traders and smugglers to develop their business with impunity. Our city's lax regulations, huge sales network, low tax rate and its proximity to the huge consumer base in China made Hong Kong the biggest ivory trafficking market in the world and one of the major transit hubs. To make matters worse, our current legislation allows ivory traders to trade and possess pre-Convention ivory with a pre-Convention certificate without a Licence to Possess. Undercover investigations show that these ivory traders are taking advantage of this system to sell pre-Convention ivory that was registered back in 1989 and then replenish old stockpiles with newly poached ivory imported directly from Africa.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"), the international treaty established in 1975, implemented an international ivory trade ban in 1989. But CITES' influence never extended to Hong Kong, as proven by WildAid's investigation in 2014-2015, which revealed that out of the 94 confirmed ivory retail outlets visited, only one displayed an unadulterated Licence to Process certificate, while others were partially obscured, damaged or expired. WildAid's undercover investigation concluded that the "legal" trade in Hong Kong actually assisted the growth of smuggling activities, allowing organized crime syndicates to thrive and benefit from the trade, and the illegal ivory trade is flourishing under the incompetent legislation.

China has already banned the domestic sale and processing of ivory and its products, showing its commitment to saving elephants by closing down all 172 of its factories and retail outlets at the end of last month. They are also utilizing more intelligence-based investigations on top of stopping smugglers at borders.
But for China's ivory ban to work, neighbouring countries must follow suit to ensure that the ivory trade in China does not shift to Hong Kong and that Hong Kong does not continue its role in serving as a safe trafficking channel and venue for ivory.

Therefore, Hong Kong should go abreast with international law to combat the illegal ivory trade.

I am strongly against any proposition to compensate traders or buy out their stocks for obvious reasons. First, providing any form of compensation will signal that Hong Kong is "buying" ivory, which will likely trigger a surge of poaching in Africa, a crime we are already guilty of. Second, compensation will send a wrong educational message to society if it is granted to an industry where there are known elements of illegality. This includes the poaching crisis in Africa, smuggling via criminal gangs, laundering, and illegal selling in Asia. Third, the licensing control system for the local ivory trade was developed with the intention of allowing ivory traders to liquidate their remaining stocks. The Government never suggested that the trade and the licences should be sustained indefinitely. Hong Kong ivory traders should know full well that remaining in the ivory industry during these 27 years bears greater risk over time. Statistics show that Hong Kong traders had been purchasing and importing small amounts of pre-Convention ivory in recent years. They took an ill-fated business risk to build up their stocks in this way and at a time when ivory prices were high, hoping that this was a good investment. It was not a wise business strategy, and should certainly not be compensated now with taxpayers' money for having taken this business. Carvers and traders have had over two decades since the international ban to diversify or switch trades. Most have done so. The Hong Kong Government already provided retraining programmes for them in the 1990s and has promised to do the same in light of the upcoming ban.

Last but not least, the heritage value and traditional skills of carvers are not a reason to continue to trade. We need to realign our values to protect the elephants because the livelihood of the future generation could depend on the survival of elephants. As I have mentioned earlier, elephants are keystone species of the planet. They create a healthy sustainable ecosystem by digging trenches to create water source to share with other animal species, so the survival of other animal species depends on elephants. Elephants also leave dung that is full of seeds from consuming so many plants, which helps fertilize the soil and spurs the growth of new grasses, bushes and trees; and when they roam the savannah, they create gaps in the vegetation and small pathways for smaller animals to navigate, creating a healthy sustainable ecosystem for all.
We need this new legislation to phase out the ivory trade because the survival of the elephant species hinges on the choice we make today. Our proposed legislation will not only save elephants from extinction, but will also save countless human lives, other animal species and the whole ecosystem. Stop opportunistic ivory traders and poachers from benefiting from natural resources from poorer countries. Help stop the spread of corruption and preserve the rule of law as the new legislation will increase penalties for ivory traders. The implementation of the legislation will also gradually put an end to Hong Kong's role in fuelling conflict and funding terrorism in Africa.

I would definitely love to experience the day when I can take my grandchildren to see elephants roaming in the verdant grasslands of Africa. I can only see positive results from our decision to hold ivory traders accountable for profiting from the mass slaughter of elephants for their short-term monetary gains. Together, we can be part of the solution to save elephants.

With this picture, I urge everyone to rethink their relationship with elephants. Start appreciating them for what they truly are and how similar they are to us, and the intelligence and compassion they display towards their species and even towards us humans. This important role they play as a keystone species maintains biodiversity and a healthy sustainable environment for us. They are calling on us to cooperate with them to conserve our planet together.

As a Chinese saying goes, "One generation plants a tree, another gets the shade." If you share my vision, please vote for the ivory trade ban bill.

MR HUI CHI-FUNG (in Cantonese): Deputy President, given the undisputable fact that ivory trade leads to poaching of elephants, a total ban on ivory trade is not only simply the Government's answer to compliance with an international treaty, but also a moral call on Hong Kong. It implies that Hong Kong, through legislation, needs to contribute to saving elephants and bringing changes to the global ecological disasters so that Hong Kong will become a more civilized place where lives are valued more than business worth.

Deputy President, I so submit and support the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017.
MR KWOK WAI-KEUNG (in Cantonese): Deputy President, on behalf of the Hong Kong Federation of Trade Unions, I rise to speak in support of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill").

As Members know, my child is turning two years of age next month. I am also a "monster parent". Before he could speak Chinese well, I already taught him English. A for aeroplane; B for blanket; C for carbon. When it comes to E, usually it is "elephant". How do we teach children about elephants? Certainly by recognizing their trunks. In fact, parents seldom mention ivory. Actually, elephants are facing serious threats to their lives and even endangerment, for which humans need to bear a great responsibility.

An Honourable colleague has reminded me that in the past, there was an elephant in the Lai Yuen Amusement Park. When we saw an elephant, we would feel happy. Playing with it and watching it eat, we would find it adorable, clever and friendly. It is a friend of mankind. Yet regrettably, I do not know since when humans, having nothing better to do, have used ivory to produce craft works, thus making ivory popular. As we all know, if elephants are left undisturbed, healthy ones in the wild can usually live to the age of 70. However, since some people have set their eyes on ivory, most elephants cannot live to this age.

As we all know, following the invention of plastics, we can mould plastics into tusks for delicate carvings. There is no more need to use genuine ivory. What the heck is going on with humans? Why do they still use ivory? I really do not understand it. Now only 1.3 million elephants remain ... no, it is the number in 1979, not now. In 1979, when I was only a year old, there were 1.3 million elephants, but in recent years, there are only 430,000. Within as short as three to four decades, the population has dwindled by almost 1 million. It is really shocking. Moreover, there will be one less elephant every 15 minutes now and even in the future. It was estimated that in 2015, the population had dropped by 20,000 within just a year. Who has actually pushed the elephant species to the brink of extinction? I guess we already have a clear answer. Hong Kong has unfortunately become a centre or city of illegal ivory. Had we not earned the name of "Pearl of the Orient" before, I am afraid Hong Kong would have been called "the city of illegal ivory".

As we all know, in 1989, the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") banned ivory trade. In 1990, in compliance with CITES, Hong Kong started to ban ivory trade, but
trading of ivory products which were already in Hong Kong before the implementation of CITES could continue. Given the ivory imported before 1990, the market in Hong Kong is still active. But many community organizations and green groups have queried why, after the passage of some 20 years, the sale of ivory has never ended and the stock has still not been sold out. Is it possible that there has been a continuous inflow of new ivory products, thus causing the endless sale?

In fact, according to the records of the Agriculture, Fisheries and Conservation Department ("AFCD") in the past two years, the authorities inspected 800 kg of ivory, of which 83%, i.e. 665 kg, was found to be inconsistent with the certificates issued before the implementation of CITES. The measurements and marking numbers of such ivory did not tally with the certificates. To put it more directly, such ivory was actually not ivory which had existed before the implementation of CITES. In the control buy operations conducted by AFCD in 2016 and 2017, it was found that unlawful traders had mixed illegal ivory items with legal ones and offered them for sale, or directly presented them as legal ivory for sale. This has explained the situation in Hong Kong.

Let us then look at the figures of illegal ivory seized by the Customs and Excise Department ("C&ED") in the past few years. In 2011, there were 3 300 kg; in 2012, 5 500 kg; in 2013, 7 900 kg; in 2014, 2 200 kg; in 2015, 1 600 kg; and in 2016, 530 kg. Such shockingly large quantities reflect that countless innocent elephants were poached and killed. They also reflect the rampant illegal ivory trade in Hong Kong. After all, who let the bullets fly? I believe that if a death inquiry was held, the ultimate answer would definitely be the persistence of such a market in Hong Kong, rendering ivory still valuable. This would be the ultimate judgment in the death inquiry. Hong Kong has also been identified by CITES as a place of primary concern regarding the poaching of elephants and illegal ivory trade. How can we not feel ashamed? We should easily comprehend that as long as we continue to allow the ivory market and trade to exist, more innocent elephants will be poached and killed. For this reason, at the conference in September 2016, the signatories of CITES suggested that all the contracting states and non-contracting states must expeditiously close down their ivory trade market. This time the amendments proposed by the Government are precisely meant to comply with the consensus reached on this conference. The Bill proposes phasing out the local ivory trade in three stages. The Government has given a detailed explanation, so I am not going to repeat it here.
Next, I would like to discuss the dispute about compensations. Ivory traders hold that the Bill will affect their business which they will be unable to carry on in future, so they request the Government to make compensations corresponding to the amount of ivory in their possession. However, the Government must deal with the matter of compensation very carefully. First of all, in 2016, the Government already informed the industry in advance of this new arrangement. The Bill has also provided a five-year grace period for business transformation. The industry will have sufficient time to make adjustments in response to the measures under the new law. Moreover, during the scrutiny of the Bill when we argued about compensations, a large batch of smuggled ivory was intercepted in Hong Kong again. In July last year, C&ED seized 7 200 kg of suspected smuggled ivory in a container from Malaysia, even exceeding the total seizure in the past three years.

We are worried that if the Government makes any compensation, Hong Kong will become a dumping ground for illegal ivory during this five-year grace period. All the illegal ivory in the market will flow into Hong Kong in exchange for compensations from the Government. Moreover, we must deal with this matter carefully owing to several reasons: first, I believe if we arrange for any compensation proposal for this five-year grace period, the problem of illegal poaching of elephants will persist during these five years; second, it will send a dangerous message to places all over the world that the Hong Kong Government is receiving such stock; and third, as mentioned by Members just now, bullets will fly among poachers as well as rangers. Not only animals but also humans would get hurt. All of them are flesh and blood. If we do not close down this market and ban illegal poaching as soon as possible, elephants will vanish within a decade, since we have calculated that at present, only about 400 000 elephants remain. If the population drops at a rate of 30 000 to 40 000 every year, elephants will soon become extinct in 10 years. We humans consider it necessary to conserve those animals on the brink of natural extinction, not to mention that elephants are nearing extinction because of the greed and meaningless pursuit of mankind. I believe this is unacceptable. We must do more work with greater vigour to protect them. Elephants are animals as mild and friendly as before. They are the symbol of African grassland. The conservation of elephants has already gained our recognition. Hence, I believe the majority public will support the amendments made in the Bill so that we can contribute our share of effort to the protection of species of animals and plants in the world. I so submit. Thank you, Deputy President.
IR DR LO WAI-KWOK (in Cantonese): Deputy President, as a member of the Bills Committee on Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill"), I support the passage of the Bill. As a matter of fact, there were extensive discussions in this Council on this issue. On 3 December 2015, the Member's motion on "strengthening the combat against the crime of wildlife smuggling" was passed, signalling a consensus among Members that Hong Kong, as a signatory of the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"), has an undeniable responsibility to step up the combat against the crime of smuggling endangered wildlife and the relevant products. In respect of the Bill, neither the Administration nor the relevant Bills Committee has proposed any Committee stage amendment, reflecting a basic consensus among the various sectors in the community on this issue.

The illegal trade of wild animals has been rampant in recent years, with criminal syndicates going so far as to apply techniques similar to those used in drugs and arms smuggling in the smuggling of wild animals, thus catapulting the latter to the fourth largest illegal trade in the world. The smuggling of wild animals is now a trade worth over US$19 billion annually, with smuggled elephants making up a big part of it. The population of African elephants plummets as a result, plunging from around 510 000 in 2006 to around 410 000 in 2015, with one elephant killed by poachers somewhere in the world every 15 minutes. Back in the 1980s, as the population of elephants tumbled, CITES passed in 1989 a proposal banning ivory trade worldwide, which served to mitigate elephant poaching somewhat.

However, as the demand for ivory in Asia continues to rise, activities of elephant poaching and smuggling have gathered pace again, leading to strong calls from the international community for strengthened regulatory measures against ivory trade. In 2017, the United Nations General Assembly adopted at its Seventy-first session a resolution on tackling illicit wildlife trafficking, urging member states to take all necessary legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency. Further restriction or ban of ivory trade has become a global trend. The European Union has long adopted regulatory measures that are tougher than those called for under CITES, while the Mainland has banned all ivory trade beginning 31 December last year.
As a signatory to CITES, Hong Kong enforced the corresponding provisions in 1990 while recognizing ivory in possession before that as legal ivory stock. A licensing regime was also put in place to regulate the trade of legally held ivory stock until it is sold off completely. But that has failed to eradicate illegal ivory trade with the lucrative profits from smuggling activities being at stake. In a crackdown on ivory smuggling resulting in the largest seizure in 30 years, the Customs and Excise Department seized in June 2017 illegal ivory totalling 7.2 tonnes, evident that smuggling activities are still rampant. Meanwhile, unscrupulous merchants has over the years exploited the loopholes in the licensing regime, engaging in illegal ivory trade by using legal ivory as a front—a phenomenon known as "ivory laundering", leading to Hong Kong's status as a party of primary concern regarding the poaching of elephants and illegal ivory trade as identified by CITES. In a number of study reports I received, different non-governmental organizations keeping an interest in wild animal protection have all called on the Government to take effective measures to stop the trade and processing of ivory. The loopholes they revealed in the existing regulatory system are indeed noteworthy.

Deputy President, as a hub for international business and commerce, Hong Kong is also renowned worldwide as a society where the rule of law prevails. Such an international image will inevitably be tarnished if Hong Kong continues to be involved in the smuggling of wild animals with no attempt to ban it. In view of the threats posed to elephants by international criminal syndicates and the local loopholes in law, it is imperative for us to pass the Bill as soon as possible so as to phase out the local ivory trade. There is this view in the community that, in banning the ivory trade outright, the Government should offer some form of compensation to ivory traders, such as buying up their stock. However, as the authorities have repeatedly stressed, any form of official compensation could be mistaken inappropriately by unscrupulous merchants or poachers as an incentive, a wrong message that ivory is still a tool for making money, or that the Government will underwrite all ivory stock, thus greatly reducing the effectiveness of the ivory trade ban. There are no precedents of compensation being offered by other countries such as the United States and China when banning ivory trade. Hong Kong should be no exception.

(The PRESIDENT resumed the Chair)
President, Hong Kong must legislate for regulation progressively and, ultimately, the cessation of ivory trade. That is nothing new, and the various sectors of society along with the industry of ivory trade have long got the message loud and clear. In fact, according to surveys conducted by the Administration, ivory craftsmen and traders, who have a period of over 20 years to undergo diversification or transformation of their skills and business, have mostly switched to other trades. Moreover, in announcing further regulation of the ivory trade in 2016, the Government has granted traders a grace period of five years for business transformation and the disposal of ivory stock in possession. After the grace period, the possession of ivory for non-commercial purposes or personal use is still allowed.

President, in view of the aforementioned background, I hope Honourable colleagues will all support the passage of the Bill, which will not only save elephants under the threat of extinction, but uphold the positive image of Hong Kong as a society of rule of law and a responsible member of the international community.

I so submit, President.

MR DENNIS KWOK: President, I stand to speak in support of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") to outlaw the ivory trade, which is a law that has been long outstanding. A penalty, a criminal penalty, will be imposed on those engaged in the act of ivory trading and this is much welcome and long overdue. This is a measure that should have been introduced years ago. To support the effort of the protection of endangered species around the world, and also as a member of the international community, Hong Kong has an obligation to help protect endangered species around the world.

If you look at the history of the matter, since the 1990s, international treaties and local legislation have both imposed prohibitions on the trade of ivory and also the import and export of ivory products. So, it cannot be said that the relevant owners of the ivory products do not have sufficient advance notice that this trade will be outlawed in the future and they have had, in fact, 27 years to deal with their existing products in their hands, and it cannot be said that no advance notice … or legitimate expectation has been breached as a result of the passage of this law. And if you look at examples around the world, there are no
jurisdictions that have passed the unlawful act of ivory trade … once the law has been passed, there is no example around the world where compensations are then paid to the owners of ivory products. And, as a responsible member of the international community, Hong Kong should not set the wrong example of granting compensation to the owners of ivory products when there is no justification or need to do so in any way.

A famous quote by Mahatma GANDHI says that "The greatness of a nation and its moral progress can be judged by the way in which its animals are treated." There is no, I think, more adequate description as to the importance of this Bill because it highlights our attitudes towards the protection of animals, in this case, elephants, and in this case, a highly endangered species. We are passing a law that is long overdue, that should have been passed, I would say, 20 years ago, to limit the damage to the environment and to the endangered species that we are talking about.

There has been the suggestion that taking away the right to trade ivory products or making it illegal would somehow contravene Article 6 and Article 105 of the Basic Law. With respect, President, I cannot agree with such an argument because Article 6 of the Basic Law reads, "The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law." Now, the keywords here are "in accordance with law". Now, if you turn to Article 105, the first paragraph reads, "The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property." Now, the keywords here, again, are "in accordance with law". What does it mean? It means that if there is an ownership to an asset or a property which is deemed to be illegal or unlawful by a law that has been passed by the Legislative Council, then that property, in certain circumstances, can be deprived from the owners of the products or property in question, but the circumstances, of course, have to be looked into. In this case, as I have said, since the passing of the relevant international treaty in 1975, the ivory trade has already been subject to regulation. And since 1990, the trading or import and export of ivory products has already been banned. And, as I have said, it has been 27 years since the banning of the import and export of ivory products since 1990, so there is no question of there being no notice, and also the question of legitimate expectation is not relevant in this case. Certainly, the owners of ivory products have been
given sufficient notice that, eventually, their ownership of the products will be subject to further regulation, and in this case, a criminal penalty for the ownership and further trade in the relevant product.

So, there is no question that "in accordance with law" means "in accordance with due process" and "in accordance with the respect for the need to regulate certain property in our society".

For the greater public good, there are circumstances where property or property rights could be regulated or subject to restriction when it comes to the passage of the law. So, I do not agree that the passing of this law would somehow breach Article 6 or Article 105 of the Basic Law.

In any event, the property owners or the owners of ivory products in this case would not be deprived of their ownership, they would still be allowed to retain ownership of their ivory products. In most cases, I have been told that more than 67% of the existing stock of ivory products in Hong Kong are contained or stored in private domestic premises. So, there is no likelihood or possibility that these products will then be subject to resale. It seems that most of these products are privately owned and would not be in the retail market in any event. So, any talk of compensation for the owners of ivory products is overrated and unjustified.

There is a need to pass this law and as we have said, and as many Honourable colleagues in this Chamber have pointed out, that we bear a huge responsibility in the international community because Hong Kong ranked, I believe, as one of the top international centres for ivory products. And if we do not pass this law, we will be breaching our obligation as a responsible member of the international community. More importantly, we would be helping or at least, still encouraging a lot of the illegal activities that go on in other countries, as some Honourable colleagues have pointed out, mostly in Africa. We would be encouraging illegal activities in Africa which involve not only the danger to the endangered species, but also the illegal activities that will harm people in the trade, that would harm people who are trying to stop the trade and other related crimes committed along the ivory trade.

So, there is a need for this law. This law is unfortunately still not aggressive enough in the sense that we are still providing a five-year grace period after the enactment of this law for the products of ivory trade. Five years is still
a long time. As I have said, the owners of the ivory products or participants of
the ivory trade have had a long time in which to get prepared for the eventual
prohibition of the ivory trade which has started in as far back as 1990 or 1975,
when the relevant international treaty was passed.

So, all in all, there is no breach, I believe, of the Basic Law and the
principle of property possession. There is certainly no case for compensation
given that compensation of over $5 million was approved by the Finance
Committee and Legislation Council back in 1990. So, there is no case for
unlawful deprivation of property and no justification for the compensation of
ivory owners.

And lastly, I have just mentioned that in the Wildlife Justice Commission
Report on ivory trade, it has been reported that since outlawing and banning the
illegal activity of ivory trade in the People's Republic of China, we have seen that
in Asia, the prices of ivory products have fallen by a significant margin. That is
the evidence that if we ban the ivory trade, it would take away the commercial
incentive for traders or for hunters to continue to illegally hunt endangered
species. And that is the reason why we must pass this law and to play to our
responsibility as a member of the international community.

Thank you, President.

MR CHAN HAN-PAN (in Cantonese): President, from the outset, I must stress
that I support a total ban on ivory trade, as well as the import and export of ivory.
This gory trade should have been banned long ago. Why could this trade not be
stamped out in the past decade or two, having run rampant instead? As we
discuss the matter, have Members ever pondered the reasons for such
development?

Certainly, in the course, I have listened to the views of trade practitioners,
particularly the traditional craftsmen, as well as licence holders of ivory. These
licensees have obtained the certificates before the ban on ivory trade, with a serial
number accorded to each of their ivory products, and they should not hold any
new ivory products. How can the rights of these ivory licensees be reasonably
protected in the course of banning the import and export of ivory and ivory trade?
I only wish to speak for them. And I hope that in the course of scrutinizing the
Bill, Members will help identify solutions to addressing the problems they will
encounter in future. I have never thought that this would bring forth an avalanche of besmirching. Some say that I speak for ivory craftsmen because I have taken money from them. The green group concerned had posted and shared those comments indiscriminately on their website, and my mailbox was nearly "blown up" by the influx of emails. After I had refuted their criticisms one by one and explained to them my argument point by point, they wrote to me to tender apologies. My aim is to ensure the implementation of the Bill as a whole while minimizing the possibilities of injustices. Besides, I do not wish to see the Government face a series of lawsuits after the passage of the Bill. It is fine for me to take these criticisms. Indeed, the green group concerned has eventually offered me an apology in writing and I have accepted it.

However, in the course of scrutiny of the Bill, I experienced the Chinese idiom "矯飾偽行" (meaning camouflaged hypocrisy) personally. What does "矯飾偽行" mean? This idiom originated from Haoshan Poetry Notes (《後山詩話》) written by the poet CHEN Shidao (陳師道) of Sung Dynasty. He said to the effect that, "certain officials practise camouflaged hypocrisy, discriminating against the righteous in making appointments" (某公用事,排斥端士,矯飾偽行), trying to say that certain people are good at camouflage and acting hypocritically. This is an apt description of the Government. Why? Many colleagues expressed earlier that, "What a pity that Hong Kong has become the smuggling hub of illegal ivory." Yet, why would Hong Kong come to this pass? Members should have asked this question. Moreover, some colleagues said that the battlefield is now in Africa, for people protecting the elephants are often shot dead these days. Who have sent these elephant killers—I am not referring to "Mr Elephant"? Where do they come from? Besides, the regulation imposed in Europe is more stringent than that in Hong Kong and other places around the world. Why then is the market in Hong Kong amply supplied with ivory from Europe in the past few years? This is also the case according to the figures provided by the Government. Hence, I hope colleagues will try to make it clear to the public what is happening with the ivory trade in the course of examining the Bill. Under the prevailing circumstances, the "white dog is made a scapegoat for the evildoing of the black dog".

On 1 July 1975 and 20 February 1976, the ban on ivory trade started to apply to Asian elephants and African elephants worldwide. Ivory acquired after these dates is called "post-Convention ivory". The trading of these ivory items was banned beginning on 18 January 1990. Hence, after 1990, products made from specimens of hunted elephants were all regarded as illegal items. In other
words, the ivory products now traded in Hong Kong are products obtained before 18 January 1990. For pre-Convention ivory, traders have to obtain a certificate of exemption to continue with their ivory trade. In some countries, the systems for regulating the import and export of ivory are more stringent than the requirements under the Convention, as stated by the Government in its document: According to a report prepared for the European Commission in August 2014, pre-Convention ivory items cannot be imported into the European Union ("EU") for commercial purposes as a general rule unless it is a "re-introduction", whereas antique items can be imported for commercial purposes under an import permit. In March 2015, some EU Member States including France, Germany, the Netherlands and the United Kingdom announced the ban on the re-export of pre-Convention raw ivory. Alright, when we say that the regulation adopted in many European countries is more stringent than that in Hong Kong, what does it mean actually? What is banned in those countries? The ban is on ivory as a raw material. In other words, export is allowed if the ivory is carved. What else is banned? They ban trading among European countries. This ban of ivory trade among European countries has prompted traders to export all the ivory to Hong Kong. This explains why we have seen a large quantity of ivory entering Hong Kong after 1990.

I cannot but beg Members to consider one point: Is most of the ivory now held by licensees in the ivory trade the batch of gory ivory? The ivory stocked between 1975 and 1990 has all along remained in Hong Kong. Hence, a large batch of ivory has been stranded in Hong Kong since the ban on import and export of ivory in 1990, for the ivory trade and the ivory craft market were extremely buoyant in the 1980s. Though ivory trade was banned in 1990, ivory traders in Hong Kong may continue to sell this batch of ivory. Clear records are kept of these ivory products. Each of the ivory products is attached a certificate and inscribed with a serial number. Ivory traders have to report to the Environmental Protection Department for each of the product sold. Hence, the ivory products held by traders will decrease in number. For these licenses whom I mentioned, since they will not get new ivory products, their stock of ivory products will only decrease but not increase. From time to time, the Government will check whether the ivory products in their possession have increased in number, whether the ivory products are lawful products and whether there is any discrepancy in their record. If the answer is in the affirmative, they have violated the ban on import and export of ivory and will be liable to penalty. If that is the case, why would Hong Kong become the smuggling hub of ivory? Another batch of traders should be held responsible indeed. Who are they?
They are traders who continue the ivory trade after 1990. They continue to import ivory from different places and claim that their ivory is pre-Convention ivory.

According to the record of the Agriculture, Fisheries and Conservation Department ("AFCD"), AFCD has examined 900 certificates of pre-Convention ivory products imported in the past two years. The 900 certificates of pre-Convention ivory examined by AFCD involved 800 kg and 2,400 pre-Convention ivory products respectively. Among the certificates examined, 41 certificates were found to contain inconsistent information, where the specifications of ivory products, did not tally with the information on the certificates. These ivory products were exported from Portugal, the United Kingdom, Belgium and Italy. Due to the discrepancies found in those certificates, the ivory in question was all confiscated.

I followed up with the Government and asked about the number of the certificates and the batches of products examined in the past 10 years. The Government replied that 5,500 certificates involving 20,000 pre-Convention ivory products weighting 13 tonnes had been examined, where 92 certificates were found to contain discrepancies. Members may feel confused at hearing these figures. Ivory import is banned in Hong Kong, is it not? If the ivory possessed by licensees is the existing stock in Hong Kong, why would such a substantial amount of new ivory have been imported into Hong Kong? Now that Hong Kong is named the smuggling hub of ivory because these people smuggle ivory from overseas like Europe into Hong Kong and then re-export the ivory to other places. These smuggling activities should be the target of combat.

Moreover, all the ivory entering Hong Kong comes from European countries where the regulation imposed is more stringent than that in Hong Kong. I wonder. The requirements of the European Union are stricter than those in Hong Kong and other places around the world, are they not? These countries are in fact pushing all the ivory to us. Yet, we take them all. As a result, we are made the scapegoat to bear the brunt. They get the money, yet we get the notoriety of a smuggling hub. Hence, we should prohibit the entry of these goods and carry out more stringent checks. Had we been able to do so in the past, we would not have to bear the brunt now.

As I mentioned earlier, the Government has examined 900 certificates for pre-Convention ivory imported in past two years and 5,500 certificates in the past ten years, where 41 problematic certificates were found in the past two years and
92 problematic certificates were found in the past 10 years. Regarding the law enforcement efforts, what do Members think? At the meetings of the Bills Committee, I followed up on this. Since there are still several years before the grace period expires, I asked the Government whether it would immediately announced that for all pre-Convention ivory or ivory coming from Europe, the Administration would check with the secretariat of the United Nations on the Convention the legality of the ivory certificates and the specifications of such certificates, yet the Government simply evaded the question. Why can the Government not verify the authenticity of those certificates with the secretariat of the Convention? The Government said that the secretariat may be busy and may not be able to verify so many certificates. If we are determined to stop the inflow of ivory into Hong Kong, these efforts must be made.

Since we are bound by the relevant trade agreement, we cannot act in contravention of the agreement. Yet, we can walk the extra mile to ensure the certificates of imported ivory are lawful. Regrettably, the Government does not do so. It simply allows ivory to be imported into Hong Kong rampantly. Some people may consider that a total ban will resolve the problem once and for all. Members may query, if those batches of ivory can be imported and exported time and again, why can the ivory held by Hong Kong licensees since 1990 not be sold, for these ivory products with registered numbers and certificates are supposed to decrease in number? Is it because there is no market for ivory? No. The demand for ivory definitely exists. It is merely because the market is saturated with batches of ivory from Europe and illegal trading is rampant. Since the market is oversupplied with such ivory, the ivory products stocked in Hong Kong have no way out.

Moreover, local ivory traders have to report to AFCD for each ivory item sold. What about ivory from Europe? There is no such requirement. Traders are only required to keep a copy of the relevant certificates. They need only make a photo copy of the certificate and then export the ivory product, which is really convenient. Yet for ivory stocked in Hong Kong, it involves a great deal of work to sell a piece of ivory product, which is really painstaking. In other words, the Government has only imposed regulation on one side but not the other. Eventually, this group of licensees has to bear the false accusation and injustice. They displayed intense emotions at the meetings of the Bills Committee, yet the Government chose to ignore them.
I must stress that I support the concept and consider the ban on ivory trade necessary. Yet, in the course of lawmaking, have we overlooked any issue? I did ask the Government about the arrangement adopted by various European countries in addressing the need of the trade, for these countries have exported the largest quantity of ivory to Hong Kong and claimed that they have banned ivory trade and will soon ban the export of ivory. Yet, the Government has evaded the question. I did request the authorities to provide the relevant information, and I will talk about the information in my next speech. Thank you, President.

MR CHRISTOPHER CHEUNG (in Cantonese): President, once the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") is passed, it means a ban on the ivory trade in Hong Kong. By then, the trade will very likely have to sell their existing stock before the deadline and may suffer considerable losses. Yet, if the Bill is not passed, Hong Kong will have to respond to the demand in the international arena for protection of elephants from being hunted, and we will be facing criticisms and boycott by from international organizations for failing to protect the elephants. This is an undesirable scenario.

Many experts have pointed out that elephants are on the brink of extinction. According to certain statistics, there are less than 50 000 elephants in Asia now. Though the number of African elephants is higher, it has decreased from 510 000 in 2006 to 410 000 in 2015. Shortly in 10 years, we have lost one fifth of the elephant population in Africa. This is mainly attributed to the significant increase in trophy hunting activities in Africa since 2006, which was most rampant during the period since the 1970s and the 1980s.

As the room for survival of African elephants is threatened, elephants are pushed to the brink of extinction. This should be attributed precisely to the increasingly rampant illegal ivory trade. One elephant is killed every 15 minutes by poachers for the gory tusks which bring them enormous profits. Over 20 000 elephants are killed every year in Africa because of ivory trade. Moreover, poaching has caused casualties to innocent persons. In the past 10 years, over 1 000 rangers were shot dead while on duty protecting wild animals, which means two rangers were killed at work every week. Hence, combating illegal ivory trade is a task that can brook no delay.
The further restriction or prohibition of ivory trade has become a global trend. At the 71st session of the General Assembly of the United Nations, a resolution on tackling wildlife trafficking was passed, urging member states to implement a resolution passed at the 17th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") held in September to October 2016. According to the resolution, it is recommended 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 legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency.

The Mainland implemented a complete ban on ivory trade on 31 December 2017. France has announced a ban on domestic trade in ivory and ivory products, while the United Kingdom has also conducted public consultation on such ban. Intra-European Union ("EU") ivory trade and re-export of ivory from the EU for commercial purposes are allowed only under limited circumstances. According to a guidance document passed by the European Commission, EU countries are required to stop re-export of raw ivory with effect from 1 July 2017 and ensure strict enforcement of those EU laws regulating the approval of intra-EU ivory trade and re-export of worked ivory from EU. Besides, EU has commenced consultation in September 2017 to solicit information and feedback on taking further measures to restrict or prohibit ivory trade.

Hong Kong always stresses its position as a member of the international community, it is naturally obliged to legislate for further restriction of ivory trade and continue to implement the CITES resolution. Besides, Hong Kong is recognized as the largest centre of ivory trade worldwide and has been identified by CITES as one of the parties of primary concern regarding the poaching of elephants and illegal ivory trade. Though I trust that local ivory traders are not involved in illegal ivory trade, the authorities have discovered people exploiting the loopholes in the relevant laws in Hong Kong to conduct illegal ivory trading. If the authorities do not take any action to ban ivory trade, it may likely be regarded as condoning persons engaging in these illegal activities to pass off illegal ivory as registered ivory.

President, since the trade to be banned is after all a lawful business in Hong Kong originally, the Government is obliged to help make follow-up arrangements. In fact, when the Government announced tightening the
regulation on ivory trade in 2016, a grace period of five years was given to ivory traders to sell their ivory stock, to undergo business transformation and handle the ivory in their possession. Yet, certain ivory traders claim that they still have a large quantity of stock and they may likely suffer losses as the deadline draws near. Meanwhile, the Government considers the provision of ex gratia payment, purchase of stock or making of compensation will give the impression to other countries that Hong Kong is making a compromise in ivory trade or offering an improper incentive. In my view, the Government may still identify ways to provide assistance to ivory traders in some measure, such as facilitating them in reducing their stock and losses, and so on.

As for the livelihood of ivory craftsmen, I think the Government must help them to switch to other trades of craftsmanship, such as wood, stone or other materials, and to ensure that their craftsmanship will be inherited and passed on.

President, I definitely hope that the Government will put forth a win-win proposal for saving the elephants and finding a way out for the ivory trade. But since the danger threatening the lives of elephant is imminent and the Government has introduced some relief measures, I disagree with any further delay on legislating for a complete ban on ivory trade. Otherwise, elephants will become critically endangered animals and extinct on earth.

With these remark, President, I support the passage of the Bill.

MS YUNG HOI-YAN (in Cantonese): Deputy President, I support the protection of endangered animals, including banning elephant poaching. At the same time, I also support imposing a total ban on all the existing ivory trade in Hong Kong expeditiously. I wish to bring up two issues: first, compensations made in accordance with the requirements of the Basic Law; and second, the impact of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") on local ivory traders and practitioners.

Is the Bill actually compliant with the provisions in Articles 6 and 105 of the Basic Law? Article 6 of the Basic Law sets out the general principle under which the Hong Kong Special Administrative Region ("SAR") Government shall protect the right of ownership of property, whereas Article 105 states that SAR shall protect the people's right to compensation for lawful deprivation of their property. Ivory constitutes "property" for the purpose of Article 105 of the
Basic Law, but according to the Administration, the Court of Final Appeal has yet to decree an authoritative decision on the scope of deprivation under Article 105 of the Basic Law. Actually, the Government has cited the precedent of Fine Tower Associates Ltd v Town Planning Board [2008] 1 HKLRD 553. According to this precedent, five legal principles are applicable in determining whether there is deprivation of property: first, deprivation of property refers to cases where property is formally expropriated, i.e. where there is a transfer of title of the property; second, deprivation may also exist where the measure complained of affects the substance of the property to such a degree that there has been de facto expropriation, or where the measure complained of can be assimilated to a deprivation of possessions; third, whether the proposal represents the minimum impairment on the property right guaranteed by the Basic Law; fourth, to ascertain whether there has been a deprivation, the Court looks to the substance rather than to the form; and fifth, the burden of establishing the removal or denial of all meaningful or economically viable use of the property resides with the party asserting a violation of Article 105 of the Basic Law.

Regarding formal expropriation of property, the Government has pointed out that there appears to be no formal deprivation or expropriation of ivory as the proposal in the Bill does not involve the transfer of title of the property to the Government. Hence, I noted some uncertainties in this point. Owners of ivory would retain the title and possession of their ivory, but undoubtedly, the trade ban has a serious impact on their title.

As regards de facto deprivation, the Government holds that the proposed ivory ban in the Bill would not render ivory wholly worthless and constitute removal or denial of all meaningful use or all economically viable use of ivory, since the ivory may still have other uses, such as donation, display, exhibition and other artistic or cultural uses. May I ask what the trade ban would affect if not the economy? In my view, the Government did not consider the fact that the substance of the property is affected to such a degree that there has been de facto expropriation.

In this connection, I consider that the legislative proposals in the Bill have not taken into account the societal benefits of the encroachment (i.e. addressing the international and public concerns over the survival of elephants which are under an imminent threat of extinction). Neither have they given any regard to the rights of individuals (i.e. the property rights of ivory traders) nor consideration to the fact that individuals are subject to an unbearable burden.
Hence, the Bill fails to strike a balance among these aspects. In my view, the Government did not think over the points set out in the report during its consideration of the Bill. Did the Government consider any other ways besides the proposals in the Bill to achieve the policy objective of combating elephant poaching and the smuggling of ivory in Hong Kong? Did the Administration explore other alternatives, and why are these other alternatives considered infeasible and unable to achieve the policy objective?

Furthermore, did the Government consider the quantity of undisposed ivory owned by ivory traders and owners, and does the relevant proposal represent the minimum impairment on the property right guaranteed by the Basic Law? What are the justifications for setting the grace period for phasing out ivory trade at five years, and can the grace period be extended? Are there any other measures to minimize the impairment or damage that may be caused to ivory owners and traders apart from proposals espoused in the Bill?

President, apart from the views mentioned just now, I would like to talk about the impact of the Bill on local ivory traders and practitioners. The Bill will indeed bring an immense impact to local ivory traders and the ivory trade. It will even adversely affect their livelihood. For this reason, I support the suggestions made by some Members. The Government should explore the feasibility of introducing a voluntary licence surrender scheme for affected licensees to surrender their Licence to Possess by a specified date, or implementing a voluntary buy-out scheme and making compensations in accordance with the law as I said just now. Yet regrettably, in respect of compensation, the Government explained that it was afraid such an act would send the lawbreakers a wrong message that the Government would possibly make compensations. Consequently, it might intensify the proliferation of elephant poaching and stimulate lawbreakers to smuggle a large amount of illegal ivory, disguised as legal ivory stock, into Hong Kong for seeking compensations. I consider this theory extremely exaggerated and groundless.

I have contacted different ivory traders and craftsmen. They said that in the past few decades, the Government has all along allowed members of the trade to apply for licences for legal sale and storage of raw ivory. Many of them have injected all of their life savings into the ivory business. At present, the stock of raw ivory in Hong Kong is over 70 tonnes. Once the Bill is passed, the Government will implement a total ban on the local ivory trade from 31 December 2021 onwards, including ceasing the renewal of licences. By then,
self-possession of the existing 70 tonnes of ivory will be an offence. Furthermore, now export and direct sale of raw ivory and ivory products to overseas places are not allowed. There are less than four years to go before 31 December 2021. It seems utterly difficult for them to sell all the 70 tonnes of raw ivory and ivory products in just four years’ time. By then, the remaining raw ivory held by them will be forfeited and destroyed without compensation. Many ivory traders will thus suffer heavy losses.

For this reason, I hope the Government will give more thoughts to the requests of ivory traders and the trade. Before legislating for a total ban on the local trade and collection of ivory, it should provide feasible and reasonable avenues for them to properly dispose of the raw ivory and ivory products acquired with legal certificates in the past. For example, the Government may consider buying the remaining stock from the trade at a reasonable price and reselling it for setting up a fund for the conservation of elephants. It is a single move which can serve two ends. I hope the Government can treat the local ivory trade fairly, take their actual difficulties and needs into account, seriously consider the suggestions of the trade, and minimize the impact of the Bill on the local ivory trade.

Besides, I hope the Government will think over the proposal made by Mrs Regina IP, the Chairperson of our party, of buying from the local ivory traders the existing legal stock, that means ivory registered before the Government signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora in 1989 for the implementation of the ivory trade control, and keeping it in M+, the future museum in the West Kowloon Cultural District, for conservation and exhibition. I consider it a desirable approach beneficial to all parties. I hope the Government will study it again.

President, I so submit.

**MR SHIU KA-FAI** (in Cantonese): President, today the purpose of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") is to implement a three-stage plan for ultimately imposing a total ban on ivory trade in Hong Kong from 31 December 2021 onwards, and to take this opportunity to increase the penalties to deter the smuggling and illegal trading of ivory.
On the surface, many people regard the protection of elephants as a general trend worthy of support. As I have repeatedly emphasized at the meetings of the Bills Committee earlier, I also support the protection of elephants and oppose international ivory trading. I even consider that the penalties for people engaged in smuggling ivory should be increased. These lawbreaking ivory smugglers have posed a great crisis to the existing legal ivory trade overall in Hong Kong. They have tarnished the image of the entire trade with a negative label, resulting in this legislative exercise which deals a blow to the other law-abiding ivory traders and practitioners who have been operating the business legally.

Hence, I wish to emphasize that the Liberal Party and I oppose the Bill today not because we object to the protection of elephants. Rather, it is because during this legislative process, the Government has ignored the impacts on and aspirations of the innocent members of the trade from beginning to end. Its approach is neither fair nor reasonable. It also departs from the principle of protecting private property under the Basic Law.

At present, there are only 300-odd licensed ivory traders in Hong Kong. The raw ivory and ivory products owned by them had entered Hong Kong long before the ban on international ivory trade was imposed in Hong Kong in 1990. Imported through legal channels, their goods were approved and registered by the Agriculture, Fisheries and Conservation Department. Having a Licence to Possess, they can be traded under legitimate circumstances. They are actually unrelated to the poaching of elephants and smuggling of ivory in recent years.

As far as I understand it, since the implementation of the ban on international ivory trade in Hong Kong in 1990, members of the trade have always wished to clear their stock and switch to other businesses as soon as possible. Many people may query why their stock is yet to be cleared after so many years. As a matter of fact, among the stock of 700-odd tonnes of ivory, now only some 70 tonnes remain. Many people may also ask whether the stock would be mixed with illegal ivory. In this connection, members of the trade have told us that when the Government notified them in 1990 that they were no longer allowed to import or export ivory, they originally thought that only such stock would remain in the Hong Kong territory. But that was actually not the case because the Government continued to allow pre-Convention ivory with foreign certificates, i.e. ivory acquired before 1975 or 1976, to be imported into and re-exported from Hong Kong. Moreover, it could be traded in Hong Kong without a Licence to Possess. For this reason, the amount of ivory in the market has not decreased. It might even have increased. The stock of ivory imported before 1990 was thus affected and unable to be cleared during these 20-odd years.
All along, the regulation by the law enforcement agencies of the Government over pre-Convention ivory with foreign certificates has been lax. How many of such certificates have been inspected? May I ask Members to conduct a check on their own. Did the Government verify the authenticity of ivory certificates with foreign certification organizations? There are many loopholes which enable lawbreakers to use forged certificates to ship ivory of unknown origins into Hong Kong and then sell it at a lower price, thus snatching the business from the legal ivory traders in Hong Kong.

Hence, be it the inflow of illegal ivory into Hong Kong or the failure of legal ivory traders to clear their stock, the Government has an unshirkable responsibility after all. The Government has all along allowed the import of pre-Convention ivory into Hong Kong. Its enforcement and gate-keeping efforts are totally ineffective. In addition, a lot of illegal ivory has found its way into Hong Kong. We have seen the Customs and Excise Department seize illegal ivory from time to time. In fact, this should be the Government's responsibility, but now it has shirked the responsibility onto the local legal ivory traders. Legislation is introduced in a broad-brush manner on the grounds of combating the smuggling of ivory, causing them to lose their means of living. It is unfair.

President, during the scrutiny of the Bill, various Honourable colleagues and I have advanced different proposals, including asking the Government about the feasibility of buying back the legal and registered ivory stock, or designating a place for them to continue to sell the remaining licensed ivory stock which entered Hong Kong before 1990. Mrs Regina IP even proposed setting up an ivory collection in a museum. But the Administration refused to consider any of these proposals. It only said that it would assist the retraining and employment of the practitioners without any compensation.

However, I would like to point out that there are about 100 ivory craftsmen in the trade, the majority of whom being aged over 60. What trades can they be trained to switch to? Is it possible to teach them to carry on an online business? This is actually both infeasible and impractical. Most importantly, the Government's approach will render their products and remaining stock worthless and turn their assets to nothing.

President, Hong Kong is a capitalist society upholding the rule of law. Private property is protected by Articles 6 and 105 of the Basic Law. The Government claims that the ivory trade ban will only forbid trading and will not
expropriate any ivory, so the ivory owners can still possess ivory for non-commercial purposes. For this reason, there is no need to make any compensation. However, I consider this argument unreasonable.

Let me cite an example. Assuming many people of Hong Kong spend money on buying gold and shares as investment and preservation of capital, but suddenly, the Government introduces a law stipulating that gold and shares can only be possessed for non-commercial purposes, and trading is prohibited. As such, gold can only be kept at home for display, while shares are like the Japanese military yen, unable to be converted to cash. Is this reasonable? The Government said the value of the products would not be affected, but I believe many members of the public know that such a remark is just self-deception.

The Government explained that other places would not make any compensation either. If it offers any compensation or ex gratia payment to the ivory trade, it will send a wrong message that would stimulate more lawbreakers to illegally poach elephants and smuggle ivory into Hong Kong. I wish to point out that it is the Government's responsibility to disseminate the correct message. The Government should work out a way to convey the correct message by itself. How can it sacrifice the trade, forbid them from trading and shirk the responsibility onto them? I find it unreasonable. The laws and practices in each place vary. We cannot simply apply the foreign approach wholesale to Hong Kong. The Basic Law of Hong Kong protects our right of private ownership of property which the Government is duty-bound to observe and implement. In fact, I also wish to point out that during the scrutiny of the Bill, the Government kept citing the practice of the international community in response to the question of its unwillingness to make any compensation. It also claimed that foreign rules and regulations were strict and we had to follow such rules and regulations completely.

During the course of the scrutiny, many Members requested the Government to give examples to illustrate why Hong Kong must follow the foreign practice, or explain the situations in foreign countries. It was not until the last two meetings that the Government formally told us that the existing practice in Hong Kong was in fact even more stringent than that of the European Union ("EU"). Regarding the regulation in Europe, trading among EU countries can actually continue, and re-export of ivory from EU is also allowed. Why does Hong Kong need to impose a complete ban in a broad-brush manner? Why is the responsibility entirely placed on the ivory traders in Hong Kong? This is in fact unfair.
President, we have all along opined that society should protect the disadvantaged and defend the rights and interests of the minority. Although there are now only 300-odd licensees of legal ivory, should they be ignored just because there is only a small number of them? The business sector in Hong Kong is actually a disadvantaged group, too. I believe not too many people will support these ivory traders today. This is the present situation in Hong Kong. However, the Government cannot move towards one side just because there are more people on that side. I consider this unreasonable. What matters most is whether it is the right direction.

Let me reiterate that I oppose continual international ivory trading. But previously, the Government already issued licences to allow ivory traders to sell ivory which was imported into Hong Kong before 1990. Why not let them continue to do so? As the Government "moves the goalposts" in such a way today, they have only some three years left for selling ivory. Prices of all their goods have thus been forced down. After the relevant news is released, the market price has already dropped by one third. If the Bill is passed today, how much do Members think ivory can still be worth? I believe the ivory traders will lose all their capital and suffer tremendous hardships. Despite the cold weather this morning, at about 8 o'clock I already saw many elderly people standing in the demonstration area, holding placards because there was nowhere they could turn to for help.

I suggest that the Government work out a solution. All the remaining ivory is registered. Now we are not requesting the Government to relax the import of ivory. I do not approve of this either, because if we continue to allow international ivory trading to be conducted freely, it may really lead to massive poaching of elephants. Yet the problem is that in respect of the ivory which now remains in Hong Kong, we have got to work out a solution for the ivory traders to clear their stock. Only then can we genuinely help them.

Hence, President, as I mentioned just now, I will oppose the Bill today. Thank you.

MR JIMMY NG (in Cantonese): President, the crux of this Bill lies in ivory trade which can certainly be viewed from different perspectives and standpoints. From the environmental perspective standing on moral high ground, protecting endangered animals and banning ivory trade definitely merits support. But from the perspectives of business operation and protection of private property, total elimination of the existing ivory stock may not be necessary.
Apart from focusing on the future, I believe the Bill proposed by the Government must also properly arrange for the traditional trade of ivory craft. Upon the passage of the Bill, all commercial use of ivory will be banned without any compensation from 30 December 2021, which seems too indiscriminate. I hope the Government will reconsider whether a more humanized measure can be adopted instead.

Ivory carving is an ancient traditional Chinese art form with a long history. It is no exception in Hong Kong where the sale of ivory commenced in the 1940s and reached its peak during the 1970s and the 1980s. At the time of the ban on international trade in ivory promulgated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora in 1989, Hong Kong was reported to have 670 tonnes of ivory in stock. Twenty-seven years have passed since then, Hong Kong still held a 70-tonne stock of ivory according to the stock taking done by the Agriculture, Fisheries and Conservation Department in 2016. This 70-tonne stock of ivory is where the problem lies as the Hong Kong and Kowloon Ivory Manufacturers Association has relayed to me that this ivory stock was acquired from legitimate sources before 1990 and had nothing to do with the illegal poaching of elephants nowadays. Hence, from the perspective of the business sector and the protection of private property, should the sale of the ivory stock be banned across the board? Should certain compensation not be provided to the "antique ivory" stock declared before 31 December 2016? Can the Government consider buying back an appropriate quantity of ivory for future public viewing?

In any event, there is no doubt that the passage of the Bill will significantly help eliminate Hong Kong's negative image as the world's largest city for ivory trade. However, the Government should also consider the issue from the business point of view and introduce proper measures to arrange for senior ivory traders so that their life savings will not just go down the drain. Meanwhile, the Government should also assist in the research and development of alternative materials to ivory so that the craft of ivory carving with thousands of years of history can pass on.

I so submit

PRESIDENT (in Cantonese): Does any other Member wish to speak?
MS CLAUDIA MO (in Cantonese): In the spirit of humanity, we must protect endangered animals, in particular African elephants which are constantly being poached by humans for nothing but their two tusks. The great majority of us will certainly oppose such inhumane treatment of animals without a second thought and approve of the Bill. I have been listening to the speeches of non-democratic Members, that is, Members of the pro-establishment and pro-Government camps, and found some of them extremely hypocritical. Do they, who profess to be patriots, know that Beijing leader XI Jinping announced internationally as early as three years ago that China would ban the import and export of ivory and shut down its ivory markets? Just one month ago on 31 December 2017, the Chinese Government completely stopped all ivory trades and shut down all ivory markets. A petty Hong Kong goes so far as to say "no"? This is an international agreement clearly bears commitment by the leader of the State. They said this is a moral high ground? Why did they not try criticizing President XI Jinping? Their remarks are simply unimaginable.

Speaking of elephant poaching, do they know that not many people were interested in elephant hunting originally. Due to the existence of ivory carving in China and the fact that Hong Kong is the world's largest city of ivory trade, hunters kill elephants recklessly in Africa where wild animals are in great numbers. Many years ago, only a few thousands of African elephants were poached annually which was not quite noticeable by the general public. Elephants are now endangered because at its peak, 33 000 elephants were poached annually. It was reported that an average of one African elephant is killed every 15 minutes in a most horrible way with their tusks forcibly cut off. Some people are so innocent as to ask whether elephants can survive without their tusks and whether people really need to kill them. This is extremely innocent or simply naïve. It is impossible as hunters will kill the elephants.

Hong Kong already lags behind Beijing. This is a true act of state. How dare Hong Kong raise objection in this regard, opposing a stop to the continued massacre of animals for the sake of humans or protection of property? The pro-Government camp often says "pocket it first", then we should also pocket this Bill first, let it pass and fall in line with the act of State. No matter how far it is from Beijing to Hong Kong, we must ban all trade, sales and markets of ivory. They should, too, "pocket it first". The true value of ivory carving lies in the craftsmanship of carving instead of the ivory.
PRESIDENT (in Cantonese): Dr KWOK Ka-ki, the placard on your desk is blocking my view. Please move it aside before speaking.

(Dr KWOK Ka-ki moved his placard aside)

DR KWOK KA-KI (in Cantonese): President, I rise to speak in support of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill").

President, I consider the Bill long overdue. In fact, ivory trade has been subject to the control of an international treaty since 1975 and international ivory trade has been prohibited since 1990. In theory, since 1990, ivory traders worldwide, including Hong Kong, should have been aware that continuation of ivory trade violates the international treaty.

The response of the Special Administrative Region Government has been in a serious lag. Finally on 21 December 2016, it announced imposition of regulation over ivory trade in three stages, which comprises of Stage 1: the import and re-export of some ivory products under the existing Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") will be banned; Stage 2: the import and re-export of pre-Convention ivory (save for antique ivory) will be banned and licences will be required for the commercial possession of pre-Convention ivory in the local market; and Stage 3, which will take effect on 31 December 2021: except under some special circumstances, all commercial ivory trade will be banned.

President, I heard many Honourable colleagues representing the business sector mention just now how unfair the Bill is to ivory traders. Let me quote an information document of the Agriculture, Fishers and Conversation Department ("AFCD"). As at January 2016, there were about 370 licensed stocks of post-Convention ivory and they amounted to about 77 tonnes. The majority (76%) were small stocks covering less than 100 kg of ivory, many of which were kept at residential premises with remote chance for sale.

President, in presenting so much information I wish to point out that the Government did not propose amendments all of a sudden, nor did it hastily introduce legislation. On the contrary, such amendments have undergone prolonged discussion. I even have reasons to believe that the Government has
been subject to tremendous pressure by the business sector to postpone the introduction of the Bill to the end of 2016. The Bill is introduced after years of discussion but, much to my chagrin, many ivory traders still act like they are ill-prepared. It is a far cry from our usual understanding.

It is commonly known that the business sector is not a rigid industry. Most members of the sector are fairly flexible. Businessmen have no reasons to commit money and manpower or make any investment to a sunset industry or products without demand on the international market. It is particularly so as ivory traders should have expected a total ban on ivory trade within five years when the Government introduced the Bill in 2016. And the Government also proposed a five-year grace period, which I disagree with but fail to oppose. In the five-year grace period which lasts until 2021—there are still some three years—I believe the killing of elephants for their tusks will persist internationally in large numbers.

Many ivory traders exploit the loopholes in the existing legislation by constantly referring to ivory products as "stock"—it is not a secret in the trade. Why is the stock never sold off? Because after being sold off, the existing stock will be replenished by new products smuggled into the territory. Therefore, ivory traders will never inform the authorities that the stock is sold off, because doing so will provide evidence and they would no longer be able to replenish their stock. For this reason, the stock is never sold off. The survey conducted by AFCD precisely reflected such a phenomenon: the stock is never sold off and forever available. We know it only too well that such a practice is of course an exploitation of the loopholes in law.

Law enforcement by AFCD and the Government has been lax, but indeed stringent enforcement is very difficult. Honestly, unless every piece of the stock is marked with a laser tag—I do not know if it is possible; if it is, I hope the Government will do so immediately—meaning the entire existing stock will be labelled. Accordingly, any new product must be obtained through smuggling. Then will the Government please enforce the law and mete out penalties under the law. I am not well versed in this respect. Perhaps the Secretary can give a response on whether it is possible, until the implementation of Stage 3 of the Bill, to strictly enforce the law so as to eradicate the current illegal activities committed through exploitation of the loopholes in law, including the smuggling of ivory into Hong Kong after illegally poaching elephants.
As EU does not impose total control, some Members have questioned the necessity of us doing so. It is common knowledge that the biggest ivory market in the world is our Motherland. It is nothing new but a historical outcome. During the feudal era, ivory carvings were already considered extremely rare and precious works of art in the royal court. Those purchasing and crafting the products would never see how elephants are killed in Africa, but now as we are fully aware that over 1,000 elephants are killed for their tusks every year, and even staff in the reserves are killed, we have come to the realization that ivory trade is a gory trade, where blood flows from the elephants and staff working in the reserves. Therefore, we absolutely can no longer tolerate such an anomalous trade.

After the Bill is passed, does it mean ivory traders cannot conduct any business? President, I believe Honourable colleagues must have noted that craft shops have been selling less and less ivory and have switched to selling works of art made of, for example, cow bones or tusks of the now extinct mammoths. In comparison, the value of such works of art will not be less than that of ivory. It is just because rare commodities are precious that, given the prevailing international ban on ivory trade, more illegal traders or businessmen with malicious intentions hoard goods to create a short supply and exploit the loopholes in law to raise the bargaining power of their illegal ivory products.

I totally disagree that the Government should compensate such gory trade with public money. Still, early in 1990, the Finance Committee approved a provision of $5,880,000 to offer training courses in carving of cow horns and cow bones for ivory craftsmen who were undergoing transformation. In this connection, I think the Government should be more proactive. Apart from strengthening the displacement training for industry practitioners, it can indeed do more, such as encouraging the creation of works of art using some legal materials (cow horns, cow bones, etc.) in the local art circle or even through trade associations, trade unions or government departments (including AFCD or the Economic Analysis and Business Facilitation Unit), so as to carry on the craftsmanship of ivory craftsmen and help them create a new business horizon.

I also have reasons to believe that, with years of experience under their belt, ivory craftsmen can create so many exquisite products showcasing their superb workmanship and they certainly have the ability to use legal materials to continue the trade, which will open up new horizons for them. Therefore, I hope that, and encourage the Government to, after the passage of the Bill, incentivize
other departments or even appropriate funds to provide assistance to such traders and craftsmen who are to change their trades. Training courses or programmes can be offered to help their transformation. It is what the Government should do, instead of letting the treasured ivory carving techniques fade into oblivion, because the age-long craftsmanship of these craftsmen merits preservation.

Some Members consider it a violation of the Basic Law. However, President, violation of the Basic Law is no novelty. Chief Executive Carrie LAM and the Secretary for Justice, who has built illegal structures at her residence, can arbitrarily violate the Basic Law to disallow the candidacy of some candidates, including Agnes CHOW. First, I certainly do not consider the Bill a violation of the Basic Law. But I hope that if the Basic Law is a matter of concern to Honourable colleagues, please point out how the present ridiculous practices of the Government have disregarded the Basic Law and deprived Hong Kong people of the right to elect and be elected.

President, I will come back to the subject of this debate. Second, as regards whether a ban on ivory trade may constitute deprivation or limitation of property rights, as there is still a long time before 2021, I believe such traders who have engaged in ivory trade for many years can find a way to sell their ivory. However, should they really fail to do so, the Government may need to come up with some ways, not to provide compensation for them, but—as we all know ivory trade is no good and so many elephants have been killed for tusks—to purchase some ivory for educational purposes. Let me explain this clearly. For example, museums or exhibition centres can highlight the agony or harm of such a gory trade through exhibitions of ivory. Then is it necessary to keep some of the ivory stock for educational purposes? It is some food for thought for the Government.

The Mainland has taken one step ahead by legislating for the ban on ivory trade. As Asia's World City, Hong Kong should do better, not worse, than the Mainland in so many respects, especially legislation. We have lost, miserably, when it comes to legislation for the ban on ivory trade. We observe that the Mainland, despite being the biggest place of origin for ivory buyers and having made the most profits, could still come back onto the right track and legislate for the ban on all ivory trade. How can we delay anymore? The longer we delay, the greater loss of face we will suffer.
Therefore, President, my conclusion is: we must make this law expeditiously. However, I hope that, along with expeditious legislation, the Government should do everything that should be done to continuously encourage people to understand the brutality and downside of illegal poaching of elephants. I have reasons to believe that, notwithstanding the enactment of legislation, illegal ivory trade will persist in Hong Kong unless the Government strictly enforces the law. It is my worry. Will the Government promise us that it will step up law enforcement. I also hope the public officer will respond to this point in his reply later on.

With these remarks, I support the Bill.

MR WONG TING-KWONG (in Cantonese): President, I think many people know that my pet name is "elephant". I absolutely support the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill"). Notwithstanding my support, we cannot deny certain realities. The protection of elephants and our traditional ivory trade and ivory carving are indeed two entirely different matters. We definitely support the protection of elephants; we must absolutely ban the poaching of elephants and severely punish such poaching activities. However, we cannot disregard the traditional craft of ivory carving and the trade of ivory handicrafts.

Of course, the saying that "no buying and selling means no killing" is true. But the ivory trade in Hong Kong developed out of a historical context. The two things should not be considered in the same light. In retrospect, since the 1970s, ivory trade has been gradually declining in Hong Kong. I remember that in the 1970s, my friend, who joined me for winter swims, operated Nathan Ivory Factory Limited and also was the chairman of the Hong Kong and Kowloon Ivory Manufacturers Association. Nathan Ivory Factory Limited was very well-known in Hong Kong. However, since the conclusion of the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") in the 1990s, this friend of mine came to realize the gradual decline of the ivory trade, and Nathan Ivory Factory Limited was closed consequently. Numerous craftsmen who worked for the factory had superb skills but were already in their old age. Therefore, the factory distributed its stock or materials among those ivory craftsmen who were made redundant for them to bring home to make handicrafts. We must face such history squarely.
We should absolutely ban elephants poaching and should not approve of ivory trade. Since CITES came into force in the 1990s, the Agriculture, Fisheries and Conservation Department has started to issue licences, but law enforcement has often not been taken seriously, so ivory traders can exploit the loopholes in law to import ivory as long as they can secure a certificate of origin, creating the many difficulties in law enforcement today. However, we must consider the two matters separately: I absolutely have no sympathy for those ivory traders, but the ivory craftsmen are old and must be taken care of.

The Bureau held a discussion with me in a meeting and stated that such craftsmen can receive training offered by the Vocational Training Council ("VTC") to switch to other trades. Frankly speaking, already in their late years, can we ask them to switch from carving ivory to carving, for example, cow horns or cow bones, as Dr KWOK Ka-ki has suggested? Do not be silly. They are completely different. He is not in the trade and does not know the inside story. Carving ivory is totally different from carving cow bones. Carving of cow bones is done by machines and produced in batches. Carved in a different manner, an ivory ball is created by separate, manual cuts and contains many layers. So asking the ivory craftsmen to receive training by VTC? Do not be silly. They are already old and are now asked to switch to a different trade. Another trade is another world; it is simply impossible for them to switch trades.

However, they still have the materials and stock given to them to run their family business or backyard operations. The Government must consider this aspect and not eliminate them. I hold that it is absolutely correct to ban ivory trade and protect wild animals, but the future livelihood of such ivory craftsmen who are left behind by history must also be taken into consideration. And they are not large in number. Should the Administration not give it some thought?

I believe the Bill will be passed certainly. But I hope after the Bill is passed, the Administration can seriously consider accomplishing a number of follow-up tasks. As there will be a grace period lasting a few years, law enforcement must be strict within the grace period. But at the same time, the Government should have another string to its bow and give more thorough consideration to the livelihood of craftsmen and workers who are already in their old age, all right?

However, I find it rather strange that as we are discussing the protection of elephants today, without rhyme or reason, Ms Claudia MO has brought up the struggle between the pro-establishment camp and the opposition camp. Initially
I thought Dr KWOK Ka-ki had given a fairly good speech, but he suddenly mentioned the problem of the Basic Law and Agnes CHOW. President, it inevitably gives us the impression that no ivory will come off a dog's mouth.

President, I so submit.

MR CHARLES PETER MOK: President, I speak in support of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017. This Bill has been long overdue, especially for an international city like Hong Kong. I know that most citizens in Hong Kong, including myself, have always assumed that such a ban on ivory trade in the 21st century is something that needs no debate, or many may even have thought that such a ban was already in place here. Unfortunately, ivory trade is still one place, or one area, where Hong Kong is actually ranked high up there in a negative way.

I still remember vividly some of the scenes from the Bills Committee. During a public hearing, a couple of rangers from Africa came all the way to Hong Kong to testify, and they told the story of how one of their fellow rangers had been recently, at that time, murdered in cold blood in Tanzania by illegal poachers. Yet, in the same hearing, local Hong Kong ivory traders were telling their side of the story, saying how the ivory art, craft and skills must be preserved, and how it took them more than 20 years to get their ivory stocks down, yet the locally held stock might have actually gone up and it was none of their responsibility, and so on. Not only did they turn a blind eye to the killings of elephants in the ivory trade in Africa, some of them even showed a very scornful attitude toward the conservationists and even the African rangers. I remember I was so angry at such display of selfishness and so ashamed that some Hong Kong people, Hong Kong business people, had sunken to such a low and despicable level, that I had to apologize on their behalf to our international friends, and I had to tell our international friends that these people's attitudes were in no way representative of what Hong Kong people really thought about ivory trade, and that we were solidly against poaching activities and the killing of elephants and people in Africa, all in the dubious name of protecting some sort of art and craftsmanship. But I think this is not the kind of art and craftsmanship that we as a civilized and internationalized community in Hong Kong should see any value in preserving.
And I myself, also being a part of the business community, want to tell Honourable colleagues from the business community who are trying to label these ivory traders with vested interests as the victims, that the business people whom I meet are all in support of a complete ban and no compensation. I am afraid this time, you do not represent the views of the majority of the business community in Hong Kong.

In the Bills Committee, there was also considerable debate on the effectiveness of the international ban on ivory trade. Indeed, some people over the years have argued that a legal ivory trade may be more effective in saving elephants. However, it is clear that after considering all the evidences that are in, the international ivory trade ban is still the most effective tool we have to save our elephants from being massacred. Some said that the ivory ban approach has made prices gone up and poaching more lucrative. But how much of such claim is really evidence-based, and how much of it is just an excuse made by those who stand to gain the most from ivory trade?

However, many academics have reminded us that legal trade really backfired badly in 2008, including people from the American Association for the Advancement of Science. In 1989, the United Nations supposedly already banned international ivory trading. But it came at a time when Asia's economy was growing, and increasing wealth in the region still drove up demands. Since 2008, elephant poaching came back in a big way, because of new buyers in Asia.

In 2009, there was a one-off, global commercial sale of 102 tonnes of stockpiled ivory. It generated more than US$15 million, money that supposedly went to elephant conservation efforts and local African communities. Supposedly, further sales would be banned. But what happened was that these supposedly one-off commercial sales actually led to bigger demands, including from new buyers and new traders. How do you tell the traders to stop? Do you tell them to give it one last try, and then stop for good? No, they will come back for more, legally or illegally. You tell them to stop, period.

Dr Andrew SEGUYA, executive director of the Uganda Wildlife Authority and member of the African Elephant Coalition, said: "There is no evidence that ivory sales provide any benefit for local people or elephants."

Legal ivory trade cannot help save elephants. In fact, this is not only true internationally, and as our own experience in Hong Kong in the last 10 to 20 years could show you clearly—the ivory traders will come back for more and
more. You give them a stay on the ban, and they come back asking for a longer period of time. You give them money or use other means to compensate for their stocks, they will come back for more. This is Hong Kong’s experience, and if we have anything to offer to the rest of the world, we should tell them, we learnt it the hard way. No extension, no more compensation, because we have already seen how the ivory traders will keep on coming back for more.

I heard some colleagues in our Chamber asking for government leniency to sell their stocks, but I think the five extra years of extension to take care of their stocks now is already too long. And I even heard one of our colleagues say that the Government should acquire their stocks and put them in our museums. I say no, I don't want to see these dubious "art" anymore. If I have my say, I say burn them like opium. So, I thank the Government for sticking to its original position of no compensation. This is one time that you did not bend to the vested interests, and you did it right.

The fact is, elephants are dying. No, they did not died on their own, they are being killed. In 2016, a most extensive count of any wildlife species was conducted on African savannah elephants, in what was called the Great Elephant Census. Technology was used, and almost half a million kilometers of distance was aerially surveyed, and the conclusion was that there were only about 350,000 African savannah elephants left. That was down 140,000 since 2007. Nine years, more than a quarter gone, dead and killed. The researchers were unable to survey some of the other forest elephants because they are covered by forests, they are smaller and more reclusive, and it would be more difficult for the research team to use aerial surveying techniques to count their numbers. But if we include them in the survey, the result could only mean that the number of elephants that were killed in the last 10 years will be even higher.

To African officials, the fact of these declines are definitely due to the poaching encouraged by ivory traders. There is no doubt about that. Ivory trade is a blood trade, period. Over the last 20 years, despite stepped up efforts by conservationists, the amount of seizures of smuggled ivory and the size of the carved ivory market have become bigger and bigger. That is the evidence.

Many legislators here have expressed the view that elephants are a beautiful species, loved by our children of all generations. But elephants are also intelligent, and there are researches showing that they are possibly even highly conscious as a species. The kind of kinship and family-based
relationship that biologists and scientists have found among elephant herds clearly indicate that they are part of a small and select group of mammals with intelligence and consciousness. Losing this species, let alone losing them in a very violent way, will actually mean that scientists will have one less species to study and understand how human beings developed our intelligence and consciousness. In this sense, while the elephants seem to be very distant from us homo sapiens as a species biologically, in another way we human beings are indeed very close relatives of the elephants.

Why is Hong Kong lagging behind in banning ivory trade? I think the biggest reason remains our mindset and tendency to get bogged down by the demands of the vested interests, the trade. While international ivory trade is illegal, some countries permit internal sales because it is more difficult to ask or inquire closely within a country's border as to where the tusks came from. It then is important to remember that China, the largest ivory market in the world, with an estimate of over 70% of ivory sold, has started a ban on ivory sales inside China, since the end of 2017. This is the "one country" that we have to uphold.

According to even international standards, reports have come in that China seems to be very serious about banning ivory trade. Not only are shops being closed, celebrities have also come out to support anti-ivory propaganda campaigns, including such celebrities as YAO Ming, the basketball star. But where are the new shops and workshops being set up now, after China? Vietnam and other of China's neighbours. Yet, we cannot use that as an excuse to say, "Well, somebody is doing it, so we can continue." We should not sink to that level. Hong Kong has our international commitment to uphold and our international image to protect. In addition, we actually have a duty to make sure that the Chinese ban, or our own country's ban, will be successful, with our help, and not with us dragging the feet of the Chinese policymakers in trying to make sure the Chinese and Hong Kong ivory bans are as successful as they can be.

Outside our Chamber, President, in the Legislative Council's protest area today, a large group of Hong Kong people, including many children and young people, have gathered and they are chanting "Stop Hong Kong ivory trade. 禁止香港象牙貿易！" That is their call, our call, and the call of the African elephants. Today, finally, Hong Kong is meeting the global standard of banning ivory sales. There must be no turning back. And there will be no turning back.
PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR CHAN CHI-CHUEN (in Cantonese): President, I support the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") this time around. In other words, I support the ban on ivory trade. Mankind should be responsible for the right to survival of elephants. In a considerable measure, mankind should be held responsible for the decrease in number and the extinction crisis of elephants, which are results of human business trade. Scarcity enhances value. Products in scarce supply and low accessibility will fetch higher market prices. In view of the handsome income, elephant hunters, trading companies and businessmen are ignoring the lives of elephants and killing them indiscriminately for their tusks and fat profits. Where is justice?

We talk profoundly about justice, human rights and the right to survival. We consider all these fundamental values that need protection. In the course of upholding these values, we should not adopt the majority wins approach. I would like to take this opportunity to tell the Government and all Members that in discussing life-threatening questions and harms on the minority, the number of people supporting or opposing such protection should not be a factor determining whether or not their rights should be protected. This is not a matter that the minority should follow the majority. If we are to decide by headcount, the elephants will definitely lose, for they are an endangered species and will naturally be in the minority. Even if elephants are given the right to vote, they will not cast their votes for mankind who are in the majority.

Today, man has awakened and considered that we should do something for elephants which are in the minority and cannot speak for themselves. We have to come together to protect and respect their right to survival. As we see them face the extinction crisis and endure great sufferings as a result of the commercial activities of man, we are duty-bound to make remedies. It may already be late, yet it is better than doing nothing. We should reduce or terminate all unnecessary business activities. Indeed, none of these activities can be regarded as necessary. We should ban all business activities relating to ivory trade, as over 20,000 African elephants are killed for their tusks every year now. Hence, the ban on ivory trade can brook no delay.

Hong Kong has all along been a place of re-export and import of ivory. At present, the Government allows licenced traders to conduct transactions on ivory acquired before the signing of the Convention on International Trade in
Endangered Species of Wild Fauna and Flora ("CITES") ("pre-Convention ivory"), but we heard from time to time that illegal ivory was seized by the Customs and Excise Department ("C&ED"). For instance, in last July, C&ED discovered around 7 200 kg of tusks at the Kwai Chung Container Terminals in a container from Malaysia declared to hold frozen fish, which is the largest ivory seizure in 30 years. In last November, C&ED discovered 14 kg of suspected worked ivory at the airport. Why would people take the risk? It is because ivory trade has been banned in neighbouring places of Hong Kong, including China, consecutively since last year, yet it will only be banned in Hong Kong in 2021. Since ivory still has value and demand in the market, some people try to ship freshly poached ivory to Hong Kong, where business transactions are allowed in the market, so that the illegal ivory can be mixed with the so-called legal ivory for sale. Hence, to protect elephants, all the business transactions of ivory in Hong Kong should be halted as soon as possible to stamp out the demand for ivory. For only by doing so can we prevent elephants, including African and Asian elephants, from being killed innocently because of the business opportunities available.

According to history, Hong Kong has been the centre of ivory trade in Asia since the 1980s. Though the Government banned international ivory trade in 1990, a considerable amount of ivory was imported into Hong Kong after the signing of CITES. Hong Kong has been a target of overseas criticisms. Since traders have been passing off illegal ivory smuggled into Hong Kong as registered ivory allowed to be traded under CITES, Hong Kong is blamed for creating demand and sustaining the prices of ivory, thereby endangering the lives of elephants. The Agriculture, Fisheries and Conservation Department ("AFCD") conducted undercover operations in 2016-2017 to buy ivory and discovered that illegal ivory items were sold as legal ivory. By means of carbon-14 age testing, it was proved that the ivory products were made from ivory obtained after 1990, which means these products are made of fresh ivory obtained illegally.

Now Hong Kong is one of the five major hubs for ivory smuggling. It has been identified as one of the places of major concern involving illegal poaching of elephants and illegal ivory trade. Between the years 2000 and 2013, C&ED seized 33 000 kg of illegal ivory, accounting for nearly half of the 77 000 kg ivory stocked in Hong Kong. It is learnt that to demonstrate its determination to protect elephants, the Government started to dispose of the confiscated ivory in stock in batches at the Chemical Waste Treatment Centre in Tsing Yi. In 2016,
the Government announced the completion of the ivory destruction work. However, this measure is less than adequate. The only effective approach is the early termination of the ivory trade. Only with a ban will the so-called legal ivory be stamped out, and then the market will no longer be divided into legal and illegal portions. This is the only way to truly protect the lives of elephants.

Certainly, Members will not dispute protecting lives and elephants. The most controversial dispute we are now facing is whether or not the Government should offer compensation to the existing lawful ivory traders when it bans ivory trade, and whether or not it should compensate ivory owners according to the ivory stock in their possession. I have given careful consideration to this for some time and listened to different views, including the views of the Government and Members from various political parties and groupings. In fact, we have discussed the issue on private occasions, yet we could not arrive at some clear-cut conclusions at that moment. After all, these owners of ivory have their stories and their concerns are reasonable in some measure. Today, I still get emails from them. Though I have already decided my voting preference, I read each of their emails carefully. They think that ivory will become worthless once the Bill is passed. It is true that ivory will become worthless in terms of its trading price. Yet, for owners of ivory, those ivory items may have irreplaceable value, such as sentimental value or an heirloom.

They also point out that the ban will send the ivory sector in Hong Kong into the grave. Certainly, to the industry, the decision made in the legislature this time around is very clear. I think the voting results will indicate a majority decision of banning the trade. For their concerns of "failing to eke out a living in their old age", I think the Government may address the issue in the context of labour welfare. The Secretary for Labour and Welfare should follow up the issue, even though some Members consider it difficult for them to find new jobs despite the provision of retraining. Of course, it is difficult for workers aged 60 to 70 to find new jobs in general. If they are really caught in the predicament of "failing to eke out a living in their old age", I think the Government is obliged to take care of them even if their predicament does not result from the ban on ivory trade.

As for the proposal of providing quantity-based compensation, I think no one will support this. For the provision of quantity-based compensation will create a grey area for traders, allowing them to maximize their ivory stock by obtaining as much illegal ivory as possible before a deadline is set by the Government, for the larger quantity of stock they hoard, the greater compensation
they will receive. Though illegal ivory can be differentiated by the carbon-14 age test, the cost incurred is high and it is impracticable. Moreover, it may convey confusing messages, prompting the market to take actions which may cause more elephants and even rangers and protectors of elephants to be killed. Hence, the arrangement will put remaining elephants and people caring about elephants in a more dangerous position. As many Members mentioned earlier, those who care about elephants have risked their lives protecting them. I know some of them have taken part in the trade previously, yet out of a pang of conscience, the urge to repent or the belief in Karma, they are willing to spend the remaining time of their lives to act as full-time guardians of elephants.

I will only say that if the quantity-based compensation proposal is adopted, it will be a catastrophe. For before the deadline, those lawbreakers will kill as many elephants as they can, betting that they can get more compensation from the Government. If this policy is only adopted in Hong Kong, it will be disastrous. Do Members think so? By then, elephant hunters around the world will poach and kill elephants during the period, and more elephants will die. Unsold ivory stocked in neighbouring regions will be smuggled into Hong Kong by all means to wait for compensation. As a result, a policy seeking to reduce ivory transactions and protect elephants will backfire. It is terribly ridiculous.

Apart from the quantity-based compensation proposal, another proposal seeks to provide a lump sum allowance. Is the proposal of providing a lump sum allowance practicable? I have definitely thought it over, yet I came to the conclusion that we cannot take the risk. For the arrangement will convey a wrong message to other places, that Hong Kong is making compensation for ivory traders and all ivory will then be shipped to Hong Kong. The circulation of such messages will have an alarming effect. In the past, rumours about the offer of amnesty by the Hong Kong Government were spread widely in the Mainland. As a result, Mainlanders flocked to Hong Kong to give births. People in both places are speaking Chinese and we watch the news, yet why would such rumours about amnesty spread? Come to think about it. What will happen if the case involves people speaking different languages? If a distorted message that compensation is offered in Hong Kong is spread to Africa, they will believe the message, and it will be spread rapidly. By then, every killing will be rewarded with compensation. Hong Kong will become the chief of sinners and this action of love will turn out to be a destructive move. Hence, we eventually decided to support the Government’s position of not providing compensation.
As for the transformation of ivory craftsmen, the ivory trade in Hong Kong has been dwindling since the 1980s, the climax of the trade. These craftsmen are not informed of the ban by the authorities within short notice. They are not losing their job the very next day they are told of the ban, thereby losing their means of living. Moreover, since CITES came into effect, the public's awareness of protecting elephants has been heightened and the number of ivory customers has dropped significantly. According to the estimate of the authorities, there are some 100 ivory craftsmen in Hong Kong now, and two thirds of them have reached 60 years of age or above. Of course, if they cannot earn a living once they lost this job, the Government is definitely obliged to help them to switch to another trade or retire. President, this speaks volumes about the need to provide universal retirement protection, which is not merely applicable in the case of ivory craftsmen. If they are already 80 years old, who used to think they can rely on the few pieces of ivory in their possession to support their twilight years, they may actually fall into the predicament of "failing to eke out a living in their old age" as described in their emails. It will be sad. Hence, with the passage of the Bill today, though compensation will not be offered to the craftsmen for the ivory they possess, the Government is obliged to offer assistance to those in genuine difficulties in meeting their daily needs. I believe only a small number of people will be affected. Apart from offering compensation for ivory, the Government may think of other ways to help these craftsmen. On this account, we do not have strong views. The authorities may allocate a certain amount of provision to offer assistance to them on the premise that the arrangement will not convey a message that "Hong Kong is offering compensations". We welcome the Government to do more in this aspect and we may discuss it together.

We hope that the Bill will be passed as soon as possible, so that Hong Kong may demonstrate our resolve to the world today. This Council has formed the unanimous view that ivory trade should be banned in Hong Kong to prevent Hong Kong from falling into the disgrace of being dubbed the major black market for ivory and causing harm to numerous elephants. This is Karma. We are living under the same sky and sharing the consequences, so we have to share the responsibilities, too.

I so submit.
MR KWONG CHUN-YU (in Cantonese): President, the greatness of a nation and its moral progress can be judged by the way its animals are treated. This is a famous quote from the Indian statesman Mahatma GANDHI.

Our last discussion about animal rights in the Chamber can be traced back to the non-binding motion proposed by me for the first time last year to request the enactment of an animal protection law. What impressed me most deeply at that time was the support expressed in the Chamber by various Members regardless of their political affiliations, since we all know that although animals cannot speak the human tongue, they too have feelings; we can feel pain, and so can they; they fear death, and so do we. Hence, when their rights need to be defended, we should come forward for the animals and strive for their rights.

Today's focus is elephants. Some people may say that elephants are quite remote from Hong Kong, but actually they are not remote from us at all. The presence of our existing market is in fact tantamount to giving tacit consent to everything. While there is such a demand and supply, we absolutely have no idea what is happening to elephants behind the ornaments or products made of ivory. As we all know, now there are about 400,000 African elephants in the world. Since 2010, about 33,000 elephants are poached and killed every year. Why are they killed? I wish to tell the audience who are watching the live broadcast that the reason for poaching elephants is the value of their tusks. To get the tusks of an elephant, is it necessary to kill it? Right, first, the poacher needs to knock out or kill the elephant. Since one third of the tusks is linked to the skull of the elephant—I feel a heart-rending pain when I am saying this—the poacher must first kill the elephant and then dismantle its skull. Moreover, he needs to cut off half the face of the elephant in order to extract its tusks. Behind the pretty products are actually elephants killed in blood baths one after another. Worse still, if we have the chance to go to Africa, it is actually very easy to find the carcasses of these faceless elephants with their tusks removed.

Is the situation mentioned just now relevant to Hong Kong? President, it bears great relevance. Many organizations have emphasized one point, that is, "When the buying stops, the killing can too". That is right. If we wish to save the elephants far away in Africa, what we need to do is not only to support the measures of various Africa countries for wildlife protection. Most importantly, we must cut off the demand for and trade in ivory.
I believe if certain figures are not read out, we will not be clear about the actual situation. According to the data of Trade Records Analysis of Flora and Fauna in Commerce, the Hong Kong Customs and Excise Department seized a total of 33 tonnes of smuggled ivory from 2000 to 2013. During this period, the total amount of ivory registered with the Hong Kong Government for commercial purposes was only 100-odd tonnes. Moreover, from 2009 to 2014, the relevant departments in Hong Kong found a total of 18 tonnes of ivory smuggled into the territory, representing the deaths of 2,692 elephants. Honourable Members, 2,692 was merely a figure on the surface. It was only after the smuggling was detected and cracked that we learnt that some 2,000 elephants had been killed. What about the number of those which were smuggled successfully in the dark? I believe it is conceivable that the number of such elephants was definitely more than 2,000-odd.

What has happened and turned Hong Kong into such a terrible state that it has even been criticized as a smuggling hub? According to a media report, the reporter interviewed some legal traders who spoke quite frankly during the interview. Deputy President, they said, "The control on smuggling is the strictest on the Mainland. In Hong Kong, I only need to register that I have purchased 5 tonnes of ivory. Inspection is conducted only once a year. As long as the stock tallies with the registered amount of 5 tonnes, say, the remaining amount being 4 tonnes during the inspection, it is legal." In other words, the so-called inspection work is far from adequate. Given the lack of inspection work and such a big loophole in Hong Kong, the question raised by various Honourable colleagues just now can be explained. Why did the black market choose such a beautiful place as Hong Kong for re-export? It is precisely because we do not have a sound system. This is also the thrust of our discussion today.

Being a signatory of the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"), Hong Kong started to make registrations for 413 licensed ivory traders in 1989, allowing them to conduct legal transactions of ivory acquired before 1989 within the Hong Kong territory. However, in the present situation, it is difficult for us to determine the legality of a transaction and the ivory. How can it be determined? According to my rough understanding, to establish the authenticity of ivory and find out the age of
a tusk, the technology required is highly sophisticated. It is indeed not easy to conduct such a check in Hong Kong. The method adopted is a DNA test of the level of something called "carbon-14". As shown by the latest information, now the Government is still studying whether or not to import a testing device worth several ten million dollars for determining the age of tusks. That being the case, here comes the problem. If a trader holds illegal ivory in his legitimate capacity and the Government's inspection is not stringent, he can import the goods into Hong Kong and continue to conduct trading in terribly large quantities. Eventually, traders will fall over each other to ship ivory into Hong Kong, turning Hong Kong into one of the hubs for illegal transactions of huge quantities. Today, we very much need this debate to establish Hong Kong's status against ivory trading through legislation.

When there is no market and no trading, there will be no more killing. This is true. Some people may ask whether it will be sufficient if Hong Kong implements such measures alone. However, as we all know, the work is proceeding progressively. Various cities and countries around the world are making great efforts. We must do our best to catch up and make the relevant arrangements expeditiously, especially when the situation in Hong Kong is so serious that it has become a hub for the black market.

As a matter of fact, 1 January this year was the very first day on which Mainland China imposed a total ban on the trade of ivory products. According to WildAid, since China announced at the end of last year that it would impose a total ban on ivory trade, the number of illegal ivory products seized by China has decreased by 80% and the price of ivory has also dropped by 65% over 2014. These figures gave us a great insight, showing that China has achieved it even faster than us, since it is already late January now. This sent us a strong and firm message that legislation and stringent implementation can indeed bring about fast and proper changes with instant results. Hong Kong is awaiting such changes, especially when Hong Kong now urgently needs to address this issue because, as indicated by the figures of the United Nations Office on Drugs and Crime, the smuggling of wildlife products is the fourth largest issue of smuggling in the world after drugs, arms and human trafficking. Hong Kong is among the top three hubs for ivory smuggling in the world. Following the ban on ivory trade imposed in the adjacent regions one after another, if Hong Kong does not shut this door, it will be named as "the murderer of elephants". I believe none of the Honourable colleagues here will oppose protecting elephants from cruel poaching and putting an end to such smuggling which may cause the deaths of
thousands of elephants at every turn. I think we all agree with this. Hence, what we need to do now is the actual operation rather than merely asking if we support protecting elephants. I believe no Honourable colleague will reply that he does not support it.

Meanwhile, however, we also need to take into account that according to the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill"), the Government has devised a three-step plan for phasing out the local ivory trade. Starting from 31 December 2021, possession of all ivory for commercial purposes will be prohibited. Actually, the ivory trade ban is not something new, Deputy President. First, in 1990, we imposed a ban on ivory trade. Various enhanced measures subsequently implemented also showed the Government's intention of further tightening the ivory trade. Afterwards, there were still 20 to 30 years for ivory traders to sell their remaining goods, and this time the Government also provides a five-year grace period. In fact, there has been sufficient time. Do not talk about any more deferment. Even if it is deferred for only a day, as the market continues to operate, we will continue to serve as accomplices. We will need to bear a great responsibility for this, Deputy President. Hence, as I said just now at the outset, animals do not speak, but when we see such a loophole from the figures, we cannot just brush it aside.

Another controversial point in this Bill is that the Government will not make any compensation to ivory traders. Since the United Nations passed CITES in 1975, ivory has been put under a certain degree of control. CITES first applied to Asian elephants, followed by African elephants. Control on ivory trade is not something new. Over the past 26 years, Hong Kong traders have been allowed to sell the ivory stock in their possession. It is almost the longest grace period for disposal of stock in history. It is really a very long period. As a matter of fact, the neighbouring regions do not offer any compensation either, since the offer of compensation will send out a wrong message—just now "Slow Beat" put it most correctly—if one wishes to get any compensation, one should come to Hong Kong. We must deal with this situation carefully because if we are actually aware that elephants were brutally killed and their tusks ripped away by poachers, the lives of rangers were threatened by these poachers, etc., now we only need to do one thing: cut off this kind of trade, prohibit these people from continuing to do such things and forbid anyone to excuse themselves by saying that such an act is legal. Some people hold that such an act is legal and thus should not be criticized, but it will drag us into an ambiguous state. Many people say that the trade is legal because the
ivory possessed by them was acquired before the implementation of the ban, but is this the fact? Should we not give it some serious thoughts? Given that our objectives and starting points are the same, and we sympathize with the plight of animals, considering that elephants should not be deprived of their lives in such a way, now it is time for us to give this matter some serious thoughts.

Let us recap the development in Hong Kong. As a matter of fact, as early as in 2016, LEUNG Chun-ying already mentioned in paragraph 207 of the Policy Address the concern about African elephants and proposed kick-starting the legislative procedure. Efforts have been made step by step since then. Time has unnoticeably passed and now it is already 2018. If we can curb the smuggling activities, the existing elephants which have been exposed to poaching far away in Africa can be protected. The simplest way is to pass this Bill and at the same time spread the message that animals have feelings, too. I wonder if Members know that elephants will actually connect and communicate among themselves. Their way of communication is quite interesting. They will stamp their feet to make a sound like a code for communicating with other elephants. They also have emotions and feelings. I do not believe the other elephants will feel nothing when they see a poacher come and kill their companions right before their eyes. It is most saddening that such cases still happen today in 2018. At this juncture, we are taking the first step which is critically important, Deputy President. As I have quoted GANDHI at the outset of my speech: the greatness of a nation and its moral progress can be judged by the way its animals are treated. I think the view of Hongkongers, Honourable colleagues in the Legislative Council, the Government as well as the whole society on animals is that the lives of animals need to be protected. This message is becoming increasingly strong.

So, the question of today's debate will soon be put to the vote. We just wish to fulfil our most basic duty and cut off the illegal ivory trade. We cannot allow ivory to continue to circulate, facilitating its demand, market and trading. If we can do this simplest thing, the killing of elephants will gradually stop. Elephants cannot speak. Neither can they come to the Hong Kong Legislative Council. Nevertheless, I am grateful that many people, regardless of their political affiliations, are willing to come forward to speak for animals today. I hope we can take the very first step.

Deputy President, I so submit.
MR CHU HOI-DICK (in Cantonese): Deputy President, I believe the scope of our debate today is rather narrow because I have heard that all Honourable colleagues basically have a number of common premises on this issue, including the responsibilities of the Hong Kong Government and the community as a whole to care for animals. And we also have the obligation to play a part in the international effort to curb acts of wild elephant poaching.

Hence, the actual contention before us is whether the SAR Government should offer compensation in eradicating ivory trade. A clear message repeated by the Government over and over is that any form of compensation offered by us will send a wrong message particularly to those countries where elephants live. Mr CHAN Chi-chuen has made a most appropriate comparison earlier on, pointing out it is common to hear rumours spreading from Hong Kong to the Mainland, such as claims about Yakult and salt being able to cure diseases, which will soon trigger hysterical panic buying. Hence, we fully appreciate the underlying reasons for the Government to make such a policy decision.

In my view, if Honourable colleagues wish to oppose this Protection of Endangered Species of Animals and Plants Ordinance ("the Bill") introduced by the Government, the key lies in directing their refutation at an argument advanced by the Government. Let me repeat this argument. It goes that any form of compensation will send a wrong message to elephant poachers in Africa, thereby leading to more killings. Mr Charles Peter MOK has cited some studies earlier on, explaining that the re-legalization of ivory trade in any form or creation of opportunities allowing such trade in a certain time frame will actually drive a massive wave of killing. The demand for ivory will rise in Hong Kong as an intermediary and worldwide. From meetings of the Bills Committee to the Council meeting today, actually I have yet to hear any accurate and clear counter-arguments advanced by various Honourable colleagues from the business sector which can refute this point raised by the Government.

The main argument that I have heard from Honourable colleagues from the business sector or those opponents to this Bill is the sourcing of some of the goods from the European Union ("EU") in the absence of a total ban on ivory trade by EU at present. While such requirements are not strictly enforced by their local governments, why should we implement requirements stricter than theirs? Moreover, they have also cited Article 105 of the Basic Law, stating that
Deputy President, I do not really wish to elaborate on the two arguments stated just now, except the one relating to the Basic Law because Mr Dennis KWOK has earlier pointed out, with legal justifications provided, that Article 105 of the Basic Law shall not bar the Government from introducing this Bill. I consider that in the absence of any such loopholes in the Basic Law, our EU-related argument against this Bill will not hold water because even if there are loopholes in EU legislation currently, it will not be a rightful cause for us to refrain from dealing with our legislation properly or imposing a ban on ivory trade. Instead, we should consider how best to reduce the chance of further import of ivory products mixed with those obtained from elephant poaching through such loopholes, which concerns law enforcement. Nevertheless, no matter how well these two arguments are presented, they still fail to address the core of this debate as stated by me earlier on, i.e. the Government's argument that any form of compensation will lead to more killings in Africa. In my view, if Honourable colleagues have a common premise of caring for elephants and stopping killings, our debate can be seen as approaching the end because we are actually unable to advance any clear and definite counter-arguments which can refute the earlier statement of the Government.

Deputy President, in the second part of my speech, I, however, wish to talk about some observations, even though they may not be directly relevant to this Bill. In fact, we may say that this Bill seeks to legislate against some human behaviour which we consider unnecessary. What is unnecessary human behaviour? We commonly refer to it as luxurious spending.

I know that there are three main categories of luxurious spending worldwide. The first category is purely ornamental ivory, without which we can still live. The second category is shark's fin. Will eating less shark's fin cause us to die? Actually not. The third category is fur. But after hearing this, later on, Mrs Regina IP may again say that fur is different as it is manufactured in a civilized way. In fact, some international animal rights campaigns target such spending which we consider unnecessary and luxurious. There is no reason for us to cause certain animals, particularly those important species, to become extinct because of such luxurious spending.

Deputy President, I think it is actually not hard for us to argue over ivory, shark's fin or fur. Frankly, a Member has also mentioned earlier on that after years of counter-publicity and given its limited realm, ivory has actually been pushed to a dead end with a rather poor public image, so it will not be difficult to
deal with, and I believe Members will achieve a consensus of great measure today in the Legislative Council. Certainly, I also hope the Government will not be sluggish. What will it do next to deal with such luxurious spending on shark's fin or fur, etc., which is unnecessary and extremely detrimental to animals? When will it introduce the relevant Bills?

Nevertheless, Deputy President, after some careful thinking, I do find that actually we are somewhat hypocritical. I am asking Members to imagine that if some daily activities common among people are likewise detrimental to a variety of animals, we will find that we may not make such severe criticisms or speak in such a righteous tone. Take plastics as an example. As we all know, the oceans are currently riddled with plastics, which may be consumed by those sea turtles, fish or seabirds. Once they are dissected, we will find that their stomachs are filled with plastics. But a ban on plastics in Hong Kong will lead to huge troubles.

Maybe let me digress a bit. We know that a number of green groups do their Facebook publicity centred on polar bears, calling on the human race to take action in order to ameliorate global warming. Deputy President, if the current global warming trend persists, polar bears may become extinct in a decade or two. But while human beings see that the undesirable outcome of global warming arising from their accumulated acts is entirely their fault, which has not only affected polar bears and a variety of species but also the mankind, particularly those living in underprivileged areas, I have really seen no active response from the Government or the Council to address this imminent crisis.

In fact, I do not wish to spoil the mood of everyone. But what I mean is that when addressing the ivory issue, if it takes us such a long time as two or three decades to come to this stage, I think the community as a whole and the entire Administration has actually fallen far short of expectations in the face of an imminent environmental crisis. Judging from the current progress, I am gravely worried that when we legislate for banning shark poaching for shark's fin, the entire Earth may have come to an end.

I have spoken in support of the Bill, hoping that it will be passed as soon as possible. I so submit.
MR HOLDEN CHOW: Deputy President, first of all, I have to thank the relentless effort made by my Democratic Alliance for the Betterment and Progress of Hong Kong colleague, Dr Elizabeth QUAT, who began to scrutinize this issue many years ago. No doubt, elephants are endangered species and elephant hunting is indeed a notorious activity. It is brutal and unscrupulous. And for the purpose of acquiring the ivory, countless elephants could be killed, which is against our humanity. China has already taken a strict measure to ban the trade of ivory. Deputy President, I have the benefit of learning the dire consequences of not banning the ivory trade. More elephants will be killed and even more people will be killed too. Over the years, the problem really comes to a head and we are bound to take appropriate action. With Hong Kong as an international city, we cannot afford our reputation being tainted by turning a blind eye to the subject problem. So today, I think not only Dr Elizabeth QUAT has a pat on her back from the public but so does the Government, which is eager to take on board the advice and take appropriate action.

Deputy President, I support the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 today. Thank you.

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 the Environment to reply. After that, the debate will come to a close.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, first of all, I would like to thank Mr Kenneth LEUNG, Chairman of the Bills Committee on Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bills Committee"), Dr Elizabeth QUAT, Deputy Chairman of the Bills Committee, all members and staff of the Secretariat for their efforts in the past few months so that the scrutiny of the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") could be completed successfully.
As stated by the Government during the Second Reading of the Bill in June last year, the Bill seeks to phase out the local ivory trade in three steps and impose heavier penalties on smuggling and illegal trading of endangered species in order to fulfil our obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") and respond to aspirations of the international community to impose stronger regulation on the trade in ivory.

Currently, the import, export and domestic sale of elephant ivory and other specimens of endangered species are regulated in Hong Kong under the Protection of Endangered Species of Animals and Plants Ordinance ("the Ordinance"), the local legislation that gives effect to CITES. CITES provisions started to apply to Asian elephants and African elephants in 1975 and 1976 respectively. While the trade in ivory has generally been banned in Hong Kong, local trade or import and export of some ivory items, including pre-Convention ivory, hunting trophies and certain specified ivory carvings and ornaments, remains permissible under limited circumstances under CITES and the Ordinance. Besides, post-Convention ivory under a Licence to Possess issued by the Agriculture, Fisheries and Conservation Department ("AFCD") are still allowed to be traded locally.

There have been growing concerns over the poaching of African elephants and the smuggling of ivory worldwide in recent years. In order to conserve elephants, in particular African elephants which are under an imminent threat of extinction due to illegal poaching of elephants and smuggling of ivory, there is an increasing demand from the international community for strengthened regulation on the trade in ivory. In the conference of the parties to CITES held in 2016, 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 legislative, regulatory and enforcement measures to close their domestic markets as a matter of urgency. The Hong Kong SAR Government has a responsibility to strengthen regulation and impose a ban on the trade in ivory so as to support and collaborate with the efforts made by the international community on elephant conservation.

The three-step plan under the Bill to phase out the local trade in ivory is as follows:
Step one, which will take effect on the commencement date of the Bill, seeks to ban the import and re-export of all elephant hunting trophies and post-Convention ivory items, of which the import, export and re-export are currently permissible under CITES. This step will discourage elephant poaching through activities such as sport hunting.

Step two, which will take effect three months after the commencement of the ban in step one, will ban the import and re-export of pre-Convention ivory and subject pre-Convention ivory for commercial purposes in the market to licensing control in line with the existing control on post-Convention ivory. This step will further prevent possible laundering of illegal ivory.

Step three, which will take effect on 31 December 2021, will ban the possession for commercial purposes of all ivory. After the implementation of this step, the local ivory trade will be completely closed down.

Upon the implementation of the three steps, 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, the trade of "antique ivory", subject to satisfactory proof to the Director, will continue to be allowed in which case an import licence or a re-export licence will be granted to facilitate international trade. The proposed arrangement is in line with international practice and will not affect the original intent of the Bill in curbing elephant poaching and conserving elephants.

In order to provide a sufficiently strong deterrent against 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 under the Ordinance through the Bill on top of the three-step plan to act in concert with the ban on ivory trade for a more effective deterrent against smuggling and illicit trade of wildlife including ivory.

Currently, a person committing an offence with respect to the illegal import, introduction from the sea, export, re-export or possession of Appendix I species is liable on conviction to a fine at level 6 (i.e. $100,000) and imprisonment for one year. Heavier penalties are currently imposed for offences
relating to specimens of Appendix I species committed for commercial purposes, i.e. a fine of $5,000,000 and imprisonment for two years. For Appendices II and III species, a person committing an offence with respect to illegal import, introduction from the sea, export, re-export or possession of them is liable on conviction to a fine at level 5 (i.e. $50,000) and to imprisonment for six months. If the Court is satisfied that the act in respect of the offence was carried out for commercial purposes, the convicted person is liable to a fine of $500,000 and to imprisonment for one year.

To ensure that the penalties under the Ordinance will provide the necessary deterrence against illicit wildlife trade, it is proposed to impose uniform penalties for both commercial and non-commercial summary offences. We propose that a fine of $5,000,000 and two years of imprisonment will be imposed for summary offences concerning Appendix I species; and a fine of $500,000 and one year of imprisonment for summary offences concerning Appendices II and III species. Separately, we propose to promulgate a new set of penalties for offences convicted on indictment. We propose in the Bill that a fine of $10,000,000 and imprisonment for 10 years be imposed for indictable offences concerning Appendix I species; and a fine of $1,000,000 and imprisonment for seven years be imposed for indictable offences concerning Appendices II and III species. We also propose that the increased penalties take effect on the same day as the commencement date of the Bill.

We have taken note of the view that the ban on ivory trade will cause huge losses to ivory traders. It was also suggested that the Government should provide compensation to affected traders through, for instance, stock buy-back or ex gratia payments.

Deputy President, as explained at a meeting of the Bills Committee, provision of compensation to the ivory trade may send a wrong message to lawbreakers which may intensify the proliferation of elephant poaching and stimulate the smuggling of a large amount of illegal ivory into Hong Kong to launder with the legal stock for seeking compensation. It would not only significantly reduce the effectiveness of the ban on the local ivory trade, but also run contrary to the global efforts at conservation of elephants and severely injure the international image of Hong Kong. Other jurisdictions which have banned the trade in ivory have not provided any form of compensation to affected traders and we do not see any ground for the Hong Kong Government to deviate from this international practice. Besides, according to a survey on the ivory trade by
AFCD in 2016, the sale of ivory in general does not constitute a substantial part of the traders' business. Many ivory traders have already undergone business transformation or switched to trading other commodities not under CITES control. Moreover, ivory trade has been partially banned since 1990. The proposed effective date of the total ban of ivory trade is 31 December 2021, hence there is a five-year period from the announcement of the concerned policy in 2016 for the traders to dispose of the ivory in their possession and undergo business transformation. We consider the time allowed sufficient and the arrangement reasonable.

Therefore, the Government holds that no compensation should be provided to the ivory trade. As regards the ivory craftsmen who might be affected by the ban, the Government will explore suitable assistance measures for them according to their needs. AFCD is consulting the ivory craftsmen in order to ascertain how and when assistance can be provided.

I also noticed that some Members have raised questions in respect of the Basic Law. Article 105 of the Basic Law provides that "Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay. The ownership of enterprises and the investments from outside the Region shall be protected by law."

However, according to our analysis, in general, a de facto deprivation would not arise unless the property affected is left without any meaningful alternative use or the restrictions have denied all economically viable use. In the present case, the Government considers that the Bill does not involve any formal expropriation of property or any de facto expropriation. The owners would retain possession of their ivory and there would not be any transfer of title of the owner's property. Moreover, the owners' ivory would not be denied all meaningful use. The ivory would still have other beneficial uses such as possession, donation, exhibition, etc., and may also have artistic or cultural uses. In the absence of deprivation, the Government considers that the legislative proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Government has elaborated this in detail in the response to the matters raised at the meeting on 7 July 2017.

We have also noticed Members' suggestion that, while implementing the ban on ivory trade, the Administration should take more vigorous enforcement actions against illegal import activities of ivory, such as combating the laundering
of illegally sourced ivory into Hong Kong's regulated ivory market. We understand Members' concerns. In addition to the proposed amendments to the Ordinance, AFCD will examine the regulatory system on ivory trade and launch a series of enhancement measures jointly with the Customs and Excise Department and the Police Force in order to strengthen the enforcement on ivory smuggling and the regulation on local ivory trade. The existing ivory products, including those under a licence, will be labelled, photographed and measured by AFCD for record so as to prevent the infiltration of new ivory or other smuggling activities. With the phasing out of local ivory trade, AFCD, the Customs and Excise Department and the Police Force will continue to take vigorous enforcement actions.

Deputy President, given that elephants are under an imminent threat of extinction, it is a global trend to regulate or even ban the local ivory trade at a suitable pace. We consider the plan to ban ivory trade well justified with measures that respond to international and public concern over the survival of elephants and aspirations of the international community to close down domestic ivory markets. The Government needs to send a clear message to the international and local communities, including persons involved in illegal elephant poaching, that Hong Kong is committed to protecting endangered species, closing down the local ivory market and combating wildlife smuggling.

Deputy President, with these remarks, I implore Members to support the Second Reading of the Bill so as to implement the phasing out plan of the local ivory trade and further deter smuggling and illegal trading of endangered species. Thank you.

DEPUTY PRESIDENT (in Cantonese): I now put 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. Will those in favour please raise their hands?

(Member raised their hands)

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

(Member raised their hands)
Mr HUI Chi-fung rose to claim a division.

**DEPUTY PRESIDENT** (in Cantonese): Mr HUI Chi-fung has claimed a division. The division bell will ring for five minutes.

(While the division bell was ringing, THE PRESIDENT resumed the Chair)

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Ms Claudia MO, Mr Michael TIEN, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-chun, Mr Wilson OR, Dr Pierre CHAN, Mr CHAN Chun-yi, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Dr CHENG Chung-tai, Mr KWONG Chun-yu and Mr Jeremy TAM voted for the motion.

Mr Frankie YICK, Mr CHUNG Kwok-pan, Mr SHIU Ka-fai and Ms YUNG Hoi-yan voted against the motion.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.
THE PRESIDENT announced that there were 53 Members present, 48 were in favour of the motion and 4 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.


Council became committee of the whole Council.

Consideration by Committee of the Whole Council


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

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Bill.

CLERK (in Cantonese): Clauses 1 to 32.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 32 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)
CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

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

CHAIRMAN (in Cantonese): All the proceedings on the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I now report to the Council: That the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 has been passed by committee of the whole Council without amendment. I move the motion that "This Council adopts the report".

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

In accordance with Rule 59(2) of the Rules of Procedure, the motion shall be voted on forthwith without amendment or debate.

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)

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

Third Reading of Government Bill


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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I move that the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 be read the Third time and do pass.

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 Third time and do pass.

Does any Member wish to speak?

MR CHAN HAN-PAN (in Cantonese): President, the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") has now come to its Third Reading. Yet, in my view, the legislative process has been affected by a lot of uncertainties and ambiguities, including the requirement that Members are not allowed to propose CSAs (Committee stage amendments) involving expenditure. We understand that once the Bill is passed, the ivory held by members of the trade will become worthless. More importantly, most of them are licensees. If the Government agrees to recall their licences under the Bill,
the five-year grace period will be unnecessary. If the Government agrees to recall their permits for ivory sale and offer them ex gratia payments, the ivory trade can be banned in Hong Kong in the shortest time. This approach is far better than the provision of a five-year grace period under the Bill.

I have pointed out repeatedly to the Government that it is a usual practice of the Government to offer ex gratia payments to various sectors. For instance, in the midst of ecological changes in the fisheries industry, the Government had issued ex gratia payments to fishermen to encourage them to switch trades or repair their fishing vessels. We have put forth similar proposals to the Government a number of times, yet the Government considers such approach may trigger the slaughter of elephants in Africa when the world considers Hong Kong is offering compensation to ivory trade. In fact, if the Bill is passed, it means that there will be five more years for ivory transactions to be conducted in Hong Kong, so ivory traders do not have to worry and the slaughtering of elephants in Africa will go on.

I suggest the Government to offer ex gratia payments to recall the licences from all licensees on the one hand and shorten the grace period on the other. This should be a clean and clear approach. I do not know how the Government will execute law enforcement in the next five years. Certain traders will continue to conduct ivory trade during the five-year grace period and the ivory stock in Europe may be dumped into Hong Kong at discounted prices. Moreover, the Bill has made no undertaking that the authorities will verify each certificate with the Secretariat of the United Nations responsible for handling CITES. Under this circumstance, ivory trade can hardly be stamped out in the next few years …

PRESIDENT (in Cantonese): Mr CHAN Han-pan, please pause for a while. In the debate on the Third Reading of the Bill, Members should only state whether or not they support the Third Reading of the Bill and should not repeat comments already made during the Second Reading debate of the Bill. Please continue.

MR CHAN HAN-PAN (in Cantonese): President, as I pointed out earlier, the Bill is fraught with flaws and inadequacies, and the Government has not put forth any policies to assist the trade. If the Bill is passed hastily, I worry it will bring forth a lot of lawsuits.
Hence, at the present stage or at the earlier stage, I cannot support a Bill which I regarded as problematic, and I disagree with the passage of the Bill at this stage. I have requested the Government to provide certain information, including information on European countries which frequently export ivory to Hong Kong. Nonetheless, the Government only stated briefly in the reply that the restrictions imposed by these countries are more stringent than those in Hong Kong, for the import and export of raw ivory among European countries are prohibited. Yet the prohibition is only applicable to raw ivory, which means if the outer skin of ivory is removed, the ivory can be exported. Hence, the Government was lying when it said that the regulation in Hong Kong is laxer than that of Europe. We should not believe this lie and pass the Bill hastily. Otherwise, it will bring forth many more problems.

During the whole course of examination of the Bill, I have tried my best to explain the inadequacies of the Bill to the Government. We must admit that we also look forward to the early ban on ivory trade, yet we have different views and perspectives. I think the Government can neither meet my requests nor the proposal to grant ex gratia payments to ivory licensees to address their rights as put forth by certain Members. Yet, I believe, with the support of the majority of Members, the Bill will eventually be passed. President, now, I leave this Chamber in protest.

MR KENNETH LEUNG (in Cantonese): President, as the Chairman of the Bills Committee on the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017, I hope that the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Bill") will be passed expeditiously in its original version without any amendment. President, I would like to take this opportunity to talk about the proposals put forth by Honourable colleagues for the Government to offer ex gratia payments or buy back the ivory stock. In fact, the economic principle involved is straightforward. The value of the ivory concerned is not high. Why?

PRESIDENT (in Cantonese): Mr Kenneth LEUNG, please return to the question on the Third Reading of the Bill.
MR KENNETH LEUNG (in Cantonese): President, I understand that. Actually, I did press the "Request to speak" button just now, and the Clerk should have noticed that. I pressed the "Request to speak" button during the Committee stage to indicate my wish to speak, yet you did not see my request at that time. President, I only need two minutes to finish my speech.

According to a survey conducted by the Agriculture, Fisheries and Conservation Department between February and April 2016, ivory trading in Hong Kong is not active, as no sales are recorded in the past five years on 90% of the ivory acquired after the Convention on International Trade in Endangered Species ("CITES") ("post-Convention ivory"). Let us look at a simple economic principle from the global trend. People know that ivory, particularly post-Convention ivory, has been banned since 1990. Yet, why would the price of ivory keep falling? Despite the Government's announcement of the ban on ivory trade in Hong Kong within five years, prices of ivory will keep falling. I think it is evident that there is no demand for ivory despite the supply. If the scenario of a ban on ivory is substituted by gold, where gold trade will be banned in five years, the price of gold will rise if there is still a demand for gold. Yet, the price of ivory will continue to fall. I do not mean to dwell on this, for the President may become impatient.

I implore Members present to support the Bill, so that its Third Reading will be passed expeditiously. President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now 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 Kenneth LEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Kenneth LEUNG has claimed a division. The division bell will ring for five minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Ms Claudia MO, Mr Michael TIEN, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-chun, Mr Wilson OR, Dr Pierre CHAN, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Dr CHENG Chung-tai, Mr KWONG Chun-yu and Mr Jeremy TAM voted for the motion.

Mr Frankie YICK, Mr CHUNG Kwok-pan, Mr SHIU Ka-fai and Ms YUNG Hoi-yan voted against the motion.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

THE PRESIDENT announced that there were 54 Members present, 49 were in favour of the motion and 4 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.
Resumption of Second Reading Debate on Government Bill


EMPLOYMENT (AMENDMENT) (NO. 2) BILL 2017

Resumption of debate on Second Reading which was moved on 28 June 2017

PRESIDENT (in Cantonese): Mr KWOK Wai-keung, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

MR KWOK WAI-KEUNG (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Employment (Amendment) (No. 2) Bill 2017 ("the Bills Committee"), I now report on the deliberations of the Bills Committee. The Employment (Amendment) (No. 2) Bill 2017 ("the Bill") seeks to raise the maximum penalty for the offences of overcharging jobseekers and unlicensed operation of employment agencies, expand the scope of application of the overcharging offence, provide for new grounds for the Commissioner for Labour to consider refusing to issue or renew or revoking a licence to operate an employment agency, and provide a legal basis for the issue of the Code of Practice for Employment Agencies ("the Code"). Members in general supported the proposals and agreed that the proposals would increase the deterrent effect against overcharging of commissions and unlicensed operation of employment agencies and are conducive to the strengthening of regulation of employment agencies.

The Bills Committee held three meetings with the Administration and received views from the public. Some members expressed concern that after the passage of the Bill, an employment agency may continue to overcharge jobseekers by resorting to other means in order to evade prosecution. For instance, a Hong Kong employment agency may arrange for a foreign domestic helper to take out loans from financial institutions and repay loans to another agency.
employment agency in the foreign domestic helper's home country, and then split the repayment with the latter employment agency. Members asked the Administration how this loophole can be plugged.

The Administration has stated that although Part XII of the Employment Ordinance ("EO") only applies to employment agencies carried on in Hong Kong, if there is sufficient evidence indicating that a Hong Kong employment agencies has, through an overseas employment agency, received from jobseekers (including foreign domestic helpers) a payment exceeding the prescribed commission, the Labour Department ("LD") will conduct prosecution in accordance with established procedures. In addition, if it is found that an employment agency contravenes the requirements or standards in the Code, LD would issue written warnings or even revoke the licence of the employment agency concerned. The Administration has undertaken to remind foreign domestic helpers through various channels not to take out loans from financial institutions for making payments to employment agencies.

Members generally supported the Administration's proposal to expand the scope of the offence of overcharging jobseekers to cover persons associated with the licensee, including the management of employment agencies and persons employed by employment agencies. Some members have expressed concern about whether an employment agency employee could become the scapegoat for the licensee since employment agency employees could be held liable to the overcharging offence in future as an employment agency employee assigned to charge excessive commissions from jobseekers may not dare opposing the employer's instructions for fear of losing his/her job. Some members have suggested that a defence should be provided to enhance protection for employment agency employees. The Administration has advised that in considering whether to prosecute a person involved in overcharging, LD would carefully consider all relevant facts of each case, such as ascertaining whether such a person is the end receiver of the overcharged commission. The Administration considered that the effectiveness of the legislative proposals in enhancing the deterrence against overcharging would be undermined if the proposed defence was specifically provided in the Bill.

The Administration has also proposed under the Bill a new provision that the Commissioner for Labour may issue from time to time codes of practice for employment agencies. The proposed provisions make it clear that non-compliance with a code of practice by a licensee and associate(s) will be a ground upon which the Commissioner for Labour may refuse to issue or renew, or revoke an employment agency licence. Members in general welcomed the
They have requested the Administration to step up publicity and that the Code should be made available in the mother languages of foreign domestic helpers so as to raise their awareness of the Code. Members have also requested that regular reviews be conducted after its implementation.

Moreover, in response to the views of the Bills Committee, the Administration proposed a Committee stage amendment to add a new subsection to EO to extend the time limit for prosecution of unlicensed operation and overcharging jobseekers to 12 months from the time when the offence arose so as to tie in with the requirement under section 56(3) of EO that employment agencies have to retain records of job applicants for a period of not less than 12 months after the expiry of each accounting year of the employment agency concerned. The Administration has explained that beyond that period, it would be difficult for investigators to secure sufficient evidence for prosecution of the offence(s). Dr Fernando CHEUNG has proposed to further extend the time limit for prosecution to two years, but the Administration has advised that it would be undesirable to unduly prolong the investigation process by further extending the statutory time limit as evidence and memory will fade with the lapse of time.

President, the aforesaid is my report on the work of the Bills Committee. I now move on to presenting my personal views on the Bill.

President, I speak in support of the Bill introduced by the Government and hope that it can be implemented expeditiously so as to better protect the interests of foreign domestic helpers working in Hong Kong. As at the end of last year, 370,000 foreign domestic helpers were working in Hong Kong, with a 40% increase compared to 257,000 in 2008 (about 10 years ago). Foreign domestic helpers account for 10% of Hong Kong's overall labour force. The number of local households with live-in foreign domestic helpers has reached 280,000, covering 11% of local households. Foreign domestic helpers do have a strong impact on Hong Kong society judging from the figures alone.

Next, let us talk about the contribution of foreign domestic helpers. Indeed, we often see foreign domestic helpers taking care of children and elderly people on the street, pushing elderly people in wheelchairs or caring for the chronically ill. Foreign domestic helpers are also responsible for a wide range of tasks such as doing household chores and buying food. They left their families, parents and children in their homeland and came here to take care of the daily life of Hong Kong families. What would our life be without foreign domestic helpers? It is not difficult to envisage that we would be at a loss as to what to do.
Some people said the sky would collapse without foreign domestic helpers. In fact, the contribution of foreign domestic helpers comes in not only taking care of our families but also in releasing massive women labour force. For the many dual-income families in Hong Kong, their children and the elderly in their family depend on care by foreign domestic helpers. The ratio of dual-income families is increasing, so is the demand for foreign domestic helpers as one income is not sufficient to support a family given the high living costs in Hong Kong. Foreign domestic helpers help release the labour force of a large number of local married women, resulting in an increase in the female labour participation rate in Hong Kong from 47.8% in 1996 to 55% in 2016.

However, foreign domestic helpers working in Hong Kong face various difficulties. There have been reports on foreign domestic helpers being bullied and exploited in recent years. One form of exploitation is being misled and overcharged by employment agencies as raised in the Bill. Although it is stipulated by the Government that the maximum commission which an employment agency may receive from a jobseeker shall not exceed 10% of his/her first month's wages, it was reported that some foreign domestic helpers were charged over $10,000 or even a commission equivalent to seven months of their wages. A university group has done undercover investigations into more than 100 employment agencies earlier and found that 70% of them overcharged commissions ranging from $3,000 to $8,000. The group also discovered that some employment agencies retained foreign domestic helpers' passports or requested employers to transfer part of foreign domestic helpers' wages to the employment agency direct, allegedly for covering the commission unpaid by foreign domestic helpers. These practices are in complete violation of the existing legislation. Besides, it was also reported in recent years that some Hong Kong employment agencies earned commission by luring foreign domestic helpers into working overseas as illegal workers, arousing discontent of the Philippines Government which had thus suspended processing applications for overseas employment certificate.

Many foreign domestic helpers were forced to come all the way to work in Hong Kong in the hope of earning more money to support their families. Unfortunately, they are exploited by employment agencies at home and abroad. As frequently reported, some foreign domestic helpers were already in debt before leaving their country as they had to pay a commission or training fee to the local employment agencies. On top of that, they are overcharged by local employment agencies on arrival in Hong Kong. The hardship faced by them is inexplicable. While the issue of foreign domestic helpers being debt-ridden before arrival in Hong Kong must be dealt with by the government of their home country, the SAR Government is duty-bound to properly handle the situation in
Hong Kong by eliminating all forms of exploitation through strengthened regulation and enforcement. We must realize that exploitation of foreign domestic helpers affects not only foreign domestic helpers themselves but also the quality of service they provide which would not be to the benefit of employers. Moreover, the reputation of Hong Kong will inevitably suffer, leading to an "all-lose" situation.

We hold that enhancing the protection of foreign domestic helpers will bring the following benefits: first, strengthening regulation of employment agencies will help enhance the protection of foreign domestic helpers by combating illegal practices at source; second, employers will be better reassured as foreign domestic helpers will be more devoted and stable at work with more protection; third, foreign domestic helpers will be more interested in working in Hong Kong, thereby increasing the choices of Hong Kong employers; fourth, an image of a safe working place can be established for Hong Kong, and thus an all-win situation can be achieved.

For these reasons, we welcome the introduction of this Bill by the Government which seeks to impose heavier penalties on employment agencies that overcharge jobseekers or operate without a licence and further strengthen the regulation of employment agencies. We believe these measures will be enormously helpful to combating the relevant offences. At the stage of the Bills Committee, members have made many suggestions on how to eradicate unlawful practices. We are glad to see that the Administration is providing a legal basis for the Code. We also expect the Administration to impose appropriate penalties on employment agencies violating the provisions set out in the Code and step up publicity thereof among employers and foreign domestic helpers so as to raise their awareness.

In addition, I believe increasing the maximum penalty for employment agencies operating without a licence and overcharging jobseekers to a fine of HK$350,000 and imprisonment for three years will have some deterrent effect. Nevertheless, it is more important for the Administration to step up inspection and ensure stringent enforcement so as to plug any possible loopholes in law and deter employment agencies from overcharging commissions through other ways. Otherwise, the imposition of however heavy penalties or fines will be of no practical help.

Besides, I understand and support the Government's proposal to extend the scope of the offence of overcharging jobseekers to associates in addition to the licensee, but meanwhile, I am concerned that employees would be held liable in the employer's place to the overcharging offence as employees may not dare
oppose the employer's instructions for fear of losing his/her job. In this connection, I think LD must exercise caution in considering and investigating each case if similar situations occur in future so as to prevent employees from becoming scapegoats.

Lastly, the Administration accepted the Bills Committee's suggestion to add a new subsection to extend the time limit for prosecution in relation to the offences of unlicensed operation and overcharging jobseekers from 6 months to 12 months from the time when the offence arose. This can be considered as taking a big step forward after gauging members' views. Insofar as Dr Fernando CHEUNG's proposal to extend the time limit to 24 months is concerned, I hold that a 12-month time limit can be implemented first at this stage, as too long a time limit will result in difficulties in evidence collection. President, I must emphasize that both Mr Dennis KWOK and Dr Fernando CHEUNG proposed extending the time limit at the second meeting although an exact duration was not suggested. At the third meeting, the Administration indicated its intention to extend the time limit to 12 months to which no member raised any objection. Dr Fernando CHEUNG proposed an amendment later on which the Bills Committee was unable to process. The amendment was, therefore, tabled to this Council.

President, the Bill is better late than never. I urge the Administration to address and resolve the violations by employment agencies as well as ensuring stringent enforcement in order to accord due protection to foreign domestic helpers and render the Ordinance effective. With these remarks, I support the Bill.

DR PIERRE CHAN (in Cantonese): President, foreign domestic helpers account for almost 10% of the labour population in Hong Kong, numbering at some 300 000. Many families pay relatively low wages to employ foreign domestic helpers to do household chores and take care of the elderly and children at home so that they can go out to work without worries. The contribution of foreign domestic helpers is there for all to see.

I am an employer of a foreign domestic helper, too, and my wife can thus go out to work. I believe many Honourable colleagues in the Legislative Council, in the same situation as mine, will share the same feelings. However,
in recent years, we often hear news about foreign domestic helpers being overcharged by intermediaries or forced to incur huge debts for coming to Hong Kong to work. Seeing such news, I would feel sad.

Frankly, leaving one's hometown to work overseas is already not easy. Being an employer, I hope we can bring benefits to each other. While helping us, they can work in Hong Kong without worries, save money and do what they like after returning to their hometown. I really do not wish to see them being exploited when they have not yet started working, and serving us with a feeling of being aggrieved. Being employers, we have made payments to intermediaries. We absolutely do not want to be deceived or misled by unscrupulous lawbreaking companies. Since the existing penalty imposed on an intermediary for contravening the law, being a mere fine of $50,000, is too mild, it lacks deterrent effect. Consequently, the lawbreaking intermediaries have become all the bolder. Apart from overcharging commissions, some intermediaries would even request employers to withhold and directly give them part of the foreign domestic helpers' wages on the pretext that the foreign domestic helpers are in debt. Or they would mislead the employers, saying that they can pay foreign domestic helpers at a rate lower than the minimum wage rate, inducing the employers to break the law.

On the other hand, to earn more commissions, they may instigate foreign domestic helpers to switch jobs, thus bringing a lot of inconveniences and troubles to the employers. To seek improper gains, intermediaries would abet both parties, ruining the mutual trust between employers and employees. For this reason, they must be subject to strict punishment.

This time the Employment (Amendment) (No. 2) Bill 2017 ("the Bill") proposes raising the penalty for unlicensed operation to a maximum fine of $350,000 and imprisonment of three years, and extending the existing scope of the offence of overcharging jobseekers to associates in addition to the licensee. I believe it will produce considerable deterrent effect.

However, the existing law concerned does not set out a time limit for complaint or information. According to section 26 of the Magistrates Ordinance (Cap. 227), this kind of crime is not an indictable offence. A complaint shall be made or information laid within six months from the time when the incident arose. Many foreign labour groups and Honourable colleagues in the Legislative Council consider the time limit of six months too short. It is easy for
unscrupulous intermediaries to evade the criminal liability. The present proposal of the Government for extending the time limit to a year has in a way responded to public views.

I have read the submissions of some labour groups, student organizations, political parties as well as Honourable colleagues in the Council. Many of them hold that apart from the excessively lenient penalties, the regular inspection of the Labour Department ("LD") is not the most effective way of combating illegal activities. An organization called Students Against Fees and Exploitation mentioned in its submission (i.e. LC Paper No. CB(2)2174/16-17(07)) that they had spent seven months conducting a survey, interviewing a group of foreign domestic helpers who had received jobs referred by intermediaries. It involved 100 intermediaries, more than 70% of which had overcharged commissions. Most of them charged $6,000 to $8,000, i.e. more than 10 times of 10% of the monthly wage as prescribed by the law.

According to the information of LD, in 2015 and 2016, it conducted a total of 1,348 and 1,417 inspections of employment agencies for foreign domestic helpers respectively. In 2015, only 11 companies were prosecuted, and only 9 of them were convicted of overcharging commissions. The numbers in 2016 were even smaller. Only 8 companies were prosecuted, and among them, 5 were convicted. These are the figures provided in the Legislative Council Brief.

The owner of an intermediary mentioned in his submission to the Government that when investigators visited an intermediary, they would merely check the information provided by the company. This is exactly the biggest loophole. He suggested that LD take the initiative to conduct random checks on the information and directly make enquires with foreign domestic helpers on whether they had been exploited by intermediaries. It would be much more effective than regular inspections.

I wonder if the Administration will enhance the work in this aspect in order to increase the number of successful prosecutions. If it cannot bring more unscrupulous intermediaries to justice, even heavier penalties and an extension of the time limit for prosecution may be unable to rectify such an unhealthy trend of bullying the disadvantaged labour. The significance of amending the relevant law will be greatly discounted.
President, the illegal conduct of intermediaries for foreign domestic helpers is one of the reasons for the American Government placing Hong Kong on "Tier 2" in its Trafficking in Persons Report for the second consecutive year. It was stated in the report that although the Special Administrative Region Government had adopted measures to enhance foreign domestic helpers' knowledge of their legitimate rights and interests, it did not do its best to improve the environment in which foreign domestic helpers are vulnerable to exploitation.

As Hong Kong is an international metropolis and affluent society, such frauds on foreign labour really should not have occurred. Being one of the employers of foreign domestic helpers, I do not want Hong Kong to be given a bad name for harsh treatment to foreign labour. Hence, while I support this Bill of the Government, I very much hope that the Government will listen to more views and adopt more proactive measures against unscrupulous intermediaries.

I so submit.

MR POON SIU-PING (in Cantonese): President, I rise to speak in support of the Employment (Amendment) (No. 2) Bill 2017 ("the Bill"). The purpose of the Bill is to enhance the monitoring of and penalties for employment agencies, and improve the protection for employees, particularly foreign domestic helpers.

The problem of varied service quality of employment agencies has long persisted. The criminal liability in the existing legislation alone can hardly produce any deterrent effect. The Bill proposes imposing a heavier penalty on employment agencies for overcharging jobseekers' commissions, raising it from a maximum fine of HK$50,000 at present to a maximum fine of HK$350,000 and imprisonment of three years. The substantial increase in criminal liability will undoubtedly enhance the deterrence. However, "as virtue rises one foot, vice rises ten", especially since employment agencies for foreign domestic helpers often involve a third party outside Hong Kong. It is not easy to prove that an employment agency in Hong Kong has conspired with an overseas organization to overcharge foreign domestic helpers commissions. After the implementation of the amended Employment Ordinance ("EO"), the Government must step up publicity. In particular, it should communicate the contents of EO directly to groups of foreign domestic helpers. Only then can EO genuinely achieve its effect. I hope the Government can report the progress of the publicity on EO to the Panel on Manpower of the Legislative Council in future.
At the meeting of the Bills Committee responsible for the scrutiny of the Bill, I said that employees of employment agencies might become the scapegoats for licensees who overcharged commissions, and such employees were liable owing to their work. The Government emphasized in its response that the defence in common law could ameliorate the risk in this aspect. It also pointed out that if a defence provision was clearly set out in EO, it would undermine the deterrence of EO. In my view, the Bill should protect the rights and interests of both foreign domestic helpers and employees working in employment agencies. They are not in conflict with each other. I hope the Government can review the implementation of the Bill after a certain stage, with a view to strengthening the protection for foreign domestic helpers and employees of employment agencies.

President, regarding Dr Fernando CHEUNG's amendment, now we do not have any information which indicates the necessity of extending the time limit for prosecution for the offence of overcharging commissions to 24 months. Moreover, the Government has agreed to propose an amendment to extend the proposed time limit for prosecution from 6 months in the original Bill to 12 months. In my view, the need to further extend the time limit for prosecution can be reviewed after the Bill has been implemented for a period of time.

With these remarks, President, I support the Bill and the amendments which the Government will propose later.

DR CHIANG LAI-WAN (in Cantonese): President, as at the end of last year, there were 370,000 foreign domestic helpers working in Hong Kong, helping 280,000 Hong Kong families. The close relationship between Hong Kong families and foreign domestic helpers is thus evident. However, this is not an ordinary employer-employee relationship. In Hong Kong, when employers recruit employees, usually they can meet the jobseekers in person. In determining whether they are satisfied and will appoint a jobseeker, or if they wish to learn about his background, they can ask him questions direct or even directly conduct a check.

However, there is a distance between the employers and employees whom we are talking about now, especially since all the existing foreign domestic helpers came from other countries. Very often, we are not clear about their jobs in the past, their skills, height, working experience, etc. For this reason, we must rely on the services provided to us by intermediaries. This is very important.
In recent years, the Government has issued codes requesting compliance by intermediaries. Why did the Government issue such codes? Because in recent years, we have frequently received complaints from families employing foreign domestic helpers. These families appointed foreign domestic helpers who claimed to know how to look after children, but it turned out that they did not have such experience at all. Some elderly people who had employed foreign domestic helpers told me that since they did not speak English, they wished to hire foreign domestic helpers who could speak Cantonese, but it was only after their foreign domestic helpers had arrived that they found out they could only utter a few simple words. They could not even understand a simple sentence like "Go shopping for me". Hence, the employers in Hong Kong really need the intermediaries to provide them with clear information.

However, last year the Consumer Council randomly checked 33 local intermediaries and discovered that these companies had never taken the codes seriously. Among the 33 companies, 29 indicated that they did not verify the information of foreign domestic helpers. They mainly relied on the information provided by intermediaries overseas, for example, in the Philippines, in arranging for them to come to Hong Kong to work. Surprisingly, some companies stated that they would not conduct any check. They simply recruited foreign domestic helpers for the employers. They would not take any responsibility for the background of foreign domestic helpers and what tasks they could do. It is thus evident that the intermediaries did not take the Government's codes seriously at all. Neither did they actually fulfil the duties as an intermediary.

For this reason, we in the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") welcome the Government's proposed amendments to step up the regulation over intermediaries. Moreover, we wish to make some suggestion. We hope the Government will consider introducing a diversified mechanism for enhancing the deterrence against non-compliant intermediaries. First, the main direction in this amendment exercise is increasing the penalties for non-compliant companies, including substantially raising the maximum penalty for overcharging jobseekers commissions and unlicensed operation of employment agencies to $350,000 and imprisonment of three years, and extending the scope of application of the offence of overcharging commissions. I think intermediaries must pay attention to this point because in the event of contravention of the code, apart from the licensee, the management of the company and even the staff engaged may be prosecuted.
Certainly, the Commissioner for Labour may also revoke the licence of an intermediary in breach of the Employment Ordinance. I hope that the passage of this Bill will bring forth a great warning effect to the intermediaries because the penalty imposed on an intermediary for breaching the provisions will not be a fine of $50,000 like it was in the past. In future, it will not merely be a fine of several ten thousand dollars. Rather, it may be a fine of hundreds of thousands of dollars and even imprisonment. Hence, in this regard, I believe it is most important to step up publicity so that all the intermediaries will have such knowledge.

Moreover, we hope the authorities will enhance the collaboration with other departments. For example, besides the legislative amendments, the other government departments also need to make complementary efforts in law enforcement. In recent years, DAB has received many complaints about overcharging and services inconsistent with descriptions, but there are few successful investigations by LD. According to LD, it is mainly because of a lack of manpower for handling complaints and conducting investigations. As a result, the effectiveness of its investigative work is indeed very low. In this connection, I hope the Secretary can allocate more resources to the Employment Agencies Administration of LD so that they can enhance inspections and investigations of complaints. At the same time, I think the Hong Kong Customs and Excise Department should proactively collect intelligence on intermediaries for foreign domestic helpers involved in unfair trade practices and take the initiative to conduct investigations and prosecutions in respect of suspected cases relating to the Trade Descriptions Ordinance.

We greatly welcome some of the amendments proposed in the Employment (Amendment) (No. 2) Bill 2017 ("the Bill"). We have also heard that some intermediaries paid part of the wages of foreign domestic helpers to a third party which might be an intermediary in the foreign domestic helpers' home country. Such intermediaries might have charged foreign domestic helpers extra fees. In our view, this is tantamount to depriving foreign domestic helpers of their wages. It is unfair to foreign domestic helpers. Even if foreign domestic helpers have incurred debts, such debts should be settled by foreign domestic helpers themselves. Employers should pay the wages to foreign domestic helpers. To whom foreign domestic helpers hand over their wages is their own business. Employers should not arbitrarily withhold part of their wages. After the passage of the Bill, it will be quite dangerous for an employer to do so. It may breach the law, and the intermediary will be alleged of committing the offence of abetting the employer, breaching the amendments proposed in this Bill.
President, DAB will support the amendments proposed by the Government in this Bill. We find it necessary to implement them expeditiously because in recent years, many employers of foreign domestic helpers have indeed held a lot of views against the services of the existing intermediaries. For this reason, we consider expeditious implementation necessary. As regards the amendment proposed by Dr Fernando CHEUNG to extend the time limit for prosecution to 24 months, I do not know what strong justifications Dr CHEUNG has, but we think that if there are worries about exploitation of foreign domestic helpers, we should encourage them to lodge complaints as soon as possible. For example, they should report it to the Police or inform LD. However, if it is not until 24 months later or their contracts are about to expire that they disclose it, it will, in my view, lengthen the period of their exploitation. I do not agree with this. For this reason, I will not support Dr Fernando CHEUNG's amendment.

I hold that after the passage of the Bill, it is most imperative for the Government to carry out more publicity and education work. Besides, under the past practice, intermediaries would explain to foreign domestic helpers their rights and interests. In this regard, we can think about how intermediaries should explain to foreign domestic helpers their rights and interests. As regards the employers' requests or the information they wish to obtain, I hope intermediaries can perform better, too. President, we support this amendment exercise. I so submit.

DR FERNANDO CHEUNG (in Cantonese): President, at a meeting with the media before attending the Executive Council last Tuesday (23 January), the Chief Secretary for Administration, in his capacity as the Acting Chief Executive, called on Members to support the two motions and a resolution to be discussed at the Legislative Council meeting today in relation to wage earners and employment. One of them is the Employment (Amendment) (No. 2) Bill 2017 ("the Bill") under discussion now. It seeks to provide protection for foreign domestic helpers and increase the penalties for exploitation of foreign domestic helpers by employment agencies as intermediaries. We welcome the Bill and agree that it should be put into effect as early as possible.

As regards my proposed amendment to the Bill, I will elaborate on it in detail later. The Chief Secretary also said that the Government proposed to amend the Employees' Compensation Ordinance to adjust the ceiling on expenses borne by employers for the treatment received by their employees. Besides, the
Government proposed amending the Employment Ordinance ("EO") to allow employees to enjoy the right to reinstatement and called on Members to support the expeditious passage of the Bill.

President, it is a great pity that the Secretary for Labour and Welfare suddenly withdrew the part concerning reinstatement in EO two days ago, that is, this Monday. We find the withdrawal extremely regrettable and condemnable. The proposal of amending EO in relation to reinstatement has actually been discussed for 17 years. Today, at this critical stage when the ball is about to be kicked into the goal, the proposal was again withdrawn. In our opinion, the Secretary has absolutely no grounds to do so. Nevertheless, President, as this Council should focus on debating issues concerning employment agencies today, I cannot but come back to the subject of the debate. However, I would like to have these views put on record. President, the Acting Chief Executive also pointed out that the Government was very busy dealing with efforts to improve people's livelihood and hence must enhance communication with the Legislative Council before such work can be dealt with properly. The withdrawal of the relevant Bill by the Secretary, however, is contrary to the mindset of the Government.

Let me come back to the Bill, President. In general, we support the Bill. It can be divided into several parts: First, imposing heavier penalties on employment agencies overcharging jobseekers or operating without a licence. The current penalty is a maximum fine of $50,000 but with no imprisonment. Nevertheless, the penalties actually imposed in previous cases were far lower than $50,000. This time around, the amendment seeks to increase the amount of penalty substantially by seven folds to $350,000 and a maximum imprisonment term of three years. Not only do we welcome this amendment, but we also agree that the scope of application of the overcharging offence be expanded. We approve of the urgency of doing so, too. Under the existing legislation, only the licensee, which might be a company, is held accountable. Even with sufficient evidence, only the company can be prosecuted in the end, and no one will be held accountable. Furthermore, a licensee might be a partner, meaning that one of them acts as the licensee of the company, while the other one can do bad deeds. Even with sufficient evidence, the one who does bad deeds is not the licensee, meaning that there is nothing that the Government can do. Hence, we absolutely approve of this amendment.
Furthermore, even if the Commissioner for Labour ("the Commissioner") refuses to issue a licence, as we all know, intermediaries know how to exploit loopholes in the law. Even if they are held accountable this time, they will seek help from their brothers, sisters, relatives or friends next time to act on their behalf. After the definitions of "related person" and "associate" are added to the Bill, the Commissioner can then refuse to issue a licence to a "related person". We absolutely approve of this addition. Lastly, the Bill also seeks to provide a legal basis for the Commissioner to issue legally enforceable codes of practice for employment agencies. Should intermediaries fail to comply with the codes of practice, the Commissioner is empowered to refuse to issue a licence under the law. Besides fully supporting these amendments, we still have a major consideration, that is, sufficient time must be allowed for prosecutions to be initiated.

Hong Kong was not completely lacking in such basic legislation, only that the penalties were too lenient. Moreover, some loopholes must be plugged. Nevertheless, the biggest problem encountered is the lack of sufficient time to collect evidence and initiate prosecutions. The tenure of a foreign domestic helper contract is normally two years. The overcharging of foreign domestic helpers upon their arrival can be described as very common. Since the vast majority of foreign domestic helpers have to meet exorbitant expenses by raising loans, and they are often charged commissions exceeding the statutory cap (there is a statutory requirement that the commission shall not exceed 10% of the first month's wages of a foreign domestic helper). In other words, if the monthly salary of a foreign domestic helper is approximately $4,000, then the commission charged should be approximately $400. Of course, no intermediaries charge such a low commission. That is why almost all intermediaries are found to be overcharging. Nevertheless, foreign domestic helpers are not familiar with Hong Kong. Moreover, they should have known these conditions before coming to Hong Kong. Since these socially disadvantaged foreign domestic helpers have to work abroad to make ends meet, they cannot but submit themselves to exploitation. In other words, they must accede to the demands of intermediaries. As they are unfamiliar with the people and the place, they will definitely not lodge complaints within a few months after arrival. Moreover, they know very well that their contracts last up to two years. Since lodging a complaint is akin to courting dismissal, they will definitely not lodge any complaints within the six-month period provided for in the existing law, not to mention that evidence must be collected before prosecutions can be initiated. Therefore, prosecutions cannot be initiated in most of these cases due to insufficient time, even if sufficient evidence has been collected. Time has thus become the biggest obstacle.
We can see that the Government has readily heeded good advice on this occasion. After the Bills Committee has completed its discussion and non-governmental organizations have expressed their views, the Government is now willing to propose Committee stage amendments ("CSAs") regarding the six-month limit to extend the time limit for prosecution to 12 months, which is the right direction. My proposed amendment to further extend the time limit to 24 months is actually meant to tie in with the tenure of a foreign domestic helper contract. It is normal for foreign domestic helpers to wait until they have completed their contracts before considering lodging complaints. It can be described as common sense, too. As we all know, foreign domestic helpers dare not lodge complaints when they have yet to complete their contracts. It must be borne in mind that most of them are in debt when they come to Hong Kong because they cannot possibly bring with them more than $10,000 when coming to work here. Most of them are therefore compelled to raise loans and then repay their debts each month. This is common sense. Does someone who is in debt dare lodge a complaint after working for just a couple of months and risk being dismissed or changing jobs? Even if foreign domestic helpers succeed in switching jobs, they will have to raise another loan. President, they cannot possibly do so. This is why I consider 12 months not enough. Actually, I have many more arguments, but I will wait until after proposing my CSA to present my arguments.

Now I would like to say a few words about the gravity of the problem. Earlier in the meeting, two Honourable Members mentioned a student organization called Students Against Fees and Exploitation, which I find very impressive. Its members comprise students from the university where the Secretary used to teach, including students from different faculties such as Economics and Finance. This organization has invited its volunteers to go undercover and conduct tests on more than 100 intermediaries to examine if they charge additional fees. Of course, there are currently 1 400 to 1 800 intermediaries in Hong Kong. Their number is so large that it is really unbelievable. Meanwhile, the overall population of foreign domestic helpers in Hong Kong has also reached 37 000, accounting for approximately 10% of our workforce and playing a very important role. According to the findings of the organization, more than 70% of the intermediaries have overcharged or withheld the passports of foreign domestic helpers until they have paid off their debts. This is really outrageous.

In addition, a human rights group, Justice Centre, conducted a large-scale quantitative study in 2016 to examine if foreign domestic helpers in Hong Kong had been subjected to the so-called forced labour. The group had even
commissioned a research company called ORC International to interview by questionnaire more than 1,000 foreign domestic helpers from eight countries and conduct a study on such issues as debts, wages, working hours, food, employment, living environment, and so on. Hence, the findings should absolutely be given serious consideration by the authorities.

The group's findings are quite shocking. Of more than 1,000 interviewees, 17% were found to have been subjected to forced labour. Given that forced labour is classified by the international community as human trafficking, the findings are indeed shocking, though the authorities have been asserting that human trafficking cannot possibly be allowed in Hong Kong. According to a report published by the United States last year on human trafficking, however, Hong Kong had for two years in a row been ranked as Tier 2. The relevant ranking system is divided into three tiers. Tier 1 is good, Tier 3 is poor, and Tier 2 means under observation. How could Hong Kong as an international city have fallen into such a state and been classified as Tier 2? The lack of protection for foreign domestic helpers is to blame. Some foreign domestic helpers face threats to their lives or no prospect of resignation during involuntary recruitment or work. The aforementioned two conditions, if met, can be classified as forced labour. In addition, up to 66.3% of those cases involve serious exploitation.

I have no idea if the authorities have seriously studied the research "Coming Clean" conducted by the Justice Centre. It is indeed eye-opening. If the study is quantitative, scientific and indisputable, then the protection provided by the existing legislation is indeed far inadequate. Now the authorities are merely proposing to increase the penalties and extend the time limit for prosecution to 12 months. We should continue to follow up the responsibilities of employers, employees, and so on. In particular, the management and inspection manpower of the Labour Department ("LD") is extremely inadequate, and cooperation between the Police, the Immigration Department and LD should be enhanced, too.

President, I will discuss some specific amendments as well as my amendment later on in the meeting (The buzzer sounded) …

PRESIDENT (in Cantonese): Please stop speaking.
MR LEUNG YIU-CHUNG (in Cantonese): President, the main object of the Employment (Amendment) (No. 2) Bill 2017 ("the Bill") today is to raise the maximum penalties for the offences of unlicensed operation of employment agencies and overcharging jobseekers on commissions; extend the scope of the offence of overcharging jobseekers to associates in addition to the licensee; provide for new grounds for refusal by the Commissioner for Labour to issue or to renew or for revoking a licence to operate an employment agency; and provide a legal basis for the Code of Practice for Employment Agencies. But these are just the general framework of the Bill; the details therein include the amendment to the statutory time limit for making any complaint or laying any information in respect of the offence of overcharging jobseekers. The Secretary and Dr Fernando CHEUNG will both propose amendments. I will speak on these two amendments at the Committee stage. I now present my views on the Bill as a whole.

President, the Bill focuses mainly on the conditions of foreign domestic helpers. It is common knowledge, and Mr Fernando CHEUNG has also just stated, that foreign domestic helpers account for slightly over 10% of the labour force in Hong Kong. If the number is accurate, there are in fact about 350 000 foreign domestic helpers while the labour force of Hong Kong stands at over 3 million, meaning the proportion is over 10%. The number signals the need for us to pay more attention to the situation. Why is the number of foreign domestic helpers so large? As we all know, many people in Hong Kong indeed has a strong need for foreign domestic helpers to help them take care of family members. Population ageing that we are now facing is also one of the important factors. Also, the Government has advocated the policy of ageing in place. Under this policy, we believe the number of elderly persons in need of care by foreign domestic helpers is and will be on the rise. In fact, in the past five years, the increase has been massive, and I believe the situation will be even more serious. Therefore, I consider that the Government must pay more attention to how foreign domestic helpers are afforded protection.

Of course, besides paying attention to the growing number of foreign domestic helpers, we also need to examine the problem of licensed employment agencies. Honourable colleagues all know that as at May 2017, there were 3 023 licensed employment agencies in Hong Kong, as Dr Fernando CHEUNG has also mentioned, amongst which 1 400 to 1 800—the number I obtained is 1 416—provide placement services for foreign domestic helpers. As regards these over 1 000 employment agencies, in the past five years, we have taken note of the rising number of complaints against them overcharging commissions from foreign domestic helpers: from 44 in 2012 to the staggering 529 in 2016,
representing an increase of more than 13 times within a few years. Those were reported cases only and the actual unreported situation is unknown. It shows that the problem is very serious. Can our existing legislation protect the rights and interests of foreign domestic helpers? According to a survey conducted by the Hong Kong Federation of Asian Domestic Workers Unions and Progressive Labour Union of Domestic Workers in Hong Kong, among the foreign domestic helpers interviewed in 2016, about 70% responded they have been charged additional fees by employment agencies in Hong Kong, with the fee averaging $11,321 which was equivalent to their salaries of two to three months. It is common knowledge that the current salary of foreign domestic helpers is about $4,000 monthly; $11,321 is almost three times their monthly salaries, indicating the severity of the issue.

If over 70% of the foreign domestic helpers have been charged additional fees, they should make reports, but why then is the number of reported cases just a few hundreds? I believe there are a few reasons, which some Honourable colleagues have stated. Foreign domestic helpers left their homes and came here to work in a completely strange place. They are indeed unfamiliar with the means and procedures to make reports even if they want to. As a matter of fact, they have made an enormous contribution to Hong Kong. In particular, as I have just pointed out, apart from caring for the elderly, they help many dual-income families take care of their children. Foreign domestic helpers have indeed made a significant contribution to the families in Hong Kong, but the existing legislation is unable to help them, or they do not know how to access protection in law. These are problems. In view of this, we consider the Government duty-bound to, while stepping up efforts to combat the problems, enhance the deterrent effect. Because only after irregularities have happened can they be combatted, and the most important function of enhancing the deterrent effect is to prevent such irregularities from happening. Of course, now the Government has proposed imposing much heavier penalties with a view to enhancing the deterrent effect. We also agree and hope that increasing the maximum penalty from a fine of $50,000 to a fine of $350,000 and imprisonment for three years can bring its deterrent effect into real play. As regards extending the scope of the offence of overcharging commissions to associates in addition to the licensee, we hope such a move will plug the loophole in law and bring the lawbreakers to justice.

Nevertheless, in my view, this legislative amendment alone cannot combat the increasingly rampant overcharging of commissions. Why? Because the Government has stated that the problem lies not in making reports or bringing
prosecutions, but in the difficulty in evidence collection and thus prosecution. I find it insufficient to increase only the penalty. Therefore, the Government should study the reason for the past failure of prosecution due to insufficient evidence in order to plug such a loophole.

One point I find very important is that, despite the amendment to include associates in addition to the licensee in the scope of the offence of overcharging commissions from jobseekers, the problem is such a definition is not broad enough—indeed we seldom ask for a broad definition. But in fact, in the context of this problem, the definition needs to be broader. Why? Otherwise, given the many "sneaky" things that are often going on in the employment agencies, they will easily escape the long arm of the law. Now, the scope will be extended to cover only the management of the employment agencies, partners, directors, managers, secretaries and other similar officers, etc., who are all related to the employment agencies. Nonetheless, the problem is most of the time such employment agencies are run by family members, making the scope of "associates" not necessarily applicable. As a result, we are worried that though the scope will be extended, the Bill will become a "toothless tiger" ordinance upon enactment, and so the Government should conduct reviews in this respect.

On the other hand, I have just mentioned the difficulty in adducing evidence and prosecution. The reality is indeed so and can be reflected by numbers. There were 102 complaints of overcharging of commissions from jobseekers in 2015, only 9 of which, however, were successfully prosecuted. In 2016, as at September, there were 483 complaints, but only 5 of them were prosecuted, and among these 5 cases, the penalties of 2 were respectively a fine of $9,000 and a fine of $30,000. The number of prosecution is small and the penalties are very lenient. While the Government has proposed this legislative amendment now, it has yet to confirm whether prosecution can be stepped up as a result.

After checking some information, we found that the Labour Department had mentioned in 2014 that inspections would be carried out, in addition to prosecution. How many employment agencies have been inspected? In 2014, 1300 employment agencies were inspected and 4 were prosecuted. In 2015, only 12 were prosecuted. In 2016, the Department inspected 1800 employment agencies, but what is the number of prosecutions? If my reading is correct, only 8 were prosecuted in 2016. Let us look at the small prosecution number. What
problem does it reflect? That such employment agencies are all law-abiding or there is a problem with prosecution? I hold that the Government should account for this.

Moreover, while the Government has proposed this legislative amendment, how will the problem of law enforcement be dealt with? We are worried that problems will arise from law enforcement. Why? At present, the number of staff in charge of law enforcement and inspection is truly alarming. Why am I saying this? President, at present, the investigation of illegal acts committed by employment agencies is the responsibility of the Employment Agency Administration of the Labour Department. However, how is its manpower? There are only 17 staff members, 3 of whom being non-permanent. As I have just said, there are 3 023 employment agencies in Hong Kong, with 1 416 of them being foreign domestic helper employment agencies. Let us imagine that only 17 staff members, with 3 of whom being non-permanent, are responsible for inspecting thousands of employment agencies. How can such inspection be effectively conducted? Can information and evidence be meticulously collected during inspections for purposes of prosecution? It indeed invites doubts.

Past statistics indicated that many employment agencies have been inspected but the number of prosecutions remains small. Where exactly does the problem lie? Apart from the defective legislation, manpower is another issue. This time we have reviewed the ordinance and will introduce amendments to it. But will the manpower for law enforcement be strengthened? I hope the Secretary can give us an answer in his reply later on. Otherwise, without the manpower to enforce the law, conduct inspections and initiate prosecutions, the law is just empty, failing to achieve its deterrent effect and afford reasonable protection to this group of foreign domestic helpers. This is the more important question.

Therefore, President, I support the Bill. However, I expect the Government not to assume that relevant work in this respect can cease after the ordinance is amended. Most importantly, other than continuously reviewing the effectiveness of the ordinance in deterring and combatting overcharging of commissions from jobseekers, the Government should also study how to strengthen manpower to conduct inspections and bring prosecutions.

President, I so submit.
SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9:00 am tomorrow.

*Suspended accordingly at 7:39 pm.*
Appendix I

WRITTEN ANSWER

Written answer by the Secretary for the Environment to Mr Charles Peter MOK's supplementary question to Question 5

Regarding the list of relevant bureaux and departments responsible for reviewing the policies and measures on promoting the use of electric vehicles ("EVs"), the requested information is provided as follows:

The Government is now reviewing policies and measures on promoting the use of EVs, including exploring ways to encourage installation of charging facilities to tie in with the usage of EVs. The review is led by the Environment Bureau, and the relevant bureaux and departments involved include:

Bureaux: Environment Bureau
Home Affairs Bureau
Innovation and Technology Bureau
Transport and Housing Bureau
Development Bureau

Departments: Buildings Department
Electrical and Mechanical Services Department
Environmental Protection Department
Government Property Agency
Housing Department
Lands Department
Planning Department
Transport Department
Leisure and Cultural Services Department
Home Affairs Department