MEMBERS PRESENT:

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

THE HONOURABLE WONG TING-KWONG, 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 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 DENNIS KWOK WING-HANG

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MS TERESA CHENG YEUK-WAH, G.B.S., S.C., J.P.
SECRETARY FOR JUSTICE

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

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

THE HONOURABLE MICHAEL WONG WAI-LUN, J.P.
SECRETARY FOR DEVELOPMENT

CLERKS IN ATTENDANCE:

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL
PRESIDENT (in Cantonese): This Council now holds the regular meeting of 7 February 2018.

TABLING OF PAPERS

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Other Papers

No. 69 — Legal Aid Services Council
Annual Report 2016/2017

No. 70 — Li Po Chun Charitable Trust Fund
Report of the Trust Fund Committee on the administration of the Fund, Financial statements and Report of the Director of Audit for the year ended 31 August 2017

No. 71 — Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2017 and the Results of Value for Money Audits (Report No. 69) (February 2018 — P.A.C. Report No. 69)

Report No. 6/17-18 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Road Tunnels (Government) (Amendment) Bill 2017

Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2017

Report of the Bills Committee on Waterworks (Amendment) Bill 2017
ADDRESS

PRESIDENT (in Cantonese): Address. Mr Abraham SHEK will address the Council on the "Public Accounts Committee Report No. 69".

Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2017 and the Results of Value for Money Audits (Report No. 69) (February 2018 — P.A.C. Report No. 69)

MR ABRAHAM SHEK: President, Secretary for Transport and Housing in absentia, on behalf of the Public Accounts Committee ("the Committee"), I have the honour to table our Report No. 69 today.

Out of the nine chapters covered by the Director of Audit's Report No. 69, the Committee has decided to hold hearings on two chapters that contain more serious allegations of irregularities or shortcomings. They are Chapter 1 on "Administration of lump sum grants by the Social Welfare Department" and Chapter 2 on "Procurement and maintenance of government vessels".

The Committee has also studied the other seven chapters by asking the relevant bureaux and departments to provide written replies to members' questions on how they addressed the inadequacies raised in the Director of Audit's Report. The Committee was satisfied with these replies, and decided that no public hearing on these Chapters was necessary. We would like to take this opportunity to express our appreciation to these bureaux and departments in providing detailed replies to our questions.

The Committee's Report tabled today covers our conclusions and recommendations on the Chapter on "Procurement and maintenance of government vessels" only. In view of the number and complexity of issues raised in the Chapter on "Administration of lump sum grants by the Social Welfare Department" which is supervised by the Labour and Welfare Bureau, the Committee has decided to hold a further hearing and defer a full report on this subject.
President, I will now report the conclusions and recommendations on the
Chapter on "Procurement and maintenance of government vessels". It is sad that
the Secretary for Transport and Housing is not here, for he is the public officer in
charge of the supervising bureau for that.

The Marine Department ("MD") is responsible for the procurement of new
vessels as well as their maintenance for 14 government departments, including
five disciplined services departments. The vessels are essential for the
departments' operational safety, efficiency and effectiveness, in particular, for the
disciplined services departments to carry out law enforcement and emergency
duties.

The Committee expresses alarm and finds it unacceptable that MD had
failed to fulfil its duty in providing effective and timely government vessel
procurement service for the user departments. Among the 25 ongoing projects,
12 of them, President, had experienced delays, including five projects which
missed their target vessel delivery dates by five months to four years, and seven
projects which were still in tender/shipbuilding stage some four to six years after
funding approval.

The Committee in particular expresses grave dismay and alarm about the
poor judgment of MD and its inexplicable decision in suspending the processing
of vessel procurement projects for 35 months from December 2009 to October
2012, pending the finalization of the review of the marking scheme for tender
assessment.

The Committee notes that this decision in suspending vessel procurement
projects had led to serious delay in the procurement of new vessels. The
average ages of four major classes of government vessels had increased
significantly in the past 10 years as a result of the delay. This in turn called for
more preventive maintenance and incurred extra maintenance costs and downtime
for the vessels. As a result, the user departments' operational safety, efficiency
and effectiveness had adversely been affected.

The Committee also expresses grave concern that the Transport and
Housing Bureau, Secretary in absentia, as the Bureau overseeing the operations of
MD, as in other cases previously investigated by the Committee on departments
under its supervision, had failed again to perform its monitoring role effectively,
in the present case on MD's implementation of vessel procurement projects. It is
sad that he is not here. He should have learned more. The Transport and Housing Bureau is urged to closely monitor MD's performance in implementing new vessel procurement projects, and step up its supervisory role to proactively identify problems faced by MD.

The Committee has studied other issues relating to the provision of maintenance service by MD, including the inadequacies in reporting vessel availability rates and the limited competition for procuring maintenance term contracts. In this connection, the Committee finds it appalling and unacceptable about the deficiency in MD's maintenance term contract management mechanism. This was revealed by a case of long outstanding payments of HK$1.68 million for 98 work items carried out from 2010 to 2014. The delay for the payment of this HK$1.68 million was caused by the subject inspector who did not obtain approval for the job orders and did not submit relevant invoices to MD's Accounting Services Section for processing. The case only came to light, President, in 2014 when the contract was due for renewal. The Committee notes that MD has taken various measures to enhance the management of term contracts.

Lastly, I would like to record my appreciation of the contributions made by members of the Committee. Our gratitude goes to the witnesses who attended the hearings. I would also like to express our gratitude to the Director of Audit and his colleagues for their unfailing support, and last but not least, to our Secretariat for their unfailing support too.

Thank you.

ORAL ANSWERS TO QUESTIONS


Allocation of swimming lanes of public swimming pools

1. MR LAM CHEUK-TING (in Cantonese): At present, the Hong Kong Amateur Swimming Association ("HKASA") and its affiliated swimming clubs have a relatively higher priority in booking the swimming lanes of public swimming pools for training on swimming. After central coordination by HKASA in advance on the various swimming clubs' use of the swimming lanes
available for allocation, the swimming clubs submit their applications to the Leisure and Cultural Services Department ("LCSD") for booking the swimming lanes. While commercial organizations have to pay fees from $166 to $350 per hour for renting swimming lanes, HKASA and swimming clubs, being non-profit-making organizations, only have to pay less than fourth of such fees, i.e. at the concessionary rates from $41.5 to $83 per hour. It has been reported that three swimming clubs which are often allocated the highest numbers of swimming lanes have separately used the swimming lanes rented at concessionary rates for offering training courses on swimming, and they have requested the trainees to deposit the course fees into bank accounts of private companies, arousing suspicion of their reaping profits by exploiting public resources. In this connection, will the Government inform this Council:

(1) whether it has conducted any follow-up investigation into the report of swimming clubs reaping profits by exploiting public resources; if so, of the details and the outcome; whether LCSD has estimated the total amount of loss of public money in the past three years due to such practice, and whether LCSD will hold the persons-in-charge of the swimming clubs criminally liable and recover from them the rents undercharged for the swimming lanes;

(2) of the measures put in place to curb swimming clubs reaping profits by exploiting public resources; and

(3) whether it will review the existing mechanism for allocation of swimming lanes, including the arrangement whereby HKASA is responsible for coordinating the allocation of swimming lanes, so as to ensure a fair allocation of swimming lanes and prevent swimming lanes from being monopolized by a few swimming clubs, thereby enabling athletes to have more choices in receiving training offered by different swimming clubs and promoting a more healthy development of the sport of swimming?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, among the 44 public swimming pools under the Leisure and Cultural Services Department ("LCSD"), the main pools, secondary pools, training pools, teaching pools and diving pools of 42 swimming pools are available for booking by organizations for designated sessions. LCSD adopts a fair and open mechanism for approving
booking application, with the order of priority of allocation to different categories of organizations clearly spelled out. To take care of and balance the needs of various swimming pool users, not more than a total of four swimming lanes of main pools and secondary pools will be made available for booking by organizations during public sessions. To promote water sports through a holistic approach, LCSD provides special assistance to the major relevant "national sports associations" ("NSAs") and sports clubs (i.e. Hong Kong Amateur Swimming Association ("HKASA"), the Hong Kong Life Saving Society, Hong Kong Triathlon Association, Hong Kong Underwater Association, Hong Kong Paralympic Committee and Sports Association for the Physically Disabled and the New Territories Regional Sports Association) in the hiring of swimming lanes in main pools for long-term development of sport and training. To coordinate the demand from different NSAs as mentioned above, LCSD has, in consultation with the Community Sports Committee of the Sports Commission, put in place the Central Lane Allocation Scheme ("the Scheme") for the booking of swimming lanes in main pools of public swimming pools since 2005. Under the Scheme, LCSD will first coordinate with the above NSAs on the allocation of number of swimming lanes and sessions, and then the NSAs will coordinate with their affiliated clubs on the use of the allocated sessions through a fair and reasonable mechanism and established procedures. The affiliated clubs will, in accordance with the coordination by HKASA, submit their applications to the relevant swimming pools for approval.

The charges for hire of swimming pool facilities fall into three categories of "normal rates", "concessionary rates" and "commercial rates". "Normal rates" are applicable to charitable organizations, non-profit-making NSAs and their affiliated clubs or other non-profit-making sports promotion organizations. "Concessionary rates", which are half of the "normal rates", are applicable to schools and subvented non-governmental organizations for designated sessions on designated days, and to organizations for persons with disabilities for all sessions. "Commercial rates", which are around two times the "normal rates", are applicable to organizations outside the above two categories and whose activities are considered as profit-making by LCSD, e.g. applications from commercial organizations and privately run sports clubs. The "commercial rates" is also applicable if any profit-making activities take place during the hired session. The "normal rate" for hiring a 50 m swimming lane is $83 per hour (non-peak seasons) and $166 per hour (peak seasons). The "commercial rate" is about double of the "normal rate".
My reply to the question raised is as follows:

LCSD is deeply concerned about the allegation that individual swimming associations, which have been accorded with priority in the allocation of swimming lanes under the coordination and recommendation of HKASA and charged at "normal rates" in capacity of non-profit-making organizations, organized swimming classes and instructed the trainees to deposit the course fees into private bank accounts for profit-making. LCSD is taking this matter very seriously and is working on various fronts to follow up on the allegation. LCSD has requested HKASA to provide detailed information in response to the above allegation. At the same time, LCSD has written to the three swimming clubs concerned and request for detailed information to facilitate the follow up by LCSD.

Under the current mechanism, LCSD provides special assistance to the major water sports related NSAs and their affiliated clubs to enjoy priority use of swimming lanes in main pools so as to enable the eligible swimming associations to provide sustainable and stable training and promote long-term sports development. Organizations which enjoy priority use of swimming lanes must be non-profit-making in nature. All proceeds from the training classes must only be spent for the purpose of the same activity. Any surplus generated from these classes can only be used by the same organization for development of the sport. Income or surplus from these activities are not allowed to be directly or indirectly channelled to any person, any member of the organization or other organizations. It is a breach of the conditions of use of facilities for any organization to transfer any booked sessions of swimming lanes to other organizations. LCSD will follow-up and investigate any suspected cases.

The Scheme has been implemented for many years and is gradually delivering results. Swimming, triathlon and disabled athletes have attained remarkable achievements in recent years and some former trainees of the training courses organized by the above NSAs have even become elite athletes, demonstrating the success of the Scheme in promoting sports development and that it is worth retaining. In fact, the percentage of swimming lanes allocated to the above mentioned six NSAs under the Scheme (taking 2016-2017 as an example) only accounted for 16% of the total number of 50 m swimming lanes available for booking. Hence, there is still room outside the Scheme for individual swimming associations or organizations to hire swimming lanes of LCSD's swimming pools under established procedures.
To address public concerns, LCSD will suspend allocating sessions of swimming lanes to HKASA for the second half of the year until the submission of detailed information and explanation by HKASA and the affiliated clubs involved has been received. At the same time, LCSD will re-examine, in consultation with the relevant NSAs and major users, the Scheme, the Booking Procedure for Public Swimming Pools, the Terms and Conditions of Hire of LCSD's Public Swimming Pools, the implementation of the penalty system for booking/use of public swimming pools and the relevant management guidelines, etc., so as to ensure the effective use of the booked sessions of swimming lanes.

MR LAM CHEUK-TING (in Cantonese): President, as shown by the information disclosed, first, certain swimming clubs are able to rent swimming lanes at half price as non-profit-making organizations; second, they each receive tens of millions in course fees each year as private companies, but the income is not credited to the swimming clubs' accounts; third, the people in charge described such swimming courses as "businesses" and "profit-making" at the meetings between swimming clubs and their affiliated clubs.

These acts obviously constitute suspected offences of conspiracy to defraud. The Secretary has not responded to the two issues I mention in the main question: first, whether he will refer these cases to the authorities concerned for criminal investigation; second, whether the Government will seek to recover the loss of public money. I also hope the Secretary can at the same time answer another question. The swimming clubs concerned and HKASA were already requested to offer an explanation in November last year, but have they offered any explanation over the past three months? And, will the Government disclose their explanation to the public?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, as soon as LCSD learnt of this news report and case, it immediately issued a written request for information to the organizations concerned. The information is of course very important, because I must ensure that the swimming lanes rented by non-profit-making organizations are not used for making profit. Therefore, once we receive the detailed information, we will determine the nature of the case. As Mr LAM may note from the main reply, we have set a time limit and will suspend allocating sessions of swimming lanes to HKASA for the second half of the year.
the year in order to handle the issues concerning the lanes. So, we are following up the incident very seriously. Appropriate actions will be taken once there is an outcome.

MR LAM CHEUK-TING (in Cantonese): President, the Secretary has not answered me whether the Government will seek to recover the loss?

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, you have raised three questions, and the Secretary has already given an answer. If you wish to ask further questions, please press the "Request to speak" button again.

MR PAUL TSE (in Cantonese): President, the Secretary says in the last paragraph of the main reply that the authorities will do a review that covers, among other things, the penalty system. May I know what the existing penalties are? Can they produce adequate deterrent effect? Have the authorities considered whether these penalties are also suitable for other public facilities apart from swimming pools? I mean the facilities under LCSD. Is there any similar deterrence for other facilities?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, under the present penalty system, the authorities will impose different penalties having regard to the severity of violation. Verbal warning is the lightest form of penalty. Then, an advisory letter may be issued. In more serious cases, the authorities will suspend allocating sessions to the organization concerned. And, in the most serious cases involving criminal offences, we will refer the cases to the criminal investigation authorities.

I can tell Mr TSE some figures here. In fact, over the past five years, there have been three cases involving the suspension of priority accorded to HKASA and its affiliated clubs for violating the relevant terms and conditions. We have also issued 132 notices of violation in total. As regards whether the system should continue, this will be a topic of serious consideration in this review.
MR LAM CHEUK-TING (in Cantonese): President, the incident involves a loss of at least millions of public money each year. The Secretary has not answered my question in this respect. I have asked him whether the authorities will seek to recover the loss from the persons concerned and make up for the shortfall in rental income, in case loss of public money is really involved.

Moreover, second …

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, you can raise only one supplementary question. Secretary, please reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, as I have answered earlier, we will earnestly and seriously follow up this incident. We have to get the detailed information first to determine the nature of the incident.

Mr LAM has only concentrated on one aspect, the aspect of penalty or getting back the money. However, as I pointed out when replying to the Honourable Member, we have different forms of penalties for different situations. More severe punishment is possible. Therefore, we must judge and follow up the issues based on facts.


Policies and measures to popularize electric vehicles

2. MR CHARLES PETER MOK (in Cantonese): President, to curb the growth in the number of private cars, the Government has reduced the first registration tax ("FRT") concessions for electric private cars from full exemption in the past to setting a cap at $97,500 starting from this financial year. It is learnt that since the beginning of the current financial year, the number of newly registered electric private cars has dropped by more than 90% whereas the number of newly registered fuel-powered private cars has increased, as compared with the relevant figures in the same period in the year before. Moreover, an acute shortage of public charging facilities for electric vehicles
("EVs") has caused quite a number of people to give up the idea of purchasing EVs. Regarding the policies and measures to popularize EVs, will the Government inform this Council:

(1) given that many countries and places around the world (e.g. France, the United Kingdom, Taiwan, Germany, India, Norway and the Netherlands) have drawn up timetables for a total ban on the sale of fuel-powered vehicles, whether the Government will formulate a timetable in this respect, with a view to achieving zero vehicle emissions and improving roadside air quality; if so, of the details; if not, the reasons for that;

(2) whether it will consider, starting from the next financial year, raising the cap of FRT exemption for electric private cars, so as to encourage private car owners to switch to EVs; if so, of the details; if not, the reasons for that; and

(3) given that the Government is planning to upgrade on-street parking meters and install multi-functional smart lampposts, whether the Government will consider incorporating charging facilities for EVs in these public facilities and identify more public places for installing charging facilities; if so, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, commercial vehicles ("CVs") account for about 95% of the vehicular emissions of respiratory suspended particles ("RSP") and nitrogen oxides ("NOx"), both major air pollutants. To improve roadside air quality, the Government has all along been implementing measures targeting mainly CVs to reduce vehicular emissions. Such emission reduction measures include phasing out old diesel CVs, strengthening the emission control of liquefied petroleum gas ("LPG") and petrol vehicles, retrofitting franchised buses of earlier models with emission reduction devices, etc. With these measures in place, roadside concentrations of major air pollutants dropped by around 30% over the past five years.

As electric vehicles ("EVs") have no tailpipe emissions, replacing conventional fuel vehicles, especially CVs, with EVs will help improve roadside air quality. To promote the use of electric CVs ("e-CVs"), the Government has exempted the first registration tax ("FRT") in full for e-CVs since 1994, set up the
Pilot Green Transport Fund in 2011 to encourage relevant transport sectors to try out green innovative transport technologies including e-CVs, and fully subsidized franchised bus companies to try out electric buses since 2012, etc.

For electric private cars ("e-PCs"), the Government's transport policy has been "underpinned by public transport services with railways as its backbone". Members of the public are encouraged to use public transport as far as possible, and to choose vehicles that are more environmentally-friendly, such as EVs, should they need to acquire private cars ("PCs"). Owing to significant technology advancement achieved in recent years, the performance of e-PCs can now fairly meet drivers' general needs. Manufacturers have also pressed on producing more affordable models of e-PCs, thereby narrowing the price gap between e-PCs and conventional fuel PCs. In view of all these latest development and the established public transport-oriented policy, the Government replaced the previous arrangement of fully exempting the FRT for e-PCs last year, by capping FRT concessions for e-PCs at $97,500 for the period from 1 April 2017 to 31 March 2018. In addition to the said FRT concessions, annual vehicle licence fees for e-PCs are far lower than those for conventional PCs, and the electricity tariffs incurred for running e-PCs are also less expensive than the fuel charges incurred for running conventional PCs.

My reply to the three parts of question which are raised by Member is as follows:

(1) To mitigate tailpipe emissions and climate change, developing clean energy vehicles ("CEVs") has become a global trend. Several places have set out timetables or targets for a total ban on the sales of PCs solely using petrol or diesel. We are collating relevant information, including the specific plans and measures to be taken by these places, and the work plan of various manufacturers in producing CEVs, with a view to exploring the availability of CEVs suitable for use in Hong Kong and their conditions of use, so as to consider the feasibility of setting local timetables or targets for a total ban on the sales of PCs solely using petrol or diesel.

(2) The current FRT concessions for EVs will cease by the end of this March. Relevant government departments are reviewing the FRT concessionary arrangement and will announce the results in due course.
(3) The provision of on-street parking spaces by the Transport Department is to cater for temporary parking needs and such spaces are usually installed with parking meters to increase the circulation of parking spaces, so that more drivers can use on-street parking spaces for short-term parking.

Providing charging facilities at on-street parking meters may encourage the prolonged occupation of such parking spaces by EV drivers for charging purposes, whereby affecting other drivers with parking needs and may cause EVs queuing for charging around on-street parking spaces installed with charging facilities, leading to traffic jam. Therefore, the Government should give careful consideration to choosing parking spaces for this purpose. The Environmental Protection Department ("EPD") will study whether trial for EV charging is possible at suitable on-street parking spaces and will discuss specific ideas with relevant departments.

EPD is conducting a pilot scheme at four government open car parks (located at the Electrical and Mechanical Services Department Headquarters, Hong Kong Wetland Park, Wai Tsuen Sports Centre and Shek Kip Mei Park) which are managed by contractors, where a total of 11 outdoor medium chargers have been installed to assess their reliability. We will review the findings of the pilot scheme in 2018 to consider whether more outdoor chargers can be installed in other government premises.

The Government plans to launch the pilot Multi-functional Smart Lampposts scheme in 2019 to collect various real-time city data at selected urban locations to enhance city and traffic management, and at the same time provide data network and digital facilities. The Office of the Government Chief Information Officer, the Highways Department and other relevant departments have formed an interdepartmental task force to explore the facilities and applications that can be made available at Smart Lampposts.

Overall speaking, in the light of the rapid changes in the usage of EVs, the Government is reviewing various policies and measures on promoting the use of EVs. Our efforts include exploring ways to encourage installation of charging facilities to tie in with the usage of EVs.
MR CHARLES PETER MOK (in Cantonese): President, I was initially a bit disappointed with the Secretary's reply, as I thought he did not show any commitment. But some colleagues have asked me to read the reply more carefully, saying that it is in fact very positive. For instance, in reply to my question on banning the sale of fuel-powered vehicles, he says that he will consider setting a timetable, and in reply to the question on exempting FRT for electric vehicles, he says that the departments concerned are reviewing the arrangement and will announce the results in due course. Also, regarding the question on providing charging facilities for EVs at parking meters, he says that consideration is being given to finding suitable on-street locations for trial. But it seems that the Secretary still wants to play safe and is willing to provide very little information only. I think that as Secretary for the Environment, he should put environmental protection first, and give priority to environmental protection in all consideration.

President, it has recently been reported that some EV companies have reduced the sizes of their staff in Hong Kong and are planning to give up the Hong Kong market …

PRESIDENT (in Cantonese): Mr Charles Peter MOK, please put your supplementary question, and do not make a long speech.

MR CHARLES PETER MOK (in Cantonese): Yes, President. I will ask my question as soon as possible. We are not speaking for one single company, of course. But my point is that suppose all the statistics show that the policy has gone wrong, the Government should be courageous enough to revise its policy. Many vehicle owners' organizations and the industry have put forth many views, such as one-for-one replacement …

PRESIDENT (in Cantonese): Mr Charles Peter MOK, please state your supplementary question. If you do not state your supplementary question, please stop and sit down.

MR CHARLES PETER MOK (in Cantonese): … President, I will. So, my supplementary question is as follows: Is the Secretary aware of these views, and
what will be his criteria when he considers these views? After listening to these views, will the Secretary reflect the views in the FRT arrangement of the upcoming Budget? What is the present consideration of the authorities?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr MOK for his supplementary question. I have already said what I want to say in part (2) of my main reply. But I wish to take this opportunity to respond to his question. From the perspective of environmental protection, I believe Members would also agree that the main objective of vehicle emissions control is to improve air quality, including roadside air quality. At the beginning of my main reply just now, I already point out that Hong Kong is not like other cities, because in other places, many people use private cars as the main means of transport, whereas people in Hong Kong mainly depend on the public transport system.

Vehicles other than PCs, that is vehicles for commercial purposes, account for 95% of the air pollutants in Hong Kong. We should thus agree that in the local context, if we are to adopt any policies that involve public money, such as tax concession, we should focus on commercial vehicles. That is why the FRT exemption for electric commercial vehicles is kept at 100% at present. Hence, we must decide what to focus on having regard to the objective of our environmental protection policies.

MR FRANKIE YICK (in Cantonese): President, I have reservation about the adequacy of the FRT policy for EVs. And, I have told the Secretary that the present policy cannot induce manufacturers to produce cheaper EVs and has thus prevented EVs from gaining greater popularity.

The Liberal Party maintains that there is room for a slight increase in the cap for FRT concessions at $97,500, because an EV is generally sold at $400,000 in the market. But two months ago when I was in Germany, I came across an EV scheduled to be launched in the latter half of this year. The retail price of the vehicle is HK$160,000, meaning that buyers can fully enjoy the FRT concession of $90,000-odd at present. So, the market itself is making progress, but I do hope that the Government can review …
PRESIDENT (in Cantonese): Mr Frankie YICK, please state your supplementary question.

MR FRANKIE YICK (in Cantonese): Okay. The shortage of charging facilities is one major reason for the inability of EVs to gain popularity. I have always supported the Government's idea of providing charging facilities in public places (such as car parks or roadsides). But this can only meet urgent charging needs, and cannot serve as a long-term solution to the shortage of such facilities. The Government should address the shortage by promoting the installation of charging facilities in residential or office buildings …

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

MR FRANKIE YICK (in Cantonese): … Will the Government consider the idea of asking the relevant department to amend the Buildings Ordinance and make the provision of EV charging infrastructure mandatory in all newly constructed building, so as prepare for the advent of EVs?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr YICK for his supplementary question. I also thank him for discussing various possible changes to our policy from different perspectives.

New buildings are the best places for constructing charging facilities, both in terms of feasibility and cost-effectiveness. That is why in recent years, some advanced regions have launched various regulations or incentives with the aim of making new buildings ready for the installation of EV charging facilities at the stages of design and construction. In fact, Hong Kong is by no means slow in this regard when compared with other advanced cities. For instance, we have tightened the incentive of gross floor area concessions, introducing additional conditions and requirements. Developers who wish to enjoy the concessions must make their car parking spaces 100% ready for installing EV charging facilities.
As I mention in the main reply, the interdepartmental task force is now exploring ways to enhance the work in this regard. After all, the relevant guidelines were issued in 2011, which was quite a few years ago, and there has since been changes in EV technologies. Hence, I can answer Mr YICK very positively that we are doing an interdepartmental study on how we can keep abreast of the times and prepare for the wide use of environment-friendly vehicles in Hong Kong.

MR HUI CHI-FUNG (in Cantonese): Mr LEUNG, the Government's EV policy is a totally perverse one. It caps the FRT concessions at $97,500, but people cannot benefit from this, so they will not have any motivation to switch to EVs.

Hence, can the Secretary tell us why the Government has still not made up its mind to introduce measures that can induce people to switch to EVs, even though the matter has been discussed in society for such a long time? Is it because of the powerful lobbying of fuel suppliers? Or, the pressure from fuel-powered vehicle manufacturers? When it comes to the promotion of EVs, why does the Government always stand on the side of suppliers and manufacturers, rather than the side of clean air and Hong Kong people? Does the Secretary have the courage to tell the Government that he is determined to introduce "one-for-one" concession? Can he cap the FRT at a suitable level which can increase the popularity of EVs and make them more affordable to the public?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr HUI for his supplementary question. As I point out in the main reply, our objective is to improve air quality in Hong Kong by means of different policies, and when doing so, we need to ensure that our policies can always administer the right and proper remedies.

CVs are the main source of pollutant emissions. Over 95% of the air pollutants come from CVs. Hence, we have sought to phase out old diesel CVs on a massive scale. Over the past few years, the concentration of major pollutants in our air has shown marked reduction, dropping by a large double-digit percentage. Our objective in this regard is very clear.
In the main question, Mr MOK mentions other cities and countries and asks what Hong Kong has done when compared with them. In fact, if we take a close look, we will see that Hong Kong's policies may not really be as backward as imagined. For instance, in the case of Germany, which Mr MOK has mentioned, the federal government actually has no specific plan to ban the sale of fuel-powered vehicles or conventional diesel vehicles, and only some individual cities such as Stuttgart and Munich are giving thoughts to ban the sale of old diesel vehicles.

In contrast, as Members may be aware, the present Government has already tightened the regulations on diesel PCs in Hong Kong in recent years. We have actually walked faster, started earlier and gone farther than others, as we know that such vehicles all have very adverse impact on roadside air quality in Hong Kong. That said, we also support the promotion of e-PCs. As I mention in part (2) of the main reply, at a suitable time, we will announce how we are going to review the FRT concession for e-PCs.

(Mr HUI Chi-fung stood up and indicated his intention to ask a follow-up question on the Secretary's reply)

PRESIDENT (in Cantonese): Mr HUI Chi-fung, you have raised several questions already. I think the Secretary has already answered them, and you cannot ask any more follow-up questions. If you have other questions, please follow up on other occasions.

MRS REGINA IP (in Cantonese): President, the Secretary says that he is gathering information in an attempt to grasp how other countries ban the sale of fuel-powered vehicles and diesel vehicles. I know that the State of California of the United States has already announced that starting form 2040, all new vehicles sold must be electric ones. I am not sure whether it is 2040 or 2030. Meanwhile, the Mainland is also giving strong support to vehicle manufacturers who make EVs. Very soon, Hong Kong may see more and more EVs on its roads. Does the Secretary have any timetable for banning the sale of fuel-powered vehicles, and for the provision of more charging facilities, so as to enable Hong Kong to switch to EVs at an earlier time? If yes, there will be no need for any tax concessions. You know, if an industry must count on tax concessions to remain viable, it must be dying already.
SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank the Honourable Member for the supplementary question. At this moment, we are actively gathering information on the specific measures adopted in different places. Members may have heard the announcements of various policies in different places, but they should realize that in some cases, the announcements are just about certain broad objectives that are not yet backed up by any particulars. Thus, we are actively collecting such information. At the same time, we have already set an objective, which is to conduct an interdepartmental study within this year to review how to enhance and strengthen charging facilities. Consideration will be given to these two areas.

MR CHAN HAK-KAN (in Cantonese): President, the Secretary says he is in full support of developing electric public transport. But regarding the Secretary's EV policy, I think he is totally incompetent though he may be determined. He has achieved nothing, and I can even say his implementation work is messy. In the main reply, he says the Government started to promote electric public transport in 1994. On the other hand, the Central Policy Unit published a study report in 2015, in which Hong Kong is described as the place most suitable for the use of EVs in the whole world. But after 20 years of efforts, EVs only account for less than 0.5% of all public transport vehicles, and less than 2% of all PCs. How can the Secretary call this any achievement at all? And now, he even wants to abolish the tax concession, and as a result of this, the sales volumes of EVs even dropped to zero in some past months. How is he going to boost the development of EVs in Hong Kong? Secretary, do you want to go on as the SAR Government's environmental window dresser?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, our policy is to achieve the ultimate objective of improving air quality in Hong Kong, including roadside air quality, through the adoption of different ways and means. As shown by concrete statistics, the concentration of major roadside air pollutants has dropped by about 30% over the past five years. So, we have truly been making progress from the scientific standpoint.

When we consider various new policies, such as making more strategic use of public money or taxation arrangements, we must identify which of these policies are most effective and powerful in improving roadside air quality in Hong Kong. This should actually be the very focus of the Government, this
Council and society at large. We have already said that as shown by data analyses on the air pollutants in Hong Kong, CVs are the major source of our air pollutants. I thus agree with Mr CHAN that public transport vehicles such as buses are what we need to deal with. Hence, as we mention in the main reply, we are giving full subsidy to franchised bus companies for trying out electric buses.

But we must still realize that buses in Hong Kong are mostly double-deckers, and only less than 10% of them are single-decked. So, we really must take a look at the whole world and find out how far the manufacturing of environment-friendly double-deckers has developed. This is what we must examine objectively. If we really understand the true nature of the problem we are facing, we will see that the use of EVs is only one of the many means. The phasing out of old diesel CVs is, was, and will remain Hong Kong's most important task. So, we should not be so very narrow-minded in the present discussion and focus only on EVs. We must also discuss all other types of vehicles, and then select a course of actions that can serve the best interest of Hong Kong.

PRESIDENT (in Cantonese): Third question.

**Law enforcement actions against acts of contempt of court**

3. **MR WONG TING-KWONG** (in Cantonese): *President, it has been reported that early last month, a woman, who was dissatisfied with the court judgment on a certain case, hurled abuses at the magistrate of the case outside the courtroom and was subsequently arrested by the Police for alleged contempt of court. However, there have been people in the past from time to time who were neither arrested nor prosecuted after they had publicly hurled abuses or curses at judges. For example, in October 2016, a former Member of this Council, after having been convicted of a charge of common assault, publicly hurled abuses at the magistrate of the case by calling him a "dog judge" by name, and his supporters even uttered the curse that "the whole family of the magistrate would go to hell". Some members of the public have queried the inconsistent standards on law enforcement adopted by the authorities in respect of acts of contempt of court. In this connection, will the Government inform this Council:
(1) of the respective numbers of persons arrested and prosecuted in the past three years for alleged contempt of court, with a breakdown by the type of acts involved in such cases (e.g. obstructing or refusing the execution of court rulings or orders, acting in a disorderly manner before a court and insulting a judge either inside or outside a courtroom);

(2) of the respective criteria adopted by the authorities for determining whether a person who has allegedly committed an act of contempt of court (especially hurling abuses at a judge) should be arrested and prosecuted; whether the considerations involved include the political stance and background of the person involved in the case, the race and nationality of the judge being insulted, and the stance expressed by legal professionals and bodies on the act involved in the case; if so, of the details; if not, the reasons for that; and

(3) whether the authorities will review those cases that occurred in the past three years in which abuses and curses were publicly hurled at judges and the persons involved were neither arrested nor prosecuted, so as to respond to the queries raised by members of the public regarding the authorities' inconsistent standards on law enforcement; if so, of the details; if not, the reasons for that?

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

Judicial independence is an essential element of the rule of law. The Hong Kong Special Administrative Region Government respects the freedom of speech of individuals. Members of the public have the right to express their views on court decisions and related matters within the boundary permitted by the law. Rational discussions can also promote awareness of the rule of law. However, as pointed out by the Chief Justice of the Court of Final Appeal, Mr Geoffrey MA Tao-li, at this year's Ceremonial Opening of the Legal Year, "... any comments that may be made about the work of the Judiciary, whether seemingly positive or negative, should be done on an informed basis." I should stress that personal attacks, insults and even threats against judges and judicial officers would severely undermine the authority of the courts and damage public confidence in the judicial system.
I would also like to reiterate that, effective enforcement of court orders and the law is especially important for upholding the rule of law. Interim injunctions are orders made by the Court, and should be observed notwithstanding that they are interim in nature. Breaching or omitting to comply with interim injunctions may also very likely amount to contempt of court. In a judgment concerning an interim injunction, the Court has observed that even if the defendants are of the view that a court order is wrongly granted, instead of simply disobeying it, they should first comply with it and then seek to challenge that order pursuant to the judicial process.

As I stated at the Ceremonial Opening of the Legal Year, it is my duty as the Secretary for Justice to ensure that the independence of our Judiciary, as enshrined in the Basic Law, is respected and judges are not arbitrarily attacked or criticized.

As always, the Department of Justice ("DoJ") is very concerned about any conduct that may constitute a contempt of court, and will not hesitate to take suitable follow-up measures where appropriate and necessary.

Under common law, criminal contempt of court means conduct calculated to interfere with the due administration of justice, and there must be a real risk that the due administration of justice would be undermined by the relevant conduct. "Contempt of court" covers a wide range of conducts. Examples of conducts that may constitute criminal contempt as mentioned above are conducts disrupting court hearing or insulting judicial officers; refusing to be sworn to give evidence when called as a witness in the face of the Court; scandalizing the Court by published words outside the Court; publication of any report which prejudices the fair trial of an ongoing proceeding; and obstructing the execution of court orders, etc. To take the contempt of scandalizing the Court as illustration, past cases show that contemnors can be sentenced to substantial fines and imprisonment.

Generally speaking, once any conduct that may constitute a contempt of court has come to its knowledge or been referred by the Judiciary, DoJ will refer the case to law enforcement agencies ("LEAs") for investigation. If members of the public witness or note any conduct which in their view may constitute a contempt of court, they can certainly make a report and provide information to LEAs as well.
It is worth mentioning that in certain circumstances, the courts are empowered by legal provisions to summarily punish those who commit a contempt of court, for example, under section 99 of the Magistrates Ordinance (Cap. 227) and section 20 of the District Court Ordinance (Cap. 336). These statutory provisions cover insulting behaviours in the face of a magistrate or a judge. Depending on the applicable provisions, offenders are liable to the maximum penalty of a fine of $10,000 and imprisonment for six months to two years.

Apart from the above two situations, I would also like to briefly explain that contempt of court situations may also arise in civil litigation. Civil contempt of court generally refers to the breach or omission to comply with a court order or an undertaking given to the Court by a party to the civil proceedings. In cases of civil contempt, it is generally for a party to the proceedings to apply to the Court for a committal order against the other party who is alleged to be in breach of the court order. The applying party needs to prove to the Court that the other party has breached or omitted to comply with the relevant court order or undertaking given to the Court. Depending on the severity of the conduct in contempt of court, the types of punishment may include imprisonment, suspended committal order or fines.

The consolidated response of DoJ to the three questions raised by Mr WONG Ting-kwong concerning arrests and prosecutions for suspected contempt of court is as follows:

Contempt of court covers a wide range of conducts and offences, and government LEAs and DoJ have not kept a set of figures covering all relevant cases. Hence, the Government is unable to provide relevant figures in respect of cases involving alleged contempt of court.

If the Police have reasonable grounds to suspect that a person has committed contempt of court, the Police will commence investigation. The Police Force is a professional LEA. It has always been acting in accordance with the law, and handling and investigating every case in a fair and just manner. In considering whether to take any arrest action in an individual case, the Police must consider whether the person concerned is suspected to have contravened the law, having regard to the circumstances of the case, the legal basis and the evidence available. The political stance or background of the person concerned is not a relevant consideration of the Police in taking law enforcement actions.
If necessary, the Police will seek legal advice from DoJ. DoJ has to decide whether to bring prosecution in a case in accordance with the Prosecution Code: the first consideration is whether the evidence is sufficient to justify a prosecution, that is, whether the admissible and reliable evidence demonstrates a reasonable prospect of conviction; if there is sufficient evidence to prosecute, further consideration is given as to whether the public interest requires a prosecution to proceed.

While contempt of court proceedings (which proceed according to procedures of civil proceedings) are different from general criminal proceedings, the guiding principles of arrest and prosecution as mentioned above are applicable to cases that may constitute contempt of court.

Moreover, for cases in respect of which decisions have been made not to prosecute, provided there are justifiable circumstances (for example, where unanticipated significant evidence becomes available at a later time), DoJ will review the previous decisions not to prosecute.

I must emphasize that officers of LEAs and DoJ act fairly by adhering to the above guiding principles, and will not, and should not, be influenced by irrelevant factors such as political stance and background, race and nationality of the person(s) concerned, or the opinions of the public or professional bodies. Most importantly, they will not apply double standards.

**MR WONG TING-KWONG** (in Cantonese): President, in the main reply, I speak of someone who hurled abuses at a judge outside a courtroom. This was covered by news reports, and video clips are found online. I therefore think that the evidence is very concrete. But no authorities have followed up this incident and taken any law enforcement actions so far. May I ask whether the Administration will consider amending the law on contempt of court and forbid anyone to hurl any abuses at a judge outside a courtroom, so as to avoid inconsistent law enforcement and the resultant resentment in the community? If yes, what is the time frame; if not, what are the justifications?

**SECRETARY FOR JUSTICE** (in Cantonese): President, I thank the Member for his supplementary question. First, regarding the handling of individual
cases, even though DoJ has made a decision on a certain case, it may still review the decision if any unexpected evidence suddenly becomes available as I mentioned earlier. Therefore, I will not comment on any individual cases.

The Honourable Member wants to know whether the law on contempt of court will be amended. In fact, in 1987, the Law Reform Commission of Hong Kong ("LRC") already recommended the Government to consider whether it was necessary to turn the law on contempt of court into statutory law and codify everything. At that time, the Government considered many relevant factors, including the ever-evolving feature of contempt of court principles and the abundance of case law. In the end, in January 1994, the Government decided not to implement the recommendation of LRC. Over the past 30 years, there have been quite a number of court cases in Hong Kong that can shed clear light on contempt of court principles. At this stage, the Government does not intend to review the need to reform the law on contempt of court. Of course, if the Legislative Council or any bodies/organizations in the legal profession have any views on these matters, DoJ will be happy to listen to them and reconsider the necessity or otherwise of introducing legislative amendments to clarify the provisions on contempt of court.

As for whether the public may have any perception of inconsistent law enforcement, I hope Members can understand, and I must also repeat and emphasize, that when DoJ is making a decision on whether to institute prosecution, or when the law enforcement officers are conducting investigation, the political stance and background of the person concerned or other factors will not influence the decisions of the officers concerned. This is the point I want to reiterate.

DR CHENG CHUNG-TAI (in Cantonese): The Secretary for Justice will probably agree that in the midst of the political instability in recent years, it is only understandable that people may have some sort of emotive reactions to court judgments. But I agree with the Secretary that there must be judicial independence and equal treatment for all. The main question of Mr WONG Ting-kwong speaks of certain incidents, and he claims that there is concrete evidence. Well, Secretary for Justice, you know, once when a certain Legislative Council Member spoke on a certain court case, he angrily rebuked the judge and described him as altogether insane. And, following this, he even said publicly through the media that his words were a "fair comment". So far, he has not
denied his having said so. And, this Member happens to be a lawyer. I thus cannot help asking one question here. For reasons of judicial independence and equal treatment for all, should we also deal with such people, who are themselves legal practitioners, or who actually have the relevant knowledge? Or, should we even ask them to meet stricter requirements or conform to higher standards of prudence? How is the Secretary for Justice going to deal such comments made by those people who know the law better than the public, and who should thus respect the Court and the judgments of judges more than others? Or, how is the Judiciary going to follow up this situation?

SECRETARY FOR JUSTICE (in Cantonese): I thank the Honourable Member for his supplementary question. I will not comment on any specific or individual cases, because I do not think that we should lightly form any opinion on a certain case based merely on one single observation. If we do so, the credibility of our opinion will be very low. Therefore, I will not comment on the first part of the Honourable Member's question.

The Honourable Member wants to know whether this ... Sorry, I should put it that way. To begin with, we must understand that legal professionals and academics will often comment on court judgments, and they are usually sensible, well-grounded and guided by legal principles in their analyses. As long as such analyses are sensible and well-grounded, there will be no problem.

As to whether we will apply a different standard because of the background of a certain person, as I said earlier, the political stance or background of the person concerned is not a factor of consideration during law enforcement by DoJ and the Police Force. Rather, we will look specifically at the alleged acts of contempt of court in the case concerned. We will then decide whether there is sufficient evidence, and handle the case based on legal principles and the Prosecution Code.

DR JUNIUS HO (in Cantonese): I am grateful to the Secretary for Justice for her explanation just now. Many people often do not understand all the differences concerning contempt of court, contempt in the face of the court, and freedom of speech. I am grateful to the Secretary. Her explanation is very incisive.
However, I want to ask the Secretary for Justice a question on prosecution standards. In the Occupy Central movement, many law-breaking protesters did not observe the court orders requiring them to leave on the day of clearance and were arrested by the Police at the end. On the other hand, some people who committed similar acts elsewhere were prosecuted, convicted of contempt of court, and sentenced to imprisonment.

It has been three years since the Occupy Central movement. In regard to this group of people who defied the law and court orders, what is the result of the Government’s consideration? If it is not going to announce the result, what are the reasons? The Secretary for Justice says that no special consideration will be given to the identity of the person who has broken the law. In that case, can the Secretary for Justice tell us how she is going to deal with the hundreds of outstanding cases related to the Occupy Central movement, especially those involving the law-breaking people arrested by the Police during clearance? And, what is the progress of handling these cases?

PRESIDENT (in Cantonese): Dr Junius HO has asked two questions. One of them is about the Occupy Central movement and therefore irrelevant to the main question. The Secretary for Justice does not need to answer this one. She only needs to answer the other question.

SECRETARY FOR JUSTICE (in Cantonese): President, I do not think this is a suitable occasion for answering questions about the Occupy Central movement. And, some legal research on this matter is still required, so I think I should answer this question later.

MR CHAN HAK-KAN (in Cantonese): President, amidst the present atmosphere in society, I can understand people's different emotive reactions to the judgments handed down by judges. But hurling abuses at judges or contempt of court is definitely unacceptable.

I notice that these days, after certain judges have handed down judgments, people from different political camps will react with various actions. Some may scold the judge outside the courtroom, and some may even dox the judge. People from different political camps may do so. But the authorities rarely
respond with any high-profile investigation or arrest. This is kind of confusing to the public. What exactly is the definition of contempt of court? Why do we see high-profile investigation and arrests in some cases, but absolutely no actions and no information in others?

SECRETARY FOR JUSTICE (in Cantonese): I thank the Member for his question. Yes, we do observe that these days, following the handing down of court judgments, some people will seek to politicize the court cases and guess at the political motives of the courts. I find all this very regrettable. A judge will make his judgment based on the law and the evidence before him. If we study the judgments, we will see the rationale behind the verdicts handed down by the judges and realize that there are no political considerations. Hence, I hope that people can stop making such guesses.

I am also aware of the issue of public perception mentioned by Members. But I must say that in the course our work, we will never take any special courses of actions based on the political stances or backgrounds of the persons concerned. Our prosecution decisions will always be based on the law, the evidence available and the Prosecution Code.

As I said earlier, in some cases and under special circumstances, if there are reasonable justifications, we do not preclude the possibility of reviewing the previous decisions of not staging any prosecution. But this action will not be taken lightly, because there are clear provisions in the Prosecution Code specifying the circumstances under which such a decision can be made.


Loss of water due to water mains leakage

4. DR HELENA WONG (in Cantonese): President, the Government spends a huge amount of public money each year on the supply of fresh water to members of the public, with the purchase of Dongjiang water from the Mainland alone costing approximately $4.8 billion a year. However, according to the information for the period from 2006 to 2015, the rate of water loss persistently stood at over 30%. The causes of water loss include leakage from public mains
and from the water mains within the areas of some private residences. In this connection, will the Government inform this Council:

1. of the district, among the 18 District Council ("DC") districts across the territory, in which the problem of public mains leakage is most serious at present, and set out in a table the water leakage rate of each district in the past three years;

2. as it has been reported that water mains leakage has been a long-standing problem in certain large-scale housing courts, in which an estimated quantity of 30% of fresh water is lost before the water is delivered to and recorded by the meters of various customers, regarding public rental housing estates, Home Ownership Scheme courts and private housing courts, of the respective names of the 30 housing estates or courts with the highest water loss rates in the past three years, as well as their annual total quantities of water loss and the loss of public money thus incurred; and

3. of the Government's measures to lower Hong Kong's water leakage rate and water loss rate, as well as the implementation timetable for and the objectives and other details of such measures?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, given the hilly terrain of Hong Kong, the water pressure of our water supply networks is generally higher than that of other cities. Together with vibration and disturbance caused by busy traffic and frequent roadworks, these factors cause an increase in the risk of water mains bursts and leakage, making it a great challenge to manage the leakage problem in the water supply networks in Hong Kong.

The "rate of water loss" of over 30% mentioned in the question should mean the "unmetered consumption". Taking 2016 as an example, "unmetered consumption" made up about 33% of total water consumption, of which about 6% was water used for firefighting and operation of waterworks (such as water used in water treatment works, washing service reservoirs and flushing government water mains, augmentation of salt water flushing systems during their maintenance, temporary water supply due to emergency repairs, etc.), and about
2% was attributed to the recording of a lower water usage because of ageing water meters. Water loss due to leakage in government water mains was about 15%, with the remaining amount attributed to leakage in private water mains and unlawful taking of water.

My consolidated response to the three parts of Dr WONG's question is as follows:

For government water mains, in the 1990s, as a substantial portion of government water mains were reaching the end of their service life, their maintenance became increasingly difficult and costly. In 2000, the annual number of water main burst incidents rose to about 2,500 cases, and the leakage rate had exceeded 25%. Replacement and rehabilitation of water mains was the most effective solution to stop the rapid increase in water main bursts and leakages. Therefore, since 2000, we launched the Replacement and Rehabilitation Programme of Water Mains ("the Programme") to replace and rehabilitate about 3,000 km of aged water mains.

Following the substantial completion of the Programme in 2015, the condition of the government water supply networks has improved significantly. The annual number of water main burst incidents dropped drastically to about 90 in 2017, and the leakage rate also dropped to about 15%. According to a study report published by the Organisation for Economic Co-operation and Development in 2016, when compared to other developed countries and cities, Hong Kong currently ranks in the middle range in terms of leakage rate. Our leakage rate is lower than that of Montreal of Canada, Rome of Italy, and Liverpool and Edinburgh of the United Kingdom; but higher than that of Singapore, New York of the United States and Paris of France. The leakage rates of the above countries and cities range from around 5% to 32%.

Riding on technological advancement, as well as an overall improvement in the government water supply networks, implementing a Water Intelligent Network ("WIN") is considered a more cost-effective measure than continuing to implement large-scale replacement and rehabilitation of water mains. Therefore, we are actively pursuing the building up of WIN by stages. Under WIN, we collect data from the water supply networks by establishing District Metering Areas ("DMAs"). Furthermore, we will soon procure the Intelligent Network Management System to continuously monitor, and analyse the vast amount of network data collected from DMAs. WIN enables us to timely determine any
abnormal condition in the water supply networks. We can then implement the most appropriate network management measures and set the most appropriate working priorities accordingly, thus further enhancing the condition of the water supply networks and reducing leakages.

The Finance Committee ("FC") of the Legislative Council approved the funding for the construction of WIN Stage 1 in June 2016. We are also planning to seek funding approval from FC for WIN Stage 2 later this year. The entire WIN is targeted to be completed in 2023. Although WIN is still under construction, we have already taken actions on water mains with suspected leakages based on data collected from individual DMAs that have been established. For example, last year there was a case of suspected leakage in water mains as abnormal data was recorded in a DMA in Kwei Chow Street of To Kwa Wan. We carried out detection and identified the water mains with leakage for repair. The water loss situation in the DMA had improved after maintenance.

As for leakages in private water mains, according to the Waterworks Ordinance, it is the responsibility of the registered agents (usually management companies) to repair any leakage in the communal water mains in housing courts or estates. In the Policy Agenda published in October 2017, the Government has elaborated on measures targeting leakages in private water mains. We will take forward the following measures to assist property owners and registered agents on leak detection and maintenance of water mains, including:

1. through various channels, including holding briefings, to raise the awareness of property owners and registered agents on detecting leakages and maintaining water mains within their housing courts or estates proactively;

2. provide a reference list of local service providers of leak detection;

3. publish a guideline on leak detection and maintenance of private water mains; and

4. assist the development of a market in leak detection and maintenance of water mains, so a professional and competitive leak detection and maintenance service can be provided to property owners and registered agents.
Furthermore, we have been installing master meters for private housing courts or estates to monitor water losses in their communal water mains and will follow up on cases with suspected leakages in the communal water mains. We will step up enforcement actions in accordance with the Waterworks Ordinance if we encounter any uncooperative property owners or registered agents. We hope that through the above measures, the leakage rate at private water mains can be continuously improved. We will also explore imposing water charges on property owners or registered agents according to the amount of water loss from their communal water mains based on the master meters through legislative amendments.

In addition, to reduce other "unmetered consumption" such as unlawful taking of water and inaccuracy of water meters, we will step up enforcement actions and replace aged water meters regularly. The Government targets to reduce leakage rate in government water mains to below 10% by 2030.

Since WIN is still under construction, and master meters are not yet installed in all private housing courts or estates, we are not able to provide public mains leakage data of the 18 Districts across the territory, nor the names of 30 housing courts or estates with the highest water loss rates. Besides, as the related data fluctuates due to follow-up actions taken by the Government and individual housing courts or estates, or changes in their internal situations (such as water usage, water pressure or leakage situations), it would not be desirable to list out the data for an overall comparison of leakage situation. Also, the Government has to assess whether the release of such data can achieve the objective of the water conservation policy effectively, and carefully consider if the release of the data would induce unnecessary pressure on the households concerned.

**DR HELENA WONG** (in Cantonese): *President, Hong Kong is facing a very serious problem of water loss. The water leakage rate of Hong Kong is very high when compared with the corresponding rates in other places such as Tokyo and Singapore. The Secretary has not told us how much public money is lost due to water leakage. But we can do a rough computation here. The water consumption of Hong Kong in 2016 was 950 million cu m. If "unmetered consumption" made up 33% of total water consumption, the volume of fresh water loss would be 300 million cu m. How much public money is thus lost …*
PRESIDENT (in Cantonese): Dr Helena WONG, please state your supplementary question.

DR HELENA WONG (in Cantonese): The purchase of Dongjiang water costs $4.8 billion a year. Computed simply on this basis, the cost of losing 300 million cu m of fresh water will mean a loss of $1.7 billion a year. Therefore, I hope the Secretary can improve the situation.

I ask for information about individual districts and housing estates, but the Secretary does not provide any statistics at all. Do we really have to wait until WIN is implemented before we can have such statistics? I do not think we should wait, because we can actually check the meters of …

PRESIDENT (in Cantonese): Dr Helena WONG, please state your supplementary question immediately.

DR HELENA WONG (in Cantonese): … public standpipes. Will the Secretary check the readings of household water meters against those of master meters? Doing so can actually help us work out the volume of water leakage in every housing estate. But the Bureau has not done so. Their failure to do so has actually led to the wastage of fresh water.

PRESIDENT (in Cantonese): Dr Helena WONG, you have already stated your supplementary question. Please sit down. Secretary, please reply.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Dr Helena WONG for her supplementary question, and also for her long-standing concern about the supply of fresh water in Hong Kong. Let me offer an explanation regarding her supplementary question here. At present, about 500 housing estates are equipped with master meters, and we do check the readings of these master meters against those of household meters, so as to gauge the leakage problem of private water mains. But at this moment, we do not think it is appropriate to release the statistics of such checks. Let me explain a bit further here.
The year 2006 is a watershed. New housing estates with two housing blocks or more completed after 2006 are generally required to install master meters. At present, the number of such housing estates is roughly 200. On the other hand, we also hope that housing estates completed before 2006 can likewise install master meters. At present, the number of such housing estates which have installed master meters is roughly 200. I am afraid the release of the relevant data at this stage may not be too good to some existing housing estates, because punishment is not the best way to solve the problem. I believe Dr WONG will also agree. It will be much better to make different stakeholders understand the disadvantages of water leakage, realize that water is a very valuable resource we should cherish, and in turn conserve water voluntarily.

Hence, we are really kind of hesitant, as we are not sure whether the release of the data will actually end up hindering, rather than facilitating, our efforts. Anyway, how do we prevent water leakage now? When we notice that the water leakage rate of a housing estate is on the high side, the Water Supplies Department ("WSD") will get in touch with the housing estate to see if any improvement measures can be implemented. We will offer assistance to property owners and management companies, and such assistance includes the provision of information about providers of leakage detection services. Besides, WSD has also put in efforts to draw up a standard contract for leak detection works, so as to facilitate their arrangements of follow-up works in this respect. We have always thought that assistance is more useful than punishment.

MR SHIU KA-CHUN (in Cantonese): At present, complaints about water leakage are handled by the Joint Office for Investigation of Water Seepage Complaints ("the Joint Office") set up by the Buildings Department and the Food and Environmental Hygiene Department. The Joint Office was set up in 2006 and made permanent in 2014. As far as I know, after noticing a suspected case of water leakage, the Joint Office must first conduct an initial test before it can refer the case to WSD for follow-up actions. In a report published in 2008, the Office of The Ombudsman already recommended that the inclusion of WSD in the Joint Office should be considered. But can the Administration tell us why WSD has still not joined the Joint Office in its work of handling water leakage?
SECRETARY FOR DEVELOPMENT (in Cantonese): I thank Mr SHIU for his supplementary question. We should in fact look at this question from two perspectives. If a complaint is, for example, about water seepage from an upper flat to a lower flat inside a housing estate, the focus should instead be the environmental nuisance caused by the water seepage. If the problem is about water leakage indicated by metered consumption, the focus should be whether the owner concerned is made to pay the price of wasting water. In such a case, he has already paid the price. WSD is mainly concerned about water leakage on a larger scale.

As mentioned in the main reply, there are two major causes of water loss. One is the leakage of government water mains. In this regard, the present situation has actually shown drastic improvement when compared with the situation in 2000, as the leakage rate of government water mains has already dropped from 25% in that very year to 15% at present. We also hope that we can lower the rate to less than 10% at a later stage. The leakage of water mains private housing estates is another major cause of water loss. At present, the leakage rate of private water mains is about 7.8%. We also plan to lower this rate by means of different initiatives, especially the measures I have mentioned—installing master meters and cooperating with private housing estates to step up public education, with a view to enhancing residents' awareness of cherishing our valuable water resources and reducing the water leakage rate.

At this juncture, let me repeat a point which I have already mentioned. Our aim is to reduce the average water consumption of Hong Kong people by 10% from about 135 cu m to around 120 cu m per capita per year by 2030, 13 years from now. I can explain how the percentage is derived: a reduction of 6% is achieved by the drop in leakage rate, 2% by the use of reclaimed water and recycled water, while the other 2% by the use of faucets and shower heads with higher efficiency and effectiveness.

MR SHIU KA-CHUN (in Cantonese): President, the Secretary has not answered my supplementary question. I am asking why WSD has not joined the Joint Office. This is a case handled by the Public Complaints Office of the Legislative Council …
PRESIDENT (in Cantonese): Mr SHIU Ka-chun, you have already stated the part of your supplementary question that has not been answered. Please sit down. Secretary, do you have anything to add?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, let me add one point very briefly. Different departments have different emphases of work, and we consider it appropriate for the Buildings Department and the Food and Environmental Hygiene Department to handle the work of the Joint Office, because the complaints received mainly involve environmental nuisance, especially the serious nuisance caused to residents by water seepage. On the other hand, the role of WSD is to oversee the overall water consumption in Hong Kong. Hence, we maintain that the current division of work is appropriate.

MR CHAN HAK-KAN (in Cantonese): President, the Secretary points out in the main reply that the Government has already replaced 3,000 km of aged water mains. I look forward to fewer water main burst incidents and water leakages after the replacement of water mains. However, I have some photos here and would like to show them to the Secretary. These photos are of some very serious water main burst incidents at Kwong Fuk Road in Tai Po. In 2016 and 2017, three water main burst incidents occurred at the same place. The Government informed the District Council concerned that it had already replaced the water mains there.

Secretary, how come we still have these water main burst incidents and leakages after the replacement of water mains? Why have water main bursts continued to occur despite all the money and efforts spent on replacements? Have the authorities put in place any mechanism for monitoring the quality and laying of replacement water mains, so as to avoid wasting money and fresh water?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr CHAN Hak-kan for his supplementary question. As I point out in the main reply, the replacement of water mains has achieved very evident results. Back in 2000, the annual number of water main burst incidents was 2,500, meaning an average of 7 to 8 cases a day. But the number already dropped to 90 in 2017, meaning that only 7 to 8 cases occurred every month on average. Mr CHAN's
concern is certainly justified; even the occurrence of 7 to 8 cases a month is not acceptable, because water main bursts will cause serious nuisance to local residents. I can fully appreciate the concern here.

The problem of aged water mains will continue to exist. In this connection, let me report that WSD is now conducting a replacement programme of water mains for Hong Kong Island, the outlying islands and New Territories West. It will launch another replacement programme for New Territories East and Kowloon later on. We will replace about 40 km of water mains in the coming one year or two. We will continue our work in this direction, but we have no massive plan to replace the remaining 5 000 km of water mains in the short run. We have finished replacing 3 000 km of the 8 000 km or so of water mains in Hong Kong, and we plan to replace about 40 km of water mains later every year.

As for individual black spots, such as Tai Po as mentioned by Mr CHAN Hak-kan, I will examine further and see if there is anything we can do to improve the situation, so that residents in the district will not be plagued by the same nuisance again.

IR DR LO WAI-KWOK (in Cantonese): President, in a recent traffic accident, a concrete mixer got trapped in road sinkage, overturned, and nearly fell into the bottom of the road cavity. As reported later, the road sinkage might have been caused by soil erosion resulting from the accumulation of water underground due to water main leakage. I cannot know whether this is the actual cause of the accident, so I want to take this opportunity to ask whether the Secretary is aware of the situation. Moreover, are the authorities aware of the possibility of such abnormal occurrences on the roads? And, how do they monitor the situation and prevent the occurrence of such accidents?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Ir Dr LO for his supplementary question. That is exactly why we consider it important to implement WIN. Communal water mains in Hong Kong are generally laid underground, and are not visible on the road surface. With the division of Hong Kong into over 2 000 DMAs, and the provision of a shaft in each DMA, we will be able to collect a wide range of data. The setting up of these shafts will also help us install pressure relief valves in certain areas for the purpose of adjusting local water pressures.
As I mention in the main reply, due to our hilly relief and the consequent need to supply water to households situated at varying altitudes, the water pressure of our water supply networks is higher than those in places with basically flat topography. For example, the water pressure of our water supply networks ranges from 60 m to 80 m, while that of Singapore is 40 m. It is our hope that with the funding approved by the Legislative Council, we can establish a monitoring system called Intelligent Network Management System in 2019, so that we can detect any abnormal condition with the aid of a computer system. As there will be sudden changes in the readings of water velocity or water pressure in the event of a water leakage problem, we will then be able to gradually narrow down the possible areas affected by such a problem in accordance with the changes in the readings, thereby determining any abnormal condition and addressing the problem of water leakage accordingly. Under such circumstances, we can also hopefully tackle the problem raised by Ir Dr LO just now, that is, the problem of ground subsidence due to water leakage.

However, as for the question of whether this is the cause of the accident mentioned by Ir Dr LO, I am not in a position to make any speculation as I do not have any related information of the case.

PRESIDENT (in Cantonese): Fifth question.

Healthcare services in the three places of Guangdong, Hong Kong and Macao

5. DR PIERRE CHAN (in Cantonese): President, it has been reported that on the 9th of last month, the health authorities of the three places of Guangdong, Hong Kong and Macao signed a Framework Agreement on Hygiene and Health Cooperation of the Guangdong-Hong Kong-Macao Bay Area ("the Agreement") and agreements on 26 cooperation projects. The cooperation projects include a training programme for general medical practitioners in Guangdong, Hong Kong and Macao, a training programme for medical specialists in Shenzhen and Hong Kong, and a Guangdong-Hong Kong joint training programme for certified nurse specialists. Regarding the healthcare services in the three places of Guangdong, Hong Kong and Macao, will the Government inform this Council:
whether it will make public the full contents of the Agreement and the 26 cooperation projects, as well as their details such as the objectives, whether the qualifications of personnel from Guangdong and Macao who have received training in Hong Kong will obtain professional recognition in Hong Kong, and the implementation timetables; if so, when it will do so; if not, of the reasons for that;

whether the Agreement covers mutual recognition of training qualifications and professional qualifications for healthcare personnel in the three places of Guangdong, Hong Kong and Macao; if so, of the details, and whether it has assessed if such arrangements have contravened the provision in Article 142 of the Basic Law, i.e. "[t]he Government of the Hong Kong Special Administrative Region shall, on the basis of maintaining the previous systems concerning the professions, formulate provisions on its own for assessing the qualifications for practice in the various professions"; and

whether it discussed, in the past three years, with the health authorities of Guangdong and Macao plans to facilitate residents in Guangdong and Macao to come to Hong Kong for medical treatments; if so, of the details, and whether it has assessed if the public and private healthcare systems in Hong Kong can cope with the additional service demand?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, my reply to the three parts of the question raised by Dr Pierre CHAN is as follows:

The First Guangdong-Hong Kong-Macao Bay Area Hygiene and Health Cooperation Conference ("the Conference") held on 9 January 2018 was co-organized by the Health and Family Planning Commission of Guangdong Province, the Food and Health Bureau of the Hong Kong Special Administrative Region Government, and the Health Bureau of the Macao Special Administrative Region Government. At the Conference, the three parties signed the Framework Agreement on Hygiene and Health Cooperation of the Guangdong-Hong Kong-Macao Bay Area ("the Agreement"), which
aims at promoting experience exchange and cooperation among the three governments on matters relating to hygiene and health in the Bay Area. The cooperation projects include enhancement of the quality of health services, improvement and innovation of the cooperation mechanism, and promotion of major cooperation platforms, major cooperation projects and cooperation policy planning. The Agreement does not involve any content related to the registration and practice of non-locally trained health care professionals in Hong Kong.

In addition to the Agreement, there were 26 cooperation projects ("institution cooperation projects") proposed at the Conference among various institutions from Hong Kong (including universities, training providers and professional bodies) and institutions from Guangdong and Macao, or between institutions from Guangdong and Macao. As agreements of these cooperation projects were signed by other institutions, the Government does not have details of these cooperation projects. According to the project summary provided by the Conference, those institution cooperation projects related to training and exchange of health care professionals are mainly aimed at enhancing such exchanges, and do not involve any content related to the registration qualifications and practice of non-locally trained health care professionals in Hong Kong.

Hong Kong has a competitive edge in health care professional training. We notice that training exchanges for health care professionals among various professional institutions of Hong Kong and the Mainland are on the rise. Provided that the provision of health care services in Hong Kong will not be compromised, the Government welcomes the efforts made by local health care training providers and professional bodies to enhance training exchanges for health care professionals between Hong Kong and the Mainland through various means.

(2) At present, the registration and practice of registered medical practitioners as well as registered and enrolled nurses in Hong Kong are stipulated in the Medical Registration Ordinance (Cap. 161) and the Nurses Registration Ordinance (Cap. 164) respectively. As
mentioned, the Agreement and the institution cooperation projects do not involve any content related to the registration qualifications and practice of non-locally trained health care professionals in Hong Kong. The Government has no plans to revise the requirements for non-locally trained doctors and nurses to register and practise in Hong Kong.

According to section 8(1)(a) of the Medical Registration Ordinance, a person may directly apply for full registration as a medical practitioner with the Medical Council of Hong Kong ("MCHK") only if he/she has been awarded a degree of medicine and surgery by The Chinese University of Hong Kong or the University of Hong Kong and has completed internship training.

Non-locally trained doctors who wish to be medical practitioners on full registration in Hong Kong must pass the Licensing Examination administered by MCHK and complete a prescribed period of internship assessment at the Hospital Authority ("HA") before they can register as medical practitioners for practice in Hong Kong.

According to the Nurses Registration Ordinance and related regulations, a person may practise as a registered or enrolled nurse only if he/she has completed the training specified by the Nursing Council of Hong Kong ("NCHK"). In respect of registered and enrolled nurses, a person must have satisfactorily completed a pre-registration or pre-enrolment nursing programme with a minimum duration of three years or two years respectively, which is provided by a gazetted training school and accredited by NCHK. As for non-locally trained nurses who wish to practise as a registered or enrolled nurse in Hong Kong, they must meet the registration/enrolment requirements specified by NCHK, including passing its Licensing Examination.

(3) In the past three years, the Government has not discussed with the authorities of Guangdong or Macao any plans to facilitate the use of the public and private health care services in Hong Kong by residents in Guangdong and Macao. The Agreement also does not cover the above issues.
Public health care services in Hong Kong are heavily subsidized by the Government, targeting mainly at local eligible persons (mainly holders of Hong Kong Identity Card). Apart from emergency services, medical institutions of HA will consider providing non-emergency services for non-eligible persons ("NEPs") on a case by case basis only when there is spare service capacity and the services provided for local residents will not be affected. The rates of charges applicable to NEPs will apply.

DR PIERRE CHAN (in Cantonese): President, the replies of the Food and Health Bureau to our oral and written questions recently are very irrelevant, irrelevant to a very serious extent.

Right at the beginning of the first paragraph in part (1) of the main reply, the Secretary says that in the First Guangdong-Hong Kong-Macao Bay Area Hygiene and Health Cooperation Conference ("the Conference") held on 9 January 2018, the Health and Family Planning Commission of Guangdong Province, the Food and Health Bureau of the Hong Kong Special Administrative Region Government, and the Health Bureau of the Macao Special Administrative Region Government signed a tripartite agreement. But in the second paragraph, the Secretary says that a number of cooperation agreements were signed by other institutions. At the beginning of the main reply, the Secretary says that the Conference was jointly organized by the governments of the three places, and they signed a tripartite agreement. But she then talks about other institutions. Can I therefore ask the Secretary, in my supplementary question, what other institutions she is in fact referring to? Which institutions should we approach in order to ask for the details of these agreements?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I thank Dr CHAN for the question.

Perhaps, let me repeat my point here. The Conference was actually organized by the Health and Family Planning Commission of Guangdong Province, but the Food and Health Bureau of the Hong Kong Special Administrative Region, and the Macao Special Administrative Region also helped
organize the Conference. At the government-level, the three places signed the Framework Agreement on Hygiene and Health Cooperation of the Guangdong-Hong Kong-Macao Bay Area ("the Agreement"). And, as I have explained, the Agreement aims to foster exchanges and cooperation among the three governments on matters relating to hygiene and health in the Bay Area, and to build a platform for cooperation. Actually, the main purpose is to build a platform for facilitating communication and exchanges among the three places on subjects of common interest.

Besides, the Conference also made arrangements for the signing of 26 cooperation projects mainly by other institutions including various universities, training providers and professional bodies. Many of these institutions comprise medical or health care personnel and specialists, such as medical doctors, nurses, and specialists in oral health, family medicine, and mental health, etc. It is necessary to sign these cooperation projects, probably because the Health and Family Planning Commission of Guangdong Province, which has been having very frequent exchanges with many different places in Guangdong, now sees the need to update the objectives and agreements concerned. We are not informed of the contents of these cooperation agreements. And, the Hong Kong Government has not specified which institutions should sign such cooperation projects either. I think all these cooperation agreements are entirely about the cooperation arrangements in Guangdong which the Health and Family Planning Commission of Guangdong Province has long since drawn up with various Mainland institutions and Hong Kong and Macao organizations. I hope this can answer Dr CHAN's question.

DR PIERRE CHAN (in Cantonese): President, can the Government give us a list of those institutions which the Secretary has referred to?

In my second supplementary question, I wish to say that my main question is actually not about qualifications for registration and practice in Hong Kong. The main question is wholly about the mutual recognition of specialist qualifications, that is, the mutual recognition of specialist nurses and specialist doctors. This is why I say that the replies of the Food and Health Bureau to various questions have been very irrelevant, irrelevant to a very serious extent.
I do not think local doctors will face any big problems. I am worried about local nurses instead. The theme of my question is "the mutual recognition of professional qualifications". Let me discuss one cooperation project as an example here, namely the "Guangdong-Hong Kong joint programme for training recognised specialist nurses". This is about training up specialist nurses. The Hong Kong side may well explore various ways of mutual recognition under this programme, and it may then introduce nurse exchange projects or even allow Mainland nurses to work in elderly homes in Hong Kong, because Hong Kong now faces a shortage of nurses. This makes me worry about local nurses. My main question asks the Secretary to talk about professional qualifications, such as the mutual recognition of specialist nurses, rather than asking her to write two whole pages on the registration issue. I hope the Secretary can see my point.

Can the Secretary answer my question on the recognition of professional qualifications?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): All right. I thank Dr CHAN for the supplementary question.

I include the issue of registration in the main reply because registration is always required for professional practice in Hong Kong, regardless of whether there are any mutual recognition arrangements. That is why I also mention the relevant registration ordinances in the reply, so as to clarify that we do not intend to introduce changes to them, and that anyone who wishes to practise in Hong Kong must pass the examinations held by the registration committees concerned and obtain the required qualifications for practice.

The contents of the training projects I have mentioned do not involve the award of any qualifications for registration and practice in Hong Kong to non-locally trained health care professionals. We do not have the details of the exchanges between these institutions and their Mainland counterparts, but we are sure that non-locally trained health care professionals who wish to practise in Hong Kong will have to comply with Hong Kong's Medical Registration Ordinance and Nurses Registration Ordinance, meet the training requirements which the relevant professional committees are empowered under the ordinances to specify, and also pass the licensing examinations held by such professional committees.
MR HOLDEN CHOW (in Cantonese): President, the Guangdong-Hong Kong-Macao Bay Area is established with the aim of serving Hong Kong people. In case any Hong Kong people need to work or live there in the future, one thing they especially look forward to must be the availability of proper medical services.

Secretary, can you tell us whether the Agreement covers the adoption of the Hong Kong medical system in the Bay Area and the provision of necessary training to health care personnel, including those from the Mainland, so as to provide reliable health care services to Hong Kong people who will live and work in the Bay Area?

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

The Agreement mainly seeks to promote exchanges and cooperation on matters relating to hygiene and health in the Bay Area. But it does not cover Hong Kong's exchanges and cooperation with the Bay Area only, because Hong Kong and Macao are both important segments of the area. And, exchanges among Mainland cities within the Bay Area are also covered.

The Agreement also seeks to establish a platform, so that we can hold discussions on improving the quality of health services and the existing mechanism, or perhaps convene regular meetings every year on enhancing communications between the two sides. Besides, it also aims to promote major cooperation platforms, major cooperation projects and cooperation policy planning. Hence, this is all about enhancing communication and building up platforms.

At present, the Mainland can already provide a variety of health care services that can meet the needs of Hong Kong people living in the Bay Area who wish to receive quality health care. But I think if health care personnel can have more exchanges and communications on health care techniques, knowledge and even scientific research, they can help enhance the standard of health care services in the Mainland. Hence, we aims to increase such exchanges and communications in order to improve medical services.
Of course, we have also discussed if it is feasible for Hong Kong medical institutions to operate hospitals or clinics in the Mainland. We will definitely not rule out this possibility. However, it all depends on whether Hong Kong private medical institutions are interested in such projects and if it is legally and operationally feasible to do so. In case local private medical institutions are interested in operating medical projects in the Bay Area, we are happy to discuss with them.

MR PAUL TSE (in Cantonese): President, the Secretary says in the third paragraph of part (1) of the main reply that Hong Kong has a competitive edge in health care professional training, and provided that the provision of health care services in Hong Kong is not compromised, the Government welcomes training exchanges with the Mainland.

Exchanges and communications are of course very good. But I note that a listed company has been expanding its ophthalmic services in the Mainland, and its share price even went up by 100% on the first day of listing. This company has kept poaching ophthalmologists in public institutions. As shown by records, at least five ophthalmologists with substantial experience have been poached so far. In that case, how can the Government ensure that training and exchanges will not lead to any unwanted results? The Mainland recognizes Hong Kong doctors' qualifications but Mainland doctors are not permitted to practise in Hong Kong. That being the case, will the overall experience and quality of Hong Kong doctors be adversely affected? I do not mean to stop others from making big money. But we must not ignore the financial appeal of this trend.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as Mr TSE has pointed out, the development in the Bay Area is highly diversified. One major area is the development of health care services or health care projects. Hong Kong private hospitals or private institutions will naturally need to go through some procedures if they wish to develop the Mainland market and serve the Bay Area residents, including the Hong Kong or Mainland residents living there.
While we wish to enhance exchanges on the overall health development in the Bay Area, we are also very concerned about the health care manpower in Hong Kong. In this respect, we will work on two areas. First, we will need to train an adequate number of health care personnel, and we thus propose to increase the number of health care students in various fields. Second, in parallel to the increase in student places, we will also need to provide sufficient specialist training, say, to doctors, nurses, and other health care personnel in public hospitals, so as to tie in with the rapid technological and medical developments. The two definitely need to go hand in hand.

We definitely do not wish to see a drain of health care personnel and we are eager to stabilize the public health care system. To do so, we will need resources and a better work environment in the Hospital Authority ("HA"). The latter involves both hardware and software upgrades. To upgrade the hardware of HA, we have earmarked $200 billion to take forward a 10-year hospital development plan. On top of this 10-year plan, HA is also actively considering another 10-year hospital development or redevelopment plan. We have all along been working on these.

Apart from hardware upgrade, we are also very concerned about manpower supply. To ensure the sufficient supply of health care manpower, we have requested HA to formulate medium- and long-term plans to increase manpower, and the Food and Health Bureau will provide the necessary resources for the additional manpower. We hope that in addition to the short-term measures to address the manpower shortage, there will also be medium- and long-term solutions to the problem.

PRESIDENT (in Cantonese): Last oral question.

Prenatal check-ups provided by public hospitals

6. MR CHAN HAN-PAN (in Cantonese): *It is learnt that the regular prenatal check-ups currently provided by public hospitals for local pregnant women with a residential hospital booking mainly include ultrasound examination and basic blood test. However, these procedures cannot accurately*
and comprehensively detect the various hereditary diseases that foetuses may suffer from, and amniocentesis, which is conducted for some pregnant women, is invasive in nature and is associated with a risk of miscarriage. According to medical research reports, non-invasive fetal trisomy tests ("genetic tests"), the technology of which has matured in recent years, can detect, in a safe and accurate manner, a number of common hereditary diseases in foetuses. In this connection, will the Government inform this Council:

(1) whether it knows the respective numbers of new-born babies in each of the past five years detected before and after birth to have suffered from hereditary diseases, and set out a breakdown, by whether the detection was made through regular check-ups or genetic tests, of the cases in which babies were detected to have suffered from hereditary diseases before birth;

(2) whether the authorities have conducted studies on the effectiveness and applications of genetic tests; if so, of the details; if not, whether they will conduct such studies; and

(3) whether it knows the expenditure incurred in each of the past five years on providing regular prenatal check-ups by public hospitals; whether the Hospital Authority has plans to carry out free genetic tests for local pregnant women; if so, of the details, including the projected annual number of foetuses that can be detected to have suffered from hereditary diseases and the expenditure involved; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I thank Mr CHAN for his question. The Government has been attaching great importance to providing appropriate and comprehensive prenatal services for pregnant women. The Maternal and Child Health Centres of the Department of Health ("DH") and the obstetrics departments of the Hospital Authority ("HA") provide a comprehensive prenatal shared-care programme for pregnant women during the entire pregnancy and delivery process. The first prenatal check-up includes checking of personal and family medical history, physical examination and blood test, etc. If necessary, public hospitals will arrange specific tests
including foetal morphology scan (ultrasound scan), blood sugar and oral glucose tolerance tests, amniocentesis, chorionic villus sampling and umbilical cord blood sampling.

My reply to the various parts of Mr CHAN Han-pan's question is as follows:

(1) For detection of individual hereditary diseases, since July 2011, public hospitals have been providing a series of free prenatal services for all local pregnant women with a residential hospital booking, including screening for Down syndrome carried out before 20 weeks of pregnancy. According to the statistics collated by HA, over 35,000 pregnant women received such service per year on average. A basic blood test will be provided for all pregnant women at public hospitals during their first prenatal check-up, and ultrasound examination will be arranged by doctors if there is a clinical need. In respect of Down syndrome, around 6% (i.e. about 2,000 cases) of the screened pregnancies show positive results each year, and amniocentesis or chorionic villus sampling will be provided to identify Down syndrome in the foetuses. As for other hereditary diseases, public hospitals will offer screening for alpha-thalassaemia and beta-thalassaemia by conducting blood tests on pregnant women. If both parents-to-be have thalassaemia, the expectant mother will receive amniocentesis or chorionic villus sampling in public hospital to detect whether the foetus may suffer from such disease.

With respect to genetic screening, the Clinical Genetic Service ("CGS") of DH has been providing free-of-charge umbilical cord blood screening for all babies born in public hospitals since 1984, targeting two common conditions, namely congenital hypothyroidism and glucose-6-phosphate dehydrogenase ("G6PD") deficiency, which is a genetic disease. G6PD deficiency was found in about 4.5% of male and 0.5% of female newborns in Hong Kong. Between 2012 and 2016, the total number of G6PD deficient cases confirmed through this screening programme was about 4,900.
Other than the cases detected by screening, some genetic diseases can only be diagnosed and confirmed after patients manifest signs and symptoms. As different genetic diseases are associated with different signs and symptoms and with different age of onset, not necessarily evident in the newborn period, the CGS of DH does not maintain statistics on the incidence rates of genetic diseases among the neonatal population per year.

Besides, there exist a wide range of genetic diseases with complex coding and definitions. HA has not established a comprehensive database to maintain statistics on the number of newborn babies detected to have genetic diseases before and after birth through regular check-ups or genetic tests.

(2) and (3)

DH and HA launched an 18-month "Pilot Study of Newborn Screening for Inborn Errors of Metabolism" ("the Pilot Study") in Queen Elizabeth Hospital and Queen Mary Hospital in October 2015. Over 15 100 newborns participated in the Pilot Study, with nine being diagnosed with inborn errors of metabolism ("IEM"). As the Pilot Study has proven effective, the Government has, starting from 1 April 2017, regularized IEM screening service for newborns in the two hospitals, and is extending the screening service to all public hospitals with maternity wards in phases from the second half of 2017-2018. The current screening programme covers a total of 24 IEMs. The working group set up jointly by DH and HA will regularly review the effectiveness and scope of the programme.

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

The "T21 test", a kind of non-invasive prenatal test, is a testing technique in the form of a blood test to analyse foetal chromosome 21 by examining the foetal DNA present in a pregnant woman's plasma. HA has earlier discussed the development and effectiveness of "T21 test" at the relevant coordinating committees.
HA is now exploring the facilities required for the introduction of "T21 test" in Hong Kong Children's Hospital ("HKCH") as a second-tier prenatal screening test for Down syndrome and making preparations for professional training and service arrangements. Under the current plan, the service of "T21 test" will be launched at HKCH in the first quarter of 2019. HA currently does not provide non-invasive fetal trisomy tests, and the expenditure incurred by such tests may vary depending on factors including the scope of services, manpower required, and costs of testing equipment and consumables. As all these factors are uncertain, HA is unable to provide the estimated expenditure for the provision of the testing service.

HA will provide other appropriate prenatal services according to the clinical needs of pregnant women. It does not maintain data on annual expenditure for offering traditional prenatal check-up services.

MR CHAN HAN-PAN (in Cantonese): Deputy President, the appropriate services mentioned by the Secretary refer to those invasive tests in which a hollow needle is inserted into the uterus to extract samples of amniotic fluid and chorionic villus for testing. However, this medical procedure has long since been outdated. She also says that the CGS of DH has been providing umbilical cord blood screening for babies. But again, this sort of technology was first introduced 34 years ago in 1984. In other words, the authorities have never updated its medical technologies for 34 years.

Nowadays, many foetal genetic disorders can be easily detected by DNA tests on blood samples of the mother several weeks after the start of pregnancy. Yet, the Secretary says that the authorities has not considered the adoption of such tests, and a baby will be taken to HKCH for examination only if problems are detected after birth. But such examination will be remedial in nature. I am afraid all will be too late by then, Secretary.

Given the Government's robust financial position at present, will the Secretary seek funding from the Financial Secretary, so that pregnant women can be provided with genuinely appropriate services, such as universal DNA tests?
The Government has already said that there is not enough manpower to give influenza vaccination to pregnant women. Now, in the case of Genetic tests for them, the Government likewise says that there is not enough manpower. In that case, will the Government consider outsourcing such test services? What I mean is that the authorities can seek the required funding and then give financial support to women who want to receive such tests several weeks after the start of pregnancy. In this way, pregnant women can have such tests in private clinics, and the problem can be solved. Will the Secretary consider the adoption of this proposal as an alternative, so that pregnant women who do not have sufficient means need not pay for such tests themselves? If the Government does not provide any financial support, Secretary, then only pregnant women who can pay the costs will be able to receive such tests.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Mr CHAN Han-pan for his advice. In the detection of genetic disorders, the traditional tests we adopt have been proven effective, but at appropriate times, HA will still examine any new technologies that have emerged. As I have mentioned, the relevant coordinating committees under HA have started to explore the development and effectiveness of the "T21 test", with a view to introducing the test in HKCH. The Government is certainly concerned about the provision of integrated prenatal services to pregnant women, and we will review the entire process. As I have said, the Pilot Study was launched in October 2015, and over 15 100 newborns participated in the study, with nine being diagnosed with various IEMs. We are now regularizing IEM screening service in phases and will extend the service to all public hospitals with maternity wards in the second half of 2017-2018. In the future, HA will surely review the various traditional prenatal tests under the established mechanism and explore the development and effectiveness of the latest medical technologies, with a view to continuously improving individual clinical services.

MR CHAN HAN-PAN (in Cantonese): Deputy President, the Secretary has not answered my supplementary question.
DEPUTY PRESIDENT (in Cantonese): Mr CHAN Han-pan, which part of your supplementary question has not been answered?

MR CHAN HAN-PAN (in Cantonese): She has not told me whether the Government will give subsidy to pregnant women, so that they can seek DNA tests from private doctors without having to use their own money. This medical technology is already very well developed and the Government's financial position is very robust, so the Secretary only needs to say, very simply, whether the Government will give subsidy to pregnant women, so that they can seek Genetic tests from private doctors without having to use their own money.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Han-pan, since you have already stated the part of supplementary question which has not been answered, please sit down. Secretary, do you have anything to add?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Thank you, Mr CHAN. Let me add a few words here. Regarding public-private partnership initiatives, the Government has already earmarked $10 billion for HA to procure private-sector services (such as those requiring a very long waiting time). Besides, HA will also review its need for increasing or developing public-private health care services at appropriate times. And as I said earlier, HA will regularly review the traditional prenatal check-up services and keep an eye on the development and effectiveness of the latest medical technologies in this area.

MR HOLDEN CHOW (in Cantonese): Deputy President, I am surprised to learn from the Secretary's main reply that at present, the Government does not have a central database on genetic disorders of children or newborn babies. Secretary, do you think the Bureau should, as advised by Mr CHAN Han-pan just now, allocate more funding to public hospitals, so that they can provide more advanced prenatal check-up services, rather than sticking to amniocentesis? In this way, pregnant women can enjoy more advanced check-up services, and at the same time, the Bureau can have a better grasp of genetic disorders of newborn babies. Will the Secretary answer this question?
SECRETARY FOR FOOD AND HEALTH (in Cantonese): Yes, I thank Mr CHOW for his proposal. All along, HA has been monitoring its existing services, including prenatal check-up services and genetic screening for babies. And, it will also examine the effectiveness of new techniques and technologies. I am sure that HA will keep introducing new techniques with proven effectiveness. For instance, HA has promised that in the future, children's hospitals will start to introduce the "T21 test" which I have mentioned.

MR CHAN HAN-PAN (in Cantonese): The annual birth rate in Hong Kong is actually very low. As shown by the information provided by the Secretary this time, over 35,000 pregnant women received such service per year on average. So, the estimated number of babies born is about 30,000. Computations based on this figure show that we can actually bear all the costs of genetic tests on pregnant women. It will not cost too much in fact since the cost of each genetic test conducted by a private clinic is only about $7,000. Will the Secretary seriously consider acting proactively to provide such tests and stop being so passive? Amniocentesis will inflict severe pain and discomfort on pregnant women. In such a test, anesthesia cannot be administered when a long hollow needle is inserted into the uterus to extract amniotic fluid. But with modern-day medical technologies, this kind of test is already outdated. Secretary, such a small medical expenditure can already benefit so many pregnant women ... And, Mr Holden CHOW has even talked about a database of babies' genetic disorders. Can we establish a database of certain genetic disorders? Actually, this will be very effective. I hope the Secretary can consider the idea of establishing a database of genetic disorders covering all pregnant women and babies, so as to give the public greater peace of mind. Will the Secretary promise to do so next year or in the coming few years?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Thanks to Mr CHAN, Deputy President. Actually, the Food and Health Bureau, HA and DH are all very concerned about the health of children and pregnant women. Therefore, we will surely monitor the development of related services provided by public organizations in the future. We will also review existing and traditional services and the development and effectiveness of new medical technologies, with a view to continuously improving our clinical services. As for the database proposal, we of course hope that HA can conduct a review to explore ways of setting up a quality database that can give it a better grasp of the
relevant statistics and enable it to develop better services in the future. As for the "T21 test", I repeat that the relevant coordinating committees have already done their reviews, and HA has also promised to provide this service in children's hospitals in the future.

MR PAUL TSE (in Cantonese): Deputy President, medical technologies are forever progressing, so we really need to proceed step by step given the limited resources we have. Let us first look at some historical facts. The authorities started to deal with congenital hypothyroidism in 1984; Down syndrome in 2011; and IEMs in 2015. We can thus see that the authorities have actually made ongoing efforts to conduct tests on genetic disorders of babies. At present, in respect of the "T21 test" and non-invasive fetal trisomy tests, the authorities say that they do not have enough manpower and money to provide the integrated services mentioned by Mr CHAN Han-pan just now. I really want to know which is the case. Is it due to the lack of money? Or, the shortage of trained personnel? Or, both? When can the problem be solved?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Mr TSE for his question. Actually, HA has always been committed to improving the quality of its services. Understandably, when developing new services, HA must thoroughly consider many different factors (including service arrangements, equipment, technologies and the training of talents) and formulate proper plans, so as to achieve the goal of speedy service improvements and new service delivery. But after introducing new services, HA must also ensure that the services can be delivered smoothly and serve the needs of pregnant women more appropriately. Yes, HA has not adopted the "T21 test". This is because it must first carefully consider the costs implications of the required scope of services. This explains why the service has to be launched in children's hospitals first. As I said just now, HA must holistically consider all relevant factors such as manpower, testing apparatuses and required consumables. In cases where the services can meet the needs of the public or any groups in the community, we will give resource support as much as possible.

WRITTEN ANSWERS TO QUESTIONS

Monitoring of the mitigation measures implemented under the Hong Kong-Zhuhai-Macao Bridge project

7. MR CHU HOI-DICK (in Chinese): President, according to the environmental impact assessment report of the Hong Kong Boundary Crossing Facilities and the Hong Kong Link Road projects of the Hong Kong-Zhuhai-Macao Bridge ("the projects"), the mitigation measures that must be taken by the authorities include conducting fry release within the boundaries of the newly established Brothers Marine Park as well as the existing Sha Chau and Lung Kwu Chau Marine Park, so as to enhance the fishery resources in such waters. In September 2014, the Highways Department ("HyD") conducted a release trial in the waters near the Brothers, releasing about 40,000 fry of Yellow Croaker and about 60,000 fry of Threadfin. However, it has been reported that as HyD has not taken any post-release actions to monitor the fry released, information on the whereabouts and the mortality and survival rates of the fry was not available. On the other hand, HyD consulted the Country and Marine Parks Board in July last year about the specific arrangements of the fry release, and some Board members expressed concern about the HyD's plan of releasing the fry of Hong Kong Grouper and the fry of Longtooth Grouper because groupers might have an adverse impact on the existing fish community of the aforesaid marine parks. On monitoring of the mitigation measures implemented under the projects, will the Government inform this Council:

(1) of the dates on which the tendering exercise for the contracts of the fry release were/will be conducted, as well as the names of all tenderers and the successful tenderers; whether the relevant tender documents can be made public;

(2) of the details of the aforesaid fry release trial (including the dates, the number of releases and the relevant reports); why the species of fish subsequently suggested to be released by HyD were different from those adopted in the fry release trial;

(3) given that a fry release trial was conducted by the Agriculture, Fisheries and Conservation Department in 2001, whether HyD has, in preparing the contracts for the fry release, made reference to the
relevant arrangements and the outcome of the trial; if so, of the lessons learnt; if not, the reasons for that;

(4) given that some environmentalists have relayed that the projects will destroy the natural seabed, thereby affecting the marine ecology and fisheries resources, whether HyD has regularly deployed staff to conduct at-sea inspections to collect data on marine ecology and fisheries resources in the waters concerned before and after the works, for assessing the impacts of such works more accurately; if so, of the number and date of such inspections; and

(5) whether a mechanism is in place to (i) ensure that the contractors of the projects will adopt the various mitigation measures according to the contractual requirements, and (ii) impose penalties on the contractors who have breached the contractual requirements; if so, of the details; if not, whether it will establish such a mechanism?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my reply to the various parts of Mr CHU Hoi-dick's question is as follows:

(1) and (2)

A fry release trial was conducted on 5 September 2014 in the waters near the Brothers, with a total of about 40,000 fry of Yellow Croaker and about 60,000 fry of Threadfin released. The release trial was conducted by China Harbour Engineering Company Limited, the contractor of reclamation works for the Hong Kong Boundary Crossing Facilities of the Hong Kong-Zhuhai-Macao Bridge ("HZMB") of the Highways Department ("HyD"). The trial was covered by variation order under the contract terms.

The key factors considered in selecting the fry species to be released in the trial in 2014 included: whether they were native species adaptive to Hong Kong's western waters and whether they were fries provided by artificial incubation facilities in neighbouring areas, etc. Ten native fry species were considered in the release trial, such as
Yellow Croaker, Threadfin and Groupers (Longtooth Grouper and Orange-Spotted Grouper), etc. Upon consideration of various factors and in consultation with the Agriculture, Fisheries and Conservation Department ("AFCD"), HyD reckoned that the fries of Yellow Croaker and Threadfin were the most suitable species for the release trial.

As the major purpose of the release trial was to gather information on the detailed arrangements (such as the time the fry supplier needed to deliver the fry to Hong Kong, the mortality rate of the fry during the delivery and important points to note during the delivery) and is not a formal release to enhance fisheries resources, HyD did not take any monitoring action after the trial.

In terms of the species of fry to be selected for the future formal release, there are more factors to be considered when compared to the trial in 2014. Taking into account various factors, the marine biology consultants commissioned by HyD proposed releasing fry of Hong Kong Grouper and Longtooth Grouper, in anticipation that these two species will help revive the fisheries resources in Hong Kong's western waters.

When HyD consulted the Country and Marine Parks Board ("the Board") in July 2017 on the preliminary proposal for the fry release, the Board expressed concerns about the species of fry to be released, worrying that the proposed release of Hong Kong Grouper fry and Longtooth Grouper fry might have an adverse impact on the existing fishery community at the location of release. The Board therefore suggested that HyD should reconsider the suitable species of fry to be released. The marine biology consultants commissioned by HyD are currently deliberating on the comments of the Board, and are discussing with relevant departments. The Board will be consulted again on the fry release proposal in due course. Since the fry release programme is still subject to study and consultation, the relevant tendering exercise will only commence after further consultation with the Board.
(3) For the purpose of its programme of fry release, HyD had drawn reference from the AFCD's fish restocking trial at the sites with artificial reefs deployment in the eastern waters of Hong Kong in 2001. However, it was noted that the waters for the AFCD's restocking trial were different from the waters and environment planned for the HyD's formal release of fry, making the AFCD's trial of limited reference value for HyD's programme of fry release. Hence, it was necessary for HyD to conduct a fry release trial in 2014 to collect data on the feasibility and operational details of releasing fry in the western waters, especially the waters around the Brothers. The data, including the logistics arrangements and the procedure for releasing fry mentioned above, are used to facilitate the preparatory work for the formal fry release in the future.

(4) Prior to the construction of the Hong Kong section of HZMB, HyD had conducted baseline environmental monitoring in accordance with the Environmental Impact Assessment ("EIA") Report. The aim was to gather data on the water quality and Chinese white dolphins at the waters in the vicinity of the construction sites before the commencement of the project, thereby enabling assessment of the environmental impact on neighbouring areas during the construction stage.

During the construction stage, HyD has been strictly implementing environmental monitoring and audit programme as required by the EIA Report and the Environmental Monitoring and Audit Manual. The programme includes regular monitoring of the water quality of the waters in the vicinity of the construction sites (three times per week, including one time during high tide and one during ebb tide) and the conditions of Chinese white dolphins (two times per month), etc. The programme is carried out by the resident engineer, the Environmental Team, the Independent Environmental Checker and the Environmental Project Office. The Chinese white dolphin experts in the Environmental Team are responsible for monitoring the distribution and number of Chinese white dolphins. The monitoring data and investigation reports are attached to the quarterly environmental monitoring and audit report released by
HyD, and are uploaded to the website of the HyD's Environmental Project Office <www.hzmbenpo.com> for public viewing.

(5) During the construction stage, apart from the above mentioned environmental monitoring and audit programme, the contractors shall also carry out works in accordance with the requirements in the environmental permit and the Environmental Monitoring and Audit Manual, and strictly implement the measures set out in the EIA report to mitigate the environmental impact. HyD will closely monitor the performance and effectiveness of the measures undertaken by the contractors to ensure proper implementation of the relevant environmental protection measures.

If the results turn out to be unsatisfactory, HyD will review whether the problem is related to the performance of the contractors and will take appropriate follow-up actions. HyD will impose penalties according to the existing mechanism, including reflecting the unsatisfactory performance in the assessment report of the contractors. Moreover, as stated in the Contractor Management Handbook and the Development Bureau Technical Circular (Works) No. 3/2009, HyD can issue warning letters to contractors who violate environmental protection laws or whose performance in implementing environmental protection measures are unsatisfactory, suspend them from tendering for public works, or even remove them from the Lists of Approved Contractors, etc.

Measures to boost Hong Kong's international trade of precious metals

8. **MR CHRISTOPHER CHEUNG** (in Chinese): President, in order to boost Hong Kong's international trade of precious metals, the authorities established the Precious Metals Depository at the Hong Kong International Airport ("HKIA") in 2009. Some persons-in-charge of companies which engage in the refining and international trade of precious metals have relayed to me that due to the high value of precious metals, the import and export declaration charges on precious metals have put a huge burden on their operating costs and weakened Hong Kong's competitive edge in the international trade of precious metals. In this connection, will the Government inform this Council:
(1) of the respective revenues from declaration charges on imports and on exports of precious metals as well as the year-on-year percentage changes of such revenues in each of the past five years;

(2) given that the declaration charges on imports and exports of gold bars of 995.0 fineness or above have been exempted since 2007, whether the Government has assessed the positive effect of such an exemption measure on boosting the import and export trades of such goods;

(3) whether it knows the current average storage quantity and utilization rate of the Precious Metals Depository at HKIA; and

(4) given that Singapore, a major competitor of Hong Kong, abolished the declaration charges on imports and exports of precious metals in 2012, whether the Government will consider, apart from exempting the declaration charge of gold bars of 995.0 fineness or above, also reducing or waiving the declaration charges on imports and exports of other precious metals (e.g. gold and silver bullions), so as to reduce the operating costs of the relevant trades and enhance the competitiveness of Hong Kong in the international trade of precious metals; if so, of the details; if not, the reasons for that?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the Government announced in 2006 that, in view of the proposal of the Airport Authority Hong Kong ("AAHK") at that time to establish a gold depository at the Hong Kong International Airport, the Administration would consider providing a concession in trade declaration charges for gold with a view to supporting the development of Hong Kong as a logistics hub and gold trading centre. The Government amended the law in 2007 to exempt the trade declaration charge for the imports and exports of gold bars of 995.0 fineness or above.

In consultation with the relevant Policy Bureaux, I provide a consolidated reply to the various parts of the question as follows:
(1) The quantity and value of gold (covering gold bars), silver and platinum imported into and exported out of Hong Kong in the past five years are provided at Annex. Breakdown of revenue from trade declaration charge by types of commodities (such as precious metal) is not available.

(2) The trade declaration charge for importing and exporting gold bars of 995.0 fineness or above has been exempted since 9 February 2007. The quantity of gold bars of 995.0 fineness or above imported into and exported out of Hong Kong increased from around 200,000 kg (valued at $37 billion) in 2007 to nearly 2 million kg (valued at $615.5 billion) in 2017. While recognizing that the trade volume of gold bars is subject to many economic factors, we consider that the aforementioned exemption was conducive to Hong Kong's trade of importing and exporting gold.

(3) According to the Transport and Housing Bureau, the Hong Kong International Airport Precious Metals Depository Limited ("the Depository") is wholly owned by AAHK and commenced its operation in 2009. Its major clients include both local and international financial institutions and institutional investors. According to the information provided by AAHK to the Transport and Housing Bureau, similar to other precious metals facilities in the world with high-security arrangements, the Depository is not able to disclose the inventory balance and the actual utilization rate due to security reasons.

(4) Payment of trade declaration charges is required when making trade declaration for imports and exports, with the exception of a few individual items. The rate of trade declaration charges in Hong Kong has been maintained at a very low level. Nevertheless, we will review the arrangements when the situation warrants.

According to the Financial Services and the Treasury Bureau, trade declaration charges are not applicable to precious metal-related financial products currently traded on a recognized stock or futures exchange in Hong Kong.
Annex


<table>
<thead>
<tr>
<th>Year</th>
<th>Gold (including but not limited to gold bars)$^{(1)}$</th>
<th>Silver$^{(2)}$</th>
<th>Platinum$^{(3)}$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quantity (in kg)</td>
<td>Value (in $ million)</td>
<td>Quantity (in kg)</td>
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<td>1,344,379</td>
<td>5 354 135</td>
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<tr>
<td>2014</td>
<td>2 662 678</td>
<td>813,125</td>
<td>6 856 035</td>
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<tr>
<td>2015</td>
<td>2 261 981</td>
<td>629,257</td>
<td>4 320 838</td>
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<tr>
<td>2016</td>
<td>2 179 357</td>
<td>648,877</td>
<td>4 473 531</td>
</tr>
<tr>
<td>2017</td>
<td>2 123 534</td>
<td>635,448</td>
<td>8 119 668</td>
</tr>
</tbody>
</table>

Notes:

1. Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form. This category includes but is not limited to gold bars.

2. Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form.

3. Platinum, unwrought or in semi-manufactured forms, or in powder form.

Sealing up the gaps between paving blocks around the trees on pavements

9. **MR CHAN CHI-CHUEN** (in Chinese): *President, according to paragraph 6(iv) of the Guideline on Pavement Renovation Works and Tree Stability issued in April 2013 by the Greening, Landscape and Tree Management Section of the Development Bureau, the authorities recommend that for the healthy growth of trees in paved area, removable and permeable paving blocks should be used on the sand base around trees. However, I have recently received complaints from members of the public that certain government departments often apply glue to seal up the gaps between paving blocks ("gap sealing") around the trees on pavements. They were concerned that this practice will hinder the tree roots from absorbing sufficient rainwater and air, thus jeopardizing the health of the trees. In this connection, will the Government inform this Council:
(1) among the gap sealing works carried out in the past two years by various government departments, of the number of those the scope of which covered paving blocks within the canopy spread of trees, with a breakdown by reason for carrying out the works;

(2) whether it conducted in the past three years any study on the impacts of sealing up the gaps between paving blocks around trees on the health of the trees; if so, of the details; if not, the reasons for that; and

(3) whether it will issue guidelines to various government departments to provide that the gaps between paving blocks within the canopy spread of trees must not be sealed up in order to avoid jeopardizing the health of the trees?

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Greening, Landscape and Tree Management Section of the Development Bureau promulgated the Guideline on Pavement Renovation Works and Tree Stability ("the Guideline") in April 2013. Paragraph 6(iv) of the Guideline recommends that flexible and permeable paver blocks, instead of concrete cover, should be used for tree pits. The intention of this provision is to facilitate removal of the pavers around the tree pits to allow more room for the growth and spread of tree roots, and not to provide an alternative means of air and water supply for tree growth.

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

(1) In the past two years, Joint Stabilizing Sealant ("JSS") was applied to seal up the gaps between paver blocks at 67 street locations with trees within the territory (see Annex). JSS was applied as part of routine maintenance works to strengthen paver blocks in order to address different pavement issues, such as preventing uneven settlement that would affect pedestrian safety, avoiding sand loss caused by cleansing with high-pressure water jets and forestalling the growth of moss and weeds in the gaps between paving blocks. We have not compiled statistics on the application of JSS by the reasons outlined above.
Openings are provided around a tree pit before actual tree planting to supply water and air needed for its healthy growth. While water and air may seep through the gaps between paver blocks, these are not the primary sources of water intake for trees. Application of JSS would not jeopardize the health of trees. The practice is consistent with paragraph 6(iv) of the Guideline as sealed paver blocks can be removed as and when trees grow in size. At present, we have no plan to conduct study on the possible impact of sealing the gaps between paver blocks on tree health. Sealing the gaps between paver blocks can prevent uneven ground settlement and sand loss, and help protect pedestrian safety. This method is also used around the world. We will continue to adopt this method in the maintenance of paved areas as and when appropriate and necessary.

Annex

Street locations where Joint Stabilizing Sealant was applied on paved areas with tree pits in the past two years

1. Ferry Street
2. Waterloo Road near Kwong Wah Hospital
3. Ping Ting Road East
4. Fung Shing Street (from lamp pole AA6062 to AA7524)
5. La Salle Road
6. Oxford Road (between Hereford Road and Lancashire Road)
7. Boundary Street (between College Road and Grampian Road)
8. Argyle Street (between Waterloo Road and Kowloon City Roundabout)
9. Baptist University Road
10. Renfrew Road
11. Tung Lei Road
12. Kadoorie Avenue
13. Hereford Road
14. Beacon Hill Road (between Ede Road and House no. 45)
15. Che Fong Street
16. Fung Shue Wo Road
17. Chi Cheong Road
18. Chi Fuk Circuit
19. Jockey Club Road
20. Jockey Club Road (Sheung Shui Bound)
21. Pik Fung Road
22. San Wan Road
23. Sha Tau Kok Road—Lung Yeuk Tau section
24. Sha Tau Kok Road—Ma Mei Ha section
25. Wo Muk Road
26. Mei Tin Road
27. On Cheung Road
28. Plover Cove Road
29. Tai Mei Tuk Road
30. Tai Po Tai Wo Road
31. Castle Peak Road—Lingnan and Fu Tei Road
32. Castle Peak Road—Tai Lam section
33. 2 Tsing Ho Square (between Lai Po Building and lamp pole no. AD0453)
34. San Tsing Street
35. Tsing Ho Square (between lamp pole nos AD0452 and AD0454)
36. Tuen Mun Heung Sze Wui Road
37. Tuen Tsing Lane
38. Hoi On Road
39. Hoi Shing Road
40. Tsuen Wan Market Street (side lane to Shiu Wo Street)
41. Footpath at Hung Nga Road
42. Footpath at Hung Tai Road, Hung On Lane, Hung Shui Kiu Tin Sam Road and Hung Yuen Road
43. Fung Cheung Road
44. Fung Kam Street
45. Fung Ki Road
46. Fung Kwan Street
47. Fung Yau Street North
48. Hung Tai Road
49. Hung Yuen Road
50. Kin Lok Street
51. Kin Yip Street
52. Lam Hau Tsuen Road
53. Tong Yan San Tsuen West Road (from the lamp pole nos. CD0893 to AD5713, both kerb sides of the footpath)
10. **MR IP KIN-YUEN** (in Chinese): President, according to the findings of Progress in International Reading Literacy Study ("PIRLS"), the reading attainment score of Hong Kong Primary Four students in 2016 ranked the third among the 50 participating countries and places around the globe. However, the attitudes of Hong Kong students towards reading (including Students Like Reading, Students Confidence in Reading and Students Engaged in Reading Lessons) were unsatisfactory. On the other hand, in the Basic Education Curriculum Guide prepared by the Curriculum Development Council in 2002, "reading to learn" was introduced as one of the four key tasks for achieving learning to learn. Regarding the promotion of a reading culture among students in schools, will the Government inform this Council:

(1) of the plans and measures implemented in each of the past five school years by the Education Bureau ("EDB") in schools to promote a reading culture among students, and set out the relevant information and expenditure by type of school (i.e. primary, secondary and special);

(2) whether a mechanism is currently in place to regularly evaluate the effectiveness of schools in its work on promoting a reading culture among students;
(3) whether schools are currently required to submit to EDB, on a yearly basis, a report on their work on promoting a reading culture among students; if so, whether the reports received in the past five school years can be made public; if there is no such a requirement, whether there was in the past; if so, when the requirement was removed;

(4) whether it knows, in each of the past five school years, the average figures on the following which relate to school libraries (with a breakdown by type of school):

(i) circulation,

(ii) library collections,

(iii) number of days opened, and

(iv) attendances;

(5) whether it knows, in each of the past five school years, the following information relating to teacher-librarians (with a breakdown by type of school):

(i) the number of teacher-librarians in service (with a breakdown by academic qualification and year of service),

(ii) the number of new recruits,

(iii) the average number of hours of in-service training received,

(iv) the average weekly number of hours of teaching undertaken, and

(v) the average weekly number of hours of administrative duties undertaken;

(6) whether it knows, in each of the past five school years:

(i) the number of schools in which teaching assistants, parent volunteers or student volunteers were engaged to provide students reading support, and
(ii) the number of schools in which efforts were made to promote the collaboration of reading with other subjects and to promote a reading culture among students; and

(7) given that while it is stated in the chapter on "Reading to Learn" in the Basic Education Curriculum Guide (2014) that schools should deploy teacher-librarians to take up professional duties, EDB at present does not provide any guideline on the teaching load and administrative duties for teacher-librarians, whether EDB will:

(i) review the School Library Services Development, including the objectives of school library services and the functions of teacher-librarians; if so, of the details and timetable; if not, the reasons for that; and

(ii) specify, in clear terms, the maximum teaching load for teacher-librarians, so that they can focus on the provision of school library services, and to properly perform their roles as an information and media specialist, teachers' teaching partner, curriculum facilitator and teaching resources coordinator; if so, of the details and timetable; if not, the reasons for that?

SECRETARY FOR EDUCATION (in Chinese): President, "Reading to Learn" has been adopted as a Key Task since the curriculum reform in 2001. We have been striving to develop students' reading abilities and interest through different means with a view to further enhancing their capacity for lifelong learning and whole-person development.

Throughout the years, many schools have been implementing a variety of reading activities of different scales including morning reading, story sharing, parent-child reading, reading corner, mobile library, reading award scheme, Reading Day, book exhibition, writers' talk etc., all of which are conducive to the promotion of a reading culture as well as the nurturing of a reading interest and habit in students. Schools have also been encouraging students to make the most of information technology for extensive reading through different types of reading materials. Many schools have collaboration established among the Chinese Language and English Language as well as other subjects to implement theme-based project learning and reading activities to help students consolidate
their learning in language lessons and apply this on what they learn in other subjects to enhance overall learning effectiveness.

According to the findings of the Progress in International Reading Literacy Study in 2016, Hong Kong students achieved an overall score of 569 (the average international score was 500), which was considered outstanding by international standards, and Hong Kong ranked third out of the 50 countries and regions participating in the study. However, there is still room for development regarding students' interest and motivation in reading.

Our reply to Mr IP's seven questions is as follows:

(1) to (4)

To align with the rationale behind school self-evaluation (i.e. planning, implementation and evaluation) and facilitate schools' sustainable development, the Education Bureau has been encouraging schools to strategically formulate their School Development Plan and Annual School Plan holistically for their major concerns (e.g. promotion of reading), review their effectiveness in a timely manner and seek improvement. The evaluation data concerned are intended for schools' self-evaluation only and need not be submitted to the Education Bureau. Nor does the Education Bureau collect from schools data on the annual average number of books on loan, the number of library books, the number of opening days of school libraries, the frequency of use, etc. On the other hand, the Education Bureau will continue to gain an understanding of schools' progress of work in various aspects and provide professional advice through External School Review, school-based support services, curriculum development visits, etc. The Education Bureau will provide teachers with different kinds of support as necessary, e.g. sharing sessions on good practices, workshops and seminars, with a view to deepening teachers' knowledge of the strategies for promoting reading.

The Education Bureau has been supporting the learning and teaching at schools through diversified measures. The promotion of reading is a regular task in curriculum development and the expenses on this has been absorbed in the Education Bureau's recurrent expenditure, the breakdown of which is not available.
The Education Bureau establishes good communication and professional dialogue with schools through curriculum development visits, school visits, and focus group interviews etc. We do not collect statistics on the number of schools with teaching assistants, parent volunteers or student librarians. Nor do we collect information on the number of schools that promote reading in collaboration with subjects or that on promoting a culture of reading in students. We understand that many schools train their students to become student librarians. Primary schools also bring in parent volunteers to be story aunties/uncles to assist the schools in promoting reading.

The details about the librarians in public sector schools are as follows:

In the past five school years (i.e. 2012-2013 to 2016-2017 school years), there are about 440 in-service teacher-librarians in primary schools per year, and about 370 teacher-librarians in secondary schools per year. The figures are similar each year. About 90% of teacher-librarians possess university qualifications or above. The figures are about the same for primary and secondary schools.

There are less than 1% of newly-joined teachers who work as teacher-librarians in primary or secondary schools. About 70% of the teacher-librarians in secondary schools teach 16\(^{(1)}\) lessons or less in each cycle whereas about 30% of those in primary schools teach 16\(^{(1)}\) lessons or less in each cycle. The Education Bureau does not have the statistics on the average year of service, average in-service training hours, and time spent on administrative duties each week of the teacher-librarians.

The objectives of school library service and the roles of the teacher-librarian were stated in the curriculum document Basic Education Curriculum Guide—To Sustain, Deepen and Focus on Learning to Learn (Primary 1 to 6) (2014). The Education Bureau web page entitled The Development of School Library Services in the New Century quoted the objectives and roles as outlined in this document. The Education Bureau put the related objectives into

\(^{(1)}\) The number includes library lessons to be undertaken by the teacher-librarians.
practice, evaluating their direction and effectiveness on an ongoing basis through different channels that include the organization of professional development programmes, focus group interviews, pilot schemes and seed projects, the conduct of school visits and curriculum development visits, as well as the provision of resource packages. At the same time, the curriculum documents are updated in a timely manner. For instance, Chapter 7 of the Basic Education Curriculum Guide—To Sustain, Deepen and Focus on Learning to Learn (Primary 1 to 6) (2014) has suggested for the school head/deputy head to ensure that sufficient capacity and space would be provided to the teacher-librarian so that they could carry out his/her major roles and responsibilities effectively. This suggestion has also been reiterated in Chapter 10 of the Secondary Education Curriculum Guide published in 2017.

Teacher-librarians are primarily responsible for planning and managing the daily operation of the school libraries so that the role of a school library as a learning centre can be actualized. In general, teacher-librarians are also responsible for the library lessons, the content and number of which are school-based and dependent on students' need. Library lessons are also designed to match with the objectives of different subject curricula to enhance the effectiveness of learning and teaching. To enable teacher-librarians to further understand students' learning needs in the subject curricula, and facilitate the planning and management of school library services, schools could discuss with teacher-librarians in taking up teaching duties other than library lessons on a need basis. However, such arrangement should not interfere with the teacher-librarians' role in carrying out the work related to the libraries. The planning and deployment of human resources in individual schools should be school-based and in line with the development strategies, with promoting students' learning as the key emphasis. The Education Bureau reiterates that schools should adhere to the principle that "the benefit and interest of students have been given full consideration" when setting out the criteria for allocation of work. The Education Bureau will continue to strengthen the school leaders' understanding on the work of teacher-librarians and how their work should be suitably allocated through the existing channels, in order to ensure that the role of the teacher-librarians as well as the role of the school library as a learning centre could be fully actualized. The Education Bureau
has no intention of setting a limit for the maximum number of teaching periods for teacher-librarians for the time being, but we will keep in view on whether teacher-librarians are given sufficient space and capacity to carry out their duties effectively. A more detailed guide on the duties of teacher-librarians may be formulated when such need arises.

Promoting the use of electric vehicles and hybrid vehicles

11. **MR KENNETH LAU** (in Chinese): President, it has been reported that since a major taxi manufacturer will cease the production of liquefied petroleum gas ("LPG") taxis shortly, taxi import agents are now planning to introduce LPG-electric hybrid taxis. On the other hand, it is learnt that the London authorities have introduced petrol-electric hybrid taxis and have proceeded with the provision of charging facilities at some lampposts for charging electric vehicles ("EVs"). On promoting the use of electric vehicles and hybrid vehicles, will the Government inform this Council:

(1) whether it knows how the hybrid taxis planned to be introduced by the taxi trade compare with the ones in London in terms of design, function, drive mode, etc.;

(2) of the respective current numbers of registered electric taxis and hybrid taxis;

(3) whether it has plans to encourage taxi, minibus and bus service operators to switch to EVs or hybrid vehicles;

(4) of the respective current numbers of the various types of EVs in the government fleet; and

(5) as the Chief Executive indicated in the Policy Address she delivered in October last year that a pilot Multi-functional Smart Lampposts scheme would be launched at selected urban locations, whether the Government has assessed if the practice of the London authorities to provide charging facilities for EVs at lampposts is feasible in Hong Kong; if it has assessed and the outcome is in the affirmative, of the implementation timetable and the division of work among the various government departments; if the assessment outcome is in the negative, the reasons for that?
SECRETARY FOR THE ENVIRONMENT (in Chinese): President, commercial vehicles ("CVs") account for 95% of the vehicular emissions of respiratory suspended particles and nitrogen oxides, both major air pollutants. To improve roadside air quality, the Government has been implementing measures targeting mainly CVs to reduce vehicular emissions. Such emission reduction measures include phasing out old diesel CVs, strengthening the emission control of liquefied petroleum gas ("LPG") and petrol vehicles, retrofitting franchised buses of earlier models with emission reduction devices, etc. With these measures in place, roadside concentrations of major air pollutants dropped by around 30% over the past five years.

As electric vehicles ("EVs") have no tailpipe emissions, replacing conventional fuel vehicles, especially CVs, with EVs will help improve roadside air quality. To promote the use of electric CVs ("e-CVs"), the Government has exempted the first registration tax ("FRT") in full for e-CVs since 1994, and also set up the $300 million Pilot Green Transport Fund ("PGTF") in 2011 to encourage relevant transport sectors (such as operators of taxis, light buses and non-franchised buses) to try out green innovative transport technologies including e-CVs.

As at the end of January 2018, PGTF approved 118 trials, amounting to some $131 million, and included 81 e-CVs (including single-deck buses, light buses, taxis and goods vehicles) and 85 hybrid CVs (including single-deck buses, light buses and goods vehicles).

(1) The Transport Department is processing an application for vehicle type approval of a LPG-electric hybrid taxi. As the vehicle type approval is still in progress, technical specifications of the vehicle concerned cannot be disclosed at this stage. According to our understanding, the petrol-electric plug-in hybrid taxis used in London of the United Kingdom are not only fuelled by petrol but are also installed with batteries that can be recharged by using external chargers, thereby enabling the taxis to run on electricity for short journeys. The LPG-electric hybrid taxis being introduced to Hong Kong are fuelled solely by LPG with no capacity for external charging.

(2) There are currently one licensed electric taxi and three licensed hybrid taxis in Hong Kong.
(3) As above mentioned, to encourage operators of CVs including taxis, light buses and buses to switch to EVs, the Government has waived FRT in full for e-CVs and has also set up PGTF to encourage the relevant sectors to try out green innovative transport technologies. However, findings of the trials have revealed various technical constraints on the batteries of e-CVs. The hilly terrain in Hong Kong and the need to have air-conditioning during summer also require batteries of e-CVs to have a higher driving range. E-CVs are yet to be able to cope with the normal operational needs of taxis and light buses.

The Government is fully subsidizing the franchised bus companies to purchase 36 single-deck electric buses for trial on a number of routes to assess their operational efficiency and performance under the local conditions. Currently, 22 battery-electric buses and two supercapacitor buses have commenced operation. It is expected that most of the remaining electric buses will progressively commence operation within this year. If the trials are successful, the Government will encourage the franchised bus companies to use electric buses on a larger scale, taking into account affordability of the bus companies and passengers.

As for hybrid vehicles, the hybrid light buses tried out under PGTF have so far incurred fuel expense savings of only 4% or less as compared with their conventional counterparts. Besides, the Government has fully subsidized the franchised bus companies to purchase six double-deck hybrid buses for trials, yet their performance was only comparable to conventional diesel buses, showing no significant advantages. The Government will continue to encourage vehicle suppliers to introduce e-CVs and hybrid CVs suitable for use by the local transport sectors, and invite the sectors to apply for trials of green innovative transport technologies under PGTF.

(4) Figures on government EVs by vehicle type as at the end of December 2017 are at the Annex.

(5) The Government plans to launch the pilot Multi-functional Smart Lampposts scheme in 2019 to collect various real-time city data at selected urban locations to enhance city and traffic management, and
at the same time provide data network and digital facilities. The Office of the Government Chief Information Officer, the Highways Department and other relevant departments have formed an inter-departmental task force to explore the facilities and applications that can be made available at Smart Lampposts.

Moreover, the Environmental Protection Department is conducting a pilot scheme at four government open car parks (located at the Electrical and Mechanical Services Department Headquarters, Hong Kong Wetland Park, Wai Tsuen Sports Centre and Shek Kip Mei Park) managed by contractors, where a total of 11 outdoor medium chargers have been installed to assess their reliability. We will review the findings of the pilot scheme in 2018 to consider whether more outdoor chargers can be installed in other government premises.

In the light of the rapid changes in the usage of EVs, the Government is reviewing various policies and measures on promoting the use of EVs. Our efforts include exploring ways to encourage installation of charging facilities to tie in with the usage of EVs.

Annex

Figures on Government Electric Vehicles by Vehicle Type as at the end of December 2017

<table>
<thead>
<tr>
<th>Vehicle Type</th>
<th>Number of Electric Vehicles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Car</td>
<td>174</td>
</tr>
<tr>
<td>Motor Cycle</td>
<td>63</td>
</tr>
<tr>
<td>Small Van</td>
<td>4</td>
</tr>
<tr>
<td>Medium Van</td>
<td>13</td>
</tr>
<tr>
<td>Light Bus</td>
<td>0</td>
</tr>
<tr>
<td>Bus</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>254</strong></td>
</tr>
</tbody>
</table>
Defaults on payment of public hospital charges by Non-eligible Persons

12. DR CHENG CHUNG-TAI (in Chinese): President, it has been reported that the problem of Non-eligible Persons ("NEPs") defaulting on payment of public hospital charges has been serious in recent years. The amounts of unpaid medical fees owed by non-local pregnant women after giving birth in public hospitals and written off by the Hospital Authority ("HA") in 2015-2016 and 2016-2017 were $6.1 million and $4.7 million respectively. Besides, in 2015-2016, an NEP did not pay any fees despite having been hospitalized for more than 100 days. On preventing NEPs from defaulting on payment of public hospital charges, will the Government inform this Council if it knows:

(1) the number of cases in each of the past five financial years in which NEPs defaulted on payment of public hospital charges and the total amount involved, with a breakdown by specialty;

(2) whether HA has considered adopting new measures to recover arrears from NEPs; and

(3) given that HA recorded an operating deficit of $1.5 billion in 2016-2017, whether HA will consider implementing a measure that NEPs "must make payment before receiving treatment", in order to avoid deterioration of the problem of operating deficit caused by bad debts?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to various parts of the question raised by Dr CHENG Chung-tai is as follows:

(1) Public health care services in Hong Kong are heavily subsidized by the Government, targeting at local Eligible Persons (mainly holders of Hong Kong Identity Card). Apart from emergency services, medical institutions of the Hospital Authority ("HA") will consider providing non-emergency services for Non-Eligible Persons ("NEPs") on a case by case basis only when there is spare service capacity and the services provided for local residents will not be affected. The rates of charges applicable to NEPs will apply.
The number of write-off cases involving NEPs in each of the past five years and the amount of fees so written off are set out as follows:

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Obstetrics and gynaecology (&quot;O&amp;G&quot;) services provided</th>
<th>Non-O&amp;G services provided</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of cases</td>
<td>Amount of fees written off ($ million)</td>
</tr>
<tr>
<td>2012-2013</td>
<td>379</td>
<td>10.2</td>
</tr>
<tr>
<td>2013-2014</td>
<td>188</td>
<td>8.6</td>
</tr>
<tr>
<td>2014-2015</td>
<td>127</td>
<td>7.6</td>
</tr>
<tr>
<td>2015-2016</td>
<td>97</td>
<td>6.1</td>
</tr>
<tr>
<td>2016-2017</td>
<td>88</td>
<td>4.7</td>
</tr>
</tbody>
</table>

(2) and (3)

HA has put in place an established mechanism to minimize default on payment of medical fees. Relevant measures include:

(i) requiring NEPs to pay a specified amount of deposit upon admission to hospital (except for emergency cases);

(ii) issuing interim bills to patients once every three days during their hospitalization and reminding patients or their family members to settle the bills;

(iii) issuing final bills to patients upon their discharge or mailing the bills to the Hong Kong or overseas addresses provided at registration. If the bills remain outstanding after the patients' discharge, patients or their family members will be reminded through telephone calls for settlement of bills and monthly statements be mailed to the Hong Kong or overseas addresses provided at registration; and

(iv) imposing administrative charges on patients who have failed to settle the bills within a specified period.
If the bills remain outstanding after the above actions have been taken, HA will institute legal actions including submission of cases to the Small Claims Tribunal and commissioning of lawyers to issue letters where appropriate.

As for those NEPs who do not have to be hospitalized after treatment but need assistance with discharge arrangements, HA will contact the Social Welfare Department, or the relevant consulates or the Mainland authorities via the Immigration Department, to make suitable discharge arrangements for them.

HA reviews the mechanism for recovery of medical fees from time to time and keeps in view the modes of payment commonly used in the market to facilitate payment by patients and reduce arrears. For example, the functions of the existing self-payment kiosks have been upgraded in phases and efforts have been made to explore the feasibility of adopting various modes of payment with a view to providing greater convenience for patients to make their payment.

To enable HA to address the staffing issue and service demands arising from a growing and ageing population in a more effective and sustained manner, the Government will introduce a new arrangement to increase the recurrent funding for HA progressively on a triennium basis, having regard to population growth rates and demographic changes.

Guaranteed downtown prices at shops in Hong Kong International Airport

13. **MR LUK CHUNG-HUNG** (in Chinese): *President, it has been reported that since 2004, the Airport Authority Hong Kong ("AA") has invariably included a provision on guaranteed downtown prices in the tenancy agreements for the shops in the airport. Under such provision, the retailers pledge to AA that the prices of the items sold at the shops in the airport will not be higher than those of identical items sold at the same retailers' comparable outlets in Hong Kong operating under the same trade name. In this connection, will the Government inform this Council:*
whether it knows if AA regularly took random samples in the past three years for comparison of the prices of the items sold by the retailers at the shops in the airport and those of identical items sold at their other outlets; if AA did, of the number of such operations and the details; if not, the reasons for that;

whether it knows the number of cases uncovered by AA in the past three years in which airport retailers had breached the aforesaid provision, and the follow-up actions taken by AA; and

as AA has indicated that in the event that a consumer discovers that the price of an item bought in the airport is higher than that of an identical item sold at the same retailer's other outlets on the same day, he may send to AA information such as the original sales receipt and the item purchased within 30 days of the date of purchase and, upon validation, a refund by the retailer will be arranged, whether it knows if AA publicized such arrangement in the past three years; if AA did, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, to enhance travellers' shopping and dining experience at the Hong Kong International Airport ("HKIA") so that they would not worry about the shopping and dining at HKIA would be overpriced, the Airport Authority Hong Kong ("AA") launched the "Guaranteed Downtown Prices" scheme in 2004, which stipulates that the prices set by the retailers and catering outlets at HKIA cannot be higher than other downtown outlets operating under the same trade name and similar nature for the same products or food and beverage items. The relevant requirements are set out in the licence agreements with the retailers and catering outlets at HKIA. Our reply to the various parts of the question raised by Mr LUK Chung-hung is as follows:

In the past three years, an independent survey consultancy commissioned by AA has been conducting regular surveys on the prices of retailers and catering outlets at HKIA. The surveys were conducted by "mysterious shoppers" covering all tenants (except for those only selling products at fixed prices or not having other outlets in Hong Kong). There are about 140 outlets in total. As the
(2) From 2015 to 2017, the surveys covered all retailers and catering outlets at HKIA (except for those only selling products at fixed prices or not having other outlets in Hong Kong). A total of 7,000 items were surveyed to compare the prices of these retailers and catering outlets at HKIA with their outlets in the main downtown commercial areas. According to the survey conducted, from 2015 to 2017, the prices of around 80% of the surveyed items were the same or lower than that in the outlets in the main commercial areas. AA followed up on each and every case of non-compliance and requested for rectification. If any concerned retailers and catering outlets do not make immediate rectification, AA will continue to follow up until the rectification is carried out.

Apart from regular surveys, AA received complaints against individual retailers and catering outlets regarding non-compliance with the requirements. During the three years from 2015 to 2017, AA received seven, four and eight complaints respectively. Should non-compliance be found, AA will request the retailers and catering outlets for rectification.

To strengthen the effectiveness of "Guaranteed Downtown Prices" scheme, AA has tightened the terms and conditions of new licence agreements. Under the new licence agreements, AA reserves its rights to impose penalties on retailers and catering outlets which fail to comply with the requirements. AA may terminate the licence agreement in case of serious violation.

In accordance with AA's current tendering procedures, the past performance of retailers and catering outlets will be taken into consideration during the tender evaluation. AA will consider specifying in the conditions of future tenders that relevant performance and records under the "Guaranteed Downtown Prices" scheme would also be taken into consideration during tender evaluation.
(3) According to the "Guaranteed Downtown Prices" scheme, if a consumer has bought any item at HKIA and found that the price is higher than that of an identical item at the retailers' comparable outlets in Hong Kong operating under the same trade name on the same day, one may contact AA within 30 days from the date of purchase for follow up or refund. At present, information and details on the scheme (including the refund arrangement) can be found on HKIA website. AA will publicize the scheme proactively at the shops at HKIA and through various channels.

The life annuity scheme to be launched by the Hong Kong Mortgage Corporation Limited

14. MR JIMMY NG (in Chinese): President, the Hong Kong Mortgage Corporation Limited ("HKMC") announced in April last year that its Board of Directors had approved in principle to introduce a life annuity scheme ("the Scheme"), under which an annuitant, after making a lump-sum premium payment, would be provided with lifetime monthly payouts. HKMC expects that the Scheme can be launched by the middle of this year at the earliest. In this connection, will the Government inform this Council:

(1) of the latest details of the Scheme, including (i) whether the scale of $10 billion will be expanded in the light of market response, (ii) the method by which annuitants will be selected in case of over-subscription, and (iii) the method for calculating the amount that an annuitant may get back in case of early surrender of his/her policy;

(2) given that since HKMC's announcement of its plan to launch the Scheme, various insurance companies in the private sector have introduced one after another annuity products with novel features (e.g. annuity payouts to be increased progressively with age and the minimum entry age set at 30), whether HKMC will consider introducing annuity schemes with similar arrangements for members of the public to choose; if so, of the details; if not, the reasons for that;
(3) whether HKMC will introduce an annuity scheme under which monthly payouts are linked with the inflation rate, so as to ensure that the purchasing power of the annuity payouts will not be gnawed by inflation; if so, of the details; if not, the reasons for that; and

(4) whether the premium paid and the monthly payouts under the Scheme will be taken into account when the authorities conduct asset and income tests on beneficiaries of various forms of subsidized housing and social welfare initiatives; if so, of the details?

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

(1) The announcement of the introduction of the Life Annuity Scheme ("the Scheme") of the Hong Kong Mortgage Corporation Limited ("HKMC") has attracted widespread public discussion. Subject to prudent risk management principles, HKMC will consider suitably increasing the issuance size of the Scheme if the public response is favourable.

In case of over-subscription of the Scheme, HKMC will adopt balloting for allocation. The detailed mechanism is still under development, and will be announced before the subscription period.

The Scheme is intended to be a long-term retirement product. Annuities should maintain sufficient liquidity for emergency needs. Early surrender may incur a loss as the total amount of the surrender value and the annuity payout received may be less than the premium paid. The surrender value calculation mechanism is being developed. The surrender value will be clearly shown in the Benefit Illustration for Life Insurance Policies, and clear explanation will also be provided during the sales process.

(2) The Scheme is an immediate lifetime-guaranteed fixed-payout annuity with retirees as the main target segment. Notwithstanding having a certain amount of savings, retirees may be worried that there will be no stable income to sustain their long-term living expenses after retirement. In view of considerable demand for this type of investment products in the market, HKMC's top priority is to
provide retirees with a choice so that they can better plan for their retirement and address their longevity risk. At this stage, HKMC has no plan to launch any regular-premium deferred annuity for the younger generation.

(3) The Scheme is intended to be a long-term product. There is currently no instrument available in Hong Kong for hedging inflation risk and such feature would be complicated as well. HKMC considers it more appropriate to first introduce an annuity scheme that is simple and easy to understand for senior adults. Therefore, HKMC has no plan to launch an inflation-linked annuity product at this stage.

(4) At present, different subsidized housing and social security schemes may have varying income and asset assessment mechanisms due to different policy considerations. HKMC believes that relevant departments will regularly review the arrangements and make adjustments as necessary.

Issues relating to bike-sharing rental service

15. MR PAUL TSE (in Chinese): President, it has been reported that within less than a year since bike-sharing rental service was introduced into Hong Kong, six service operators have commenced operation in the market, providing a total of 15 000 bicycles. Several members of the Kwun Tong District Council and the Wong Tai Sin District Council have relayed that with the growing popularity of shared bicycles, the problem of illegal parking of bicycles has spread to Kowloon East. As there is a lack of bicycle parking spaces in public housing estates in the urban areas, a large number of shared bicycles have been illegally parked and abandoned in a number of housing estates, causing obstruction to the residents there. They have also pointed out that there are loopholes in the law enforcement approach taken and the legislation invoked by the government departments concerned against illegal parking of bicycles (those departments only post on the illegally parked bicycles statutory notices of clearance and confiscation of such bicycles, and as long as the bicycle owners remove the statutory notices or move the bicycles a bit away, the departments are unable to take any further law enforcement actions), resulting in a lack of efficiency in their law enforcement efforts. Moreover, they have criticized that the various government departments, in handling problems related to shared
bicycles, have their responsibilities unclearly delineated and shift their responsibilities to one another from time to time, thus aggravating the problem of "the city being surrounded by bicycles" in various districts. On the other hand, as quite a number of members of the public ride bicycles on narrow pavements in urban areas, pedestrians have to dodge these bicycles, which is very dangerous and endangers pedestrian safety. In this connection, will the Government inform this Council:

(1) of the respective numbers of (i) the aforesaid statutory notices issued and (ii) the shared bicycles confiscated, by the authorities in the 18 District Council districts across the territory in the past six months (set out in a table);

(2) as quite a number of members of the public have criticized that the authorities' law enforcement efforts are ineffective, whether the authorities will, in response to public criticism, review the existing policies afresh and formulate performance indicators to ensure effective law enforcement against illegal parking of bicycles;

(3) whether it has considered amending the policy on law enforcement against illegal parking of bicycles, and considered enacting regulations that specially address illegal parking of shared bicycles and impose penalties on the service operators concerned, so as to tackle the problem of illegal parking of bicycles more effectively;

(4) whether it has assessed (i) the reasons why quite a number of members of the public ride bicycles on pavements and (ii) if the authorities' publicity and education efforts in this respect are adequate; if it has assessed, of the details; if it has not assessed, whether it will do so immediately and explore improvement measures;

(5) in view of the sharp increase in the number of shared bicycles in Kwun Tong and Wong Tai Sin districts, whether the authorities have plans to implement the provision of an additional cycle track along the Kwun Tong Promenade and extend such cycle track to the areas near Cha Kwo Ling and Lei Yue Mun; if so, of the details; whether the Government will provide additional cycle tracks at other places in Kowloon East; and
of the government departments to which members of the public may lodge complaints about illegal parking of shared bicycles; whether the authorities will, in view of the surge in the number of complaints about shared bicycles in various districts, set up a complaint hotline to centrally handle such complaints?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my reply to the various parts of Mr Paul TSE’s question is as follows:

(1) to (3)

Since April 2017, some private operators have launched automated bicycle rental service in Hong Kong in the name of "bicycle-sharing", whereby customers may rent and return bicycles anywhere on a self-service basis through smartphone applications. In terms of business nature, there is no fundamental difference between the automated and conventional bicycle rental services, only that the operators adopt different modes of operation.

Pursuant to the Road Traffic (Parking) Regulations (Cap. 374C), no person shall park a vehicle (including a bicycle) in non-designated parking places; nor shall he or she park a vehicle in a parking place for a continuous period of more than 24 hours. In addition, the Land (Miscellaneous Provisions) Ordinance (Cap. 28) prohibits unlawful occupation of unleased Government land, whereas the Summary Offences Ordinance (Cap. 228) prohibits people from leaving any article that may obstruct, inconvenience or endanger any person or vehicle.

In accordance with the above laws, operators and users should not park their automated rental bicycles at inappropriate locations. The Government will follow the established practice in handling illegal parking of bicycles, be they conventional non-automated rental, automated rental, or privately-owned ones.

The Government has all along been concerned about the illegal parking of bicycles and prolonged occupation of public bicycle parking spaces by bicycles (including abandoned ones) and other articles. Departments will arrange clearance operations according
to their respective purviews. The Transport Department ("TD") is responsible for clearing bicycles illegally parked at covered public transport interchanges; the District Lands Offices ("DLOs") concerned are in charge of clearing bicycles illegally occupying unleased Government land; and the Hong Kong Police Force ("HKPF") is tasked to remove bicycles which may pose immediate danger to road users. The time used by departments in handling illegal parking of bicycles will vary having regard to the actual circumstances.

To address the problem of illegal parking of bicycles more effectively, the District Offices ("DOs") concerned would coordinate, where appropriate, joint operations with such departments as DLOs concerned, TD, HKPF and the Food and Environmental Hygiene Department so as to clear the black spots of illegally parked bicycles or misplaced articles.

To more vigorously combat illegal bicycle parking, relevant government departments have been joining forces to implement a trial scheme at Sheung Shui MTR Station since January 2017. During the operations, illegally parked bicycles causing obstruction were removed without notice pursuant to sections 4A and 32(1) of the Summary Offences Ordinance (Cap. 228). The government departments concerned are currently reviewing the effectiveness of the scheme, and will consider whether it is appropriate to extend the scheme to other districts upon the completion of the review.

From July to December 2017, a total of nearly 28 700 legal notices on removal of illegally parked bicycles were issued, and a total of 5 876 illegally parked bicycles, of which about 300 were automated rental bicycles, were removed. Please refer to the Annex for details.

Apart from initiating law enforcement actions, the Government also promotes operators to exercise self-discipline, and has been proactively communicating with individual operators. In this connection, relevant government departments\(^{(1)}\) arranged to meet

\(^{(1)}\) TD, HKPF and DOs attended all the meetings, while the Lands Department attended the meetings in July and September.
with individual operator in June, July and September 2017. In addition to conveying the views of the local community and the District Councils ("DCs"), the government departments also reiterated the need for automated bicycle rental service operations to abide by the relevant laws above, and stressed that the departments would pay close attention to the impact of the operator's bicycle rental activities on the community, and would step up law enforcement actions as necessary.

At the aforesaid meetings, the operator agreed to progressively implement improvement measures. These include displaying conspicuously a telephone hotline on its bicycles so that the public could lodge complaints about illegal parking immediately and its staff could remove the illegally parked bicycles as soon as possible, updating the operator's smartphone applications to display the locations of public bicycle parking spaces, and introducing a concession scheme to encourage bicycle users to park the bicycles properly. We have noticed that individual operator has started to reduce its scale of operation since mid-November 2017 by recalling around 2 000 to 3 000 automated rental bicycles.

On the other hand, individual operators launched their automated bicycle rental services in the urban areas in late 2017. TD has immediately contacted the operators and expressly conveyed to them that given the heavy traffic, narrow and crowded roads, as well as frequent on-street loading and unloading activities in the urban areas, the Government does not encourage the public to use bicycles as a mode of commuting in the urban areas due to road safety considerations. Coupled with the fact there are no comprehensive cycle tracks and on-street cycle parking spaces, TD does not support the operators to promote automated bicycle rental services in the urban areas. We understand that the operators are progressively recalling some of the rental bicycles placed in the urban areas.

TD is following up with the operators on their operation in various districts, particularly the parking arrangements of bicycles in public areas. The Government will continue to closely monitor the operation of automated bicycle rental services in various districts and study the regulatory measures on "bicycle-sharing" in other cities, in particular the parking arrangements for shared bicycles in public
places. We do not preclude further regulating "bicycle-sharing" if necessary, but will need to ensure that the regulatory regime is pragmatic and viable and will not violate the principle of fair competition.

(4) TD and the Police have all along collaborated with the Road Safety Council in organizing publicity and educational activities to heighten safety awareness among the public when cycling, and remind cyclists to adhere to the relevant laws, including prohibition of cycling on footpaths. For instance, the Road Safety Council has produced Announcements in the Public Interest on television and radio, a set of educational videos entitled "Safe Cycling: Rules and Tips", the Road Safety Bulletin promotional publication, as well as booklets on safe cycling. Furthermore, TD has launched a one-stop Cycling Information Centre website to provide to the public information on cycling, including the relevant laws and safety tips.

Having regard to the accident trend and the improper behaviour commonly found among road users, we will continue to devise suitable road safety publicity and educational campaigns so as to further enhance the awareness of road safety among cyclists.

(5) The Government is considering the construction of a cycle track of about 13 km in length in the Kai Tak Development ("KTD"). The proposed cycle track will mostly be located in the open space of KTD, forming part of the parks and promenade. The proposed cycle track alignment will link up a number of attractions in KTD, such as the Kwun Tong Promenade. Moreover, upon the completion of the promenade inside Kwun Tong Action Area and the bridge across the mouth of Tsui Ping River, the cycle track may be further extended to the harbourfront at Cha Kwo Ling. In September to October 2017, the Civil Engineering and Development Department in conjunction with the Leisure and Cultural Services Department consulted, and obtained general support from, the Kowloon City DC, Wong Tai Sin DC, Kwun Tong DC, the Task Force on Kai Tak Harbourfront Development and related cycling organizations on the proposed alignment of the cycle track etc. Relevant government departments will consider how to follow up with the proposal.
(6) If the public have any complaints or enquiries concerning illegal parking of bicycles, they may call the government hotline 1823. Upon receipt of complaints or enquiries, 1823 will refer them to appropriate government departments for follow-up. Apart from telephone calls, the public can also access 1823 services through mobile application, electronic form, email, fax, short message service and post.

Furthermore, TD have asked automated rental bicycle operators to display their service hotlines on the bicycles so that the operators may receive and follow up on the matters raised by the public promptly. As such, the public may also report any illegal parking of bicycles directly to the operators for follow-up action.

Annex

Notices* issued for removal of illegally parked bicycles and number of bicycles removed during clearance operations
(July to December 2017)

<table>
<thead>
<tr>
<th>District</th>
<th>Number of legal notices (for all bicycles)</th>
<th>Number of bicycles removed (number of automated rental bicycles removed shown in brackets)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central and Western</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Wan Chai</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Eastern</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Southern</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Kowloon City</td>
<td>171</td>
<td>57(0)</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>491</td>
<td>85(0)</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Kwai Tsing</td>
<td>344</td>
<td>133(0)</td>
</tr>
<tr>
<td>Yau Tsim Mong</td>
<td>280</td>
<td>72(0)</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>81</td>
<td>51(0)</td>
</tr>
<tr>
<td>Islands</td>
<td>2 485</td>
<td>540(6)</td>
</tr>
<tr>
<td>North</td>
<td>10 559</td>
<td>1 320(70)</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>3 414</td>
<td>820(42)</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>3 059</td>
<td>790(25)</td>
</tr>
<tr>
<td>District</td>
<td>Number of legal notices (for all bicycles)</td>
<td>Number of bicycles removed (number of automated rental bicycles removed shown in brackets)</td>
</tr>
<tr>
<td>---------------</td>
<td>--------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Tai Po</td>
<td>3 677</td>
<td>777(68)</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>92</td>
<td>127(4)</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>1 262</td>
<td>415(27)</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>2 782</td>
<td>689(61)</td>
</tr>
<tr>
<td>Total</td>
<td>28 697</td>
<td>5 876(303)</td>
</tr>
</tbody>
</table>

Note:
* Notices issued under Land (Miscellaneous Provisions) Ordinance (Cap. 28) and Summary Offences Ordinance (Cap. 228)

Regulation of the trading of shark food products

16. **MR KENNETH LEUNG** (in Chinese): President, there are currently eight shark species listed in Appendix II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("the Convention") and regulated under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586). Members of the public must obtain a permit issued by the Director of Agriculture, Fisheries and Conservation before importing, exporting or re-exporting products of regulated shark species; otherwise, they commit an offence. On the other hand, it has been reported that some merchants have deliberately mislabeled the shark species to which their shark fin products belong so as to evade legal liability, resulting in the carriage of regulated shark fin products by airlines and shipping companies without their knowledge. In this connection, will the Government inform this Council:

(1) of the respective quantities of the various types of shark fin products imported, exported and re-exported in each of the past five years, together with a tabulated breakdown by (i) shark species, (ii) place of origin and (iii) destination of the products, as well as (iv) means of transport;

(2) of the (i) number of cases, (ii) total value and (iii) weight, of shark fin products being seized, as they were suspected to be of regulated species, by the Customs and Excise Department ("C&ED") in each of the past five years, together with a tabulated breakdown by
(a) shark species, (b) mode of trade (i.e. import, export or re-export), (c) place of origin, (d) destination of the products, and (e) means of transport; the penalties generally imposed on the convicted persons in such cases, and the roles played by such persons in the trade (e.g. importer or exporter); if the authorities cannot provide such information, of the reasons for that;

(3) of the measures currently adopted by the authorities for regulating the trading of shark fin products in Hong Kong; the number of random sample tests conducted by C&ED on shark fin products imported, exported and re-exported in each of the past five years; whether C&ED has plans to step up law enforcement efforts against the smuggling and illegal trading of shark fin products, including strategically deploying customs officers in various means of transport to conduct sample tests; if so, of the details; if not, the reasons for that;

(4) whether the authorities currently have measures in place to ensure the accuracy of the information in the cargo manifests submitted by product owners to freight companies and C&ED; if so, of the details; whether the authorities will expeditiously review and amend the Hong Kong harmonized system commodity code currently applicable to shark fin products, such as establishing a separate Harmonized Commodity Description and Coding System for shark species which have been listed in Appendix II to the Convention, for identifying the information of those products and their classifications; if so, of the details; if not, the reasons for that;

(5) as some survey findings have revealed that there are food products of at least 76 shark species on sale in the local market, and nearly one-third of them belong to endangered and vulnerable shark species, whether the authorities have plans to adopt additional measures to strengthen the regulation of the trading of regulated shark food products; whether the authorities will consider establishing a mandatory labelling scheme for shark food products to allow consumers to identify clearly whether the shark food products sold by restaurants and dried seafood merchants belong to regulated species; and
(6) as it is learnt that more animal and plant species will be listed in Appendix II to the Convention, whether the authorities have plans to allocate more resources and set up a mechanism to prevent newly listed animal and plant species from being illegally imported into or re-exported from Hong Kong; if so, of the details; if not, the reasons for that?

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

(1) Details of the origin of country, destination of shipment, and the total volume of import, export and re-export of the shark products in the past five years (2013-2017) are set out in Annex 1. The Government does not have the breakdown of the figures based on shark species.

(2) Details of controlled shark fin products seizures in the past five years (2013-2017) are set out in Annex 2.

(3) The Government is committed to protecting endangered species and implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") in Hong Kong through the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance"). There are many species of sharks. Currently, great white shark, basking shark, whale shark, oceanic whitetip shark, porbeagle shark and three species of hammerhead sharks are listed in the Appendix II (species that are not necessarily now threatened with extinction but that may become so unless trade is closely controlled) of CITES and are subject to control under the Ordinance. Besides, four more shark species (silky shark and three species of thresher sharks) have been newly listed in Appendix II to CITES since October 2017. A legislative exercise has been initiated to amend the Ordinance to put the newly listed species (including the above mentioned four species) under the Ordinance.
The trade in controlled shark fins is regulated through the import and export\(^{(1)}\) control in accordance with CITES. Import of shark fins of CITES listed shark species must be accompanied with a valid CITES export permit and be inspected by an authorized officer upon landing. Also, re-export\(^{(2)}\) of shark fins of CITES listed shark species requires a licence issued by the Agriculture, Fisheries and Conservation Department ("AFCD") and the specimen shall be inspected by an authorized officer prior to export.

In the past five years (2013 to 2017), the Customs and Excise Department ("C&ED") and AFCD had conducted 167 joint operations in combating smuggling of shark fin products at the airport, sea boundary and various land boundary control points. Through risk profiling and intelligence analysis, C&ED selects import and export cargo for inspection, and also steps up the checks on passengers, postal parcels and conveyances at various control points and sea boundary. Moreover, C&ED will continue to work closely with AFCD in taking robust enforcement actions against smuggling of endangered species.

\((4)\) According to the Import and Export Ordinance (Cap. 60), carrier shall record all particulars of an import or export cargo in a manifest and submit the manifest within 14 days after the arrival or departure of the vessel, aircraft or vehicle. The carrier shall also submit the manifest, upon request of C&ED, when the vessel, aircraft or vehicle is arriving or leaving Hong Kong. Through risk profiling and intelligence analysis, C&ED selects import and export cargo for inspection. When any person is found to import or export unmanifested cargo, C&ED will conduct investigation of the case and take appropriate enforcement actions which include prosecution and forfeiture of the goods concerned.

\((1)\) In accordance with the Ordinance, "import" means to bring, or cause to be brought, into Hong Kong but does not include to introduce from the sea, whereas "export" means to take, or cause to be taken, out of Hong Kong but does not include to re-export.

\((2)\) In accordance with the Ordinance, "re-export" in relation to a specimen of a scheduled species, means to take, or cause to be taken, out of Hong Kong that specimen after it has been imported.
From time to time, C&ED has also reminded carriers, cargo agents and different industry players about the statutory requirements of the Import and Export Ordinance, which include providing accurate cargo information in the manifest, etc.

To take account of the latest recommendations by the World Customs Organization and cater for local specific needs, the Government reviews the Hong Kong Harmonized System ("HKHS") annually and consults various stakeholders (including government departments, importers/exporters and other organizations) on the proposed amendments to HKHS. In considering the relevant proposed amendments, the Government takes into account a number of consideration factors with reference to the latest situation of international trade, with a view to striking a balance between the reporting burdens of declarants, the demands for trade statistics, and the needs of enforcement.

(5) and (6)

As mentioned above, C&ED has been working closely with AFCD to carry out joint enforcement operations from time to time to combat the illegal import and export of various endangered species, including controlled shark fin. For example, the two departments conducted a joint operation in early 2017 and found four sea consignments mixed with shark fins of controlled shark species. A total of 1,280 kg of shark fins were seized in the operation. AFCD also organized training courses on the identification of newly listed shark species so that the frontline officers of AFCD and C&ED are prepared for the work of the newly-controlled shark species in future. AFCD will continue to work closely with C&ED to combat the illegal import and export of endangered species. From time to time, the two departments will review the resource requirements and request additional resources as required under the existing mechanism.

In order to provide a sufficiently strong deterrent against illicit wildlife trade, 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, the Government had promulgated a new set of penalties for offences convicted on indictment and to increase the penalties under the Ordinance by the Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018, which had just been passed by the Legislative Council on 31 January 2018. A fine of $1 million and imprisonment for seven years will be imposed for indictable offences concerning Appendix II species (including the controlled shark fin products) under the new penalties. We consider the above penalties are high enough to provide a strong deterrent against the illegal wildlife trade and to show that the Government is very serious about deterring these crimes.

Compared with the establishment of a mandatory labelling system, we believe that the promotion of publicity and education would be more effective in raising public awareness of the need to protect endangered species. The Government promulgates the message of sustainable use and protection of endangered species to the schools and the general public through various channels, including announcements through the media, the Internet, advertising, leaflets and posters, as well as participation in various exhibitions and seminars. Also, the Council for Sustainable Development ("SDC") launched a public engagement exercise on promotion of sustainable consumption of biological resources to raise public awareness as well as to solicit views from the community and stakeholders on the promotion of sustainable consumption of biological resources. In June 2017, SDC submitted a report to the Government putting up recommendations on sustainable consumption of biological resources. The Government welcomed the comments and recommendations of SDC and will follow up under the framework of the Hong Kong Biodiversity Strategy and Action Plan 2016-2021. The Government has also taken the lead in adopting sustainable and conservation-conscious menus, including no shark-fin, in official entertainment functions. The Government will also continue to amend the Ordinance in the light of the latest development of CITES and to provide adequate resources to implement the corresponding regulations.
## Annex 1

**Imports of shark fin products by major suppliers**

<table>
<thead>
<tr>
<th>Commodity (1)</th>
<th>Major supplier</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
<td>% share</td>
</tr>
<tr>
<td>Shark fins, dogfish and other sharks, fresh, chilled or frozen (2)</td>
<td>Singapore</td>
<td>756</td>
<td>27.6</td>
<td>705</td>
<td>23.2</td>
<td>843</td>
</tr>
<tr>
<td></td>
<td>Spain</td>
<td>1 235</td>
<td>45.1</td>
<td>1 620</td>
<td>53.4</td>
<td>1 153</td>
</tr>
<tr>
<td></td>
<td>Senegal</td>
<td>126</td>
<td>4.6</td>
<td>56</td>
<td>1.8</td>
<td>135</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>619</td>
<td>22.6</td>
<td>654</td>
<td>21.6</td>
<td>769</td>
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<td></td>
<td>All suppliers</td>
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<td>100.0</td>
<td>3 035</td>
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<td>2 899</td>
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<tr>
<td>Shark fins, dried (2)</td>
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<td>239</td>
<td>9.0</td>
<td>138</td>
<td>5.1</td>
<td>221</td>
</tr>
<tr>
<td></td>
<td>Taiwan</td>
<td>135</td>
<td>5.1</td>
<td>220</td>
<td>8.1</td>
<td>367</td>
</tr>
<tr>
<td></td>
<td>Peru</td>
<td>125</td>
<td>4.7</td>
<td>195</td>
<td>7.2</td>
<td>248</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>2 159</td>
<td>81.2</td>
<td>2 153</td>
<td>79.5</td>
<td>1 969</td>
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<td>100.0</td>
<td>2 805</td>
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<td>Shark fins, in brine or salted, and others</td>
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<td>5</td>
<td>100.0</td>
<td>0</td>
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<tr>
<td></td>
<td>Mexico</td>
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<td></td>
<td>All suppliers</td>
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<td>100.0</td>
<td>5</td>
<td>100.0</td>
<td>0</td>
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<tr>
<td>Shark fins, prepared or preserved (2)</td>
<td>Taiwan</td>
<td>15</td>
<td>88.9</td>
<td>12</td>
<td>97.0</td>
<td>12</td>
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<tr>
<td></td>
<td>Japan</td>
<td>§</td>
<td>1.7</td>
<td>§</td>
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<td>12</td>
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<td>13</td>
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</tbody>
</table>

**Notes:**

1. Classification corresponding to the Hong Kong Harmonized System commodity codes.
2. Major suppliers are selected based on import quantity in 2017.
3. Figures may not add up to total due to rounding.

## Re-exports of shark fin products by major destinations

<table>
<thead>
<tr>
<th>Commodity (1)</th>
<th>Major destinations</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
<td>% share</td>
</tr>
<tr>
<td>Shark fins, dogfish and other sharks, fresh, chilled or frozen (2)</td>
<td>Vietnam</td>
<td>344</td>
<td>42.8</td>
<td>458</td>
<td>54.1</td>
<td>278</td>
</tr>
<tr>
<td></td>
<td>Macao</td>
<td>37</td>
<td>4.7</td>
<td>31</td>
<td>3.7</td>
<td>53</td>
</tr>
<tr>
<td></td>
<td>Singapore</td>
<td>90</td>
<td>11.2</td>
<td>94</td>
<td>11.1</td>
<td>87</td>
</tr>
<tr>
<td></td>
<td>Others</td>
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<td>41.3</td>
<td>264</td>
<td>31.2</td>
<td>293</td>
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<tr>
<td></td>
<td>All destinations</td>
<td>804</td>
<td>100.0</td>
<td>847</td>
<td>100.0</td>
<td>711</td>
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</table>
## Exports of shark fin products by major destinations

<table>
<thead>
<tr>
<th>Commodity(1)</th>
<th>Major destinations</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
</tr>
<tr>
<td>Shark fins, dried(2)</td>
<td>Vietnam</td>
<td>987</td>
<td>82.5</td>
<td>1 002</td>
<td>84.2</td>
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<tr>
<td></td>
<td>Macao</td>
<td>40</td>
<td>3.4</td>
<td>41</td>
<td>3.4</td>
<td>35</td>
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<td></td>
<td>Thailand</td>
<td>28</td>
<td>2.3</td>
<td>43</td>
<td>3.6</td>
<td>46</td>
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<tr>
<td></td>
<td>Others</td>
<td>141</td>
<td>11.8</td>
<td>104</td>
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<td>146</td>
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<tr>
<td></td>
<td>All destinations</td>
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<td>1 190</td>
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<td>1 300</td>
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<tr>
<td>Shark fins, prepared or preserved(2)</td>
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<td>84.3</td>
<td>§</td>
<td>15.3</td>
<td>§</td>
</tr>
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<td></td>
<td>The Mainland of China</td>
<td>§</td>
<td>0.5</td>
<td>§</td>
<td>2.9</td>
<td>0</td>
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<tr>
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<td>Others</td>
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<td>0.5</td>
<td>§</td>
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<tr>
<td></td>
<td>All destinations</td>
<td>3</td>
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<td>1</td>
<td>100.0</td>
<td>1</td>
</tr>
</tbody>
</table>

### Notes:

1. Classification corresponding to the Hong Kong Harmonized System commodity codes.
2. Major destinations are selected based on re-export quantity in 2017.
3. Figures may not add up to total due to rounding.

---

(1) Classification corresponding to the Hong Kong Harmonized System commodity codes.

(2) Major destinations are selected based on re-export quantity in 2017.

(3) Figures may not add up to total due to rounding.
### Commodity(1) Major destinations

<table>
<thead>
<tr>
<th>Commodity(2)</th>
<th>USA</th>
<th>The Mainland of China</th>
<th>Others</th>
<th>All destinations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shark fins, prepared or preserved</td>
<td>2</td>
<td>§</td>
<td>§</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>81.6</td>
<td>§ 14.8</td>
<td>§ 3.6</td>
<td>100.0</td>
</tr>
<tr>
<td></td>
<td>65.0</td>
<td>§ 29.4</td>
<td>§ 5.6</td>
<td>100.0</td>
</tr>
<tr>
<td></td>
<td>68.6</td>
<td>§ 31.4</td>
<td>0</td>
<td>100.0</td>
</tr>
<tr>
<td></td>
<td>60.1</td>
<td>§ 19.5</td>
<td>0</td>
<td>100.0</td>
</tr>
<tr>
<td></td>
<td>§ 73.6</td>
<td>§ 17.0</td>
<td>§ 9.4</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Notes:

§ Less than 500 kg.

1. Classification corresponding to the Hong Kong Harmonized System commodity codes.
2. Major destinations are selected based on total export quantity in 2017.
3. Figures may not add up to total due to rounding.

### Imports of shark fin products by transport mode

<table>
<thead>
<tr>
<th>Commodity(1)</th>
<th>Transport mode</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>'000 kg</td>
<td>%</td>
<td>'000 kg</td>
<td>%</td>
<td>'000 kg</td>
<td>%</td>
</tr>
<tr>
<td>Shark fins,</td>
<td>Water</td>
<td>2 725</td>
<td>99.6</td>
<td>3 010</td>
<td>99.2</td>
<td>2 898</td>
</tr>
<tr>
<td></td>
<td>Air</td>
<td>11</td>
<td>0.4</td>
<td>25</td>
<td>0.8</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>2 736</td>
<td>100.0</td>
<td>3 035</td>
<td>100.0</td>
<td>2 899</td>
</tr>
<tr>
<td>Shark fins,</td>
<td>Water</td>
<td>1 868</td>
<td>70.3</td>
<td>2 063</td>
<td>76.2</td>
<td>2 351</td>
</tr>
<tr>
<td></td>
<td>Air</td>
<td>789</td>
<td>29.7</td>
<td>643</td>
<td>23.8</td>
<td>455</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>§ 0.0</td>
<td>§ 0.0</td>
<td>§ 0.0</td>
<td>§ 0.0</td>
<td>§ 0.0</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>2 658</td>
<td>100.0</td>
<td>2 707</td>
<td>100.0</td>
<td>2 805</td>
</tr>
<tr>
<td>Shark fins,</td>
<td>Water</td>
<td>0</td>
<td>0.0</td>
<td>5</td>
<td>100.0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Air</td>
<td>2</td>
<td>100.0</td>
<td>0</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>2</td>
<td>100.0</td>
<td>5</td>
<td>100.0</td>
<td>0</td>
</tr>
<tr>
<td>Shark fins,</td>
<td>Water</td>
<td>15</td>
<td>90.6</td>
<td>12</td>
<td>100.0</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Air</td>
<td>2</td>
<td>9.4</td>
<td>0</td>
<td>0.0</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>17</td>
<td>100.0</td>
<td>12</td>
<td>100.0</td>
<td>13</td>
</tr>
</tbody>
</table>
Re-exports of shark fin products by transport mode

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Transport mode</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
</tr>
<tr>
<td>Shark fins, dogfish and other sharks,</td>
<td>Water</td>
<td>788</td>
<td>98.0</td>
<td>812</td>
<td>95.9</td>
<td>680</td>
</tr>
<tr>
<td>fresh, chilled or frozen</td>
<td>Air</td>
<td>16</td>
<td>2.0</td>
<td>20</td>
<td>2.4</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>0</td>
<td>0.0</td>
<td>15</td>
<td>1.8</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>804</td>
<td>100.0</td>
<td>847</td>
<td>100.0</td>
<td>711</td>
</tr>
<tr>
<td>Shark fins, dried</td>
<td>Water</td>
<td>1 173</td>
<td>98.0</td>
<td>1 178</td>
<td>99.0</td>
<td>1 286</td>
</tr>
<tr>
<td></td>
<td>Air</td>
<td>24</td>
<td>2.0</td>
<td>11</td>
<td>1.0</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>§</td>
<td>0.0</td>
<td>0</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>1 197</td>
<td>100.0</td>
<td>1 190</td>
<td>100.0</td>
<td>1 300</td>
</tr>
<tr>
<td>Shark fins, prepared or preserved</td>
<td>Air</td>
<td>2</td>
<td>82.7</td>
<td>1</td>
<td>66.9</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Water</td>
<td>§</td>
<td>17.3</td>
<td>§</td>
<td>33.1</td>
<td>§</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>3</td>
<td>100.0</td>
<td>1</td>
<td>100.0</td>
<td>1</td>
</tr>
</tbody>
</table>

Exports of shark fin products by transport mode

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Transport mode</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
<td>% share</td>
<td>'000 kg</td>
</tr>
<tr>
<td>Shark fins, dogfish and other sharks,</td>
<td>Water</td>
<td>788</td>
<td>98.0</td>
<td>812</td>
<td>95.9</td>
<td>680</td>
</tr>
<tr>
<td>fresh, chilled or frozen</td>
<td>Air</td>
<td>16</td>
<td>2.0</td>
<td>20</td>
<td>2.4</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>0</td>
<td>0.0</td>
<td>15</td>
<td>1.8</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>804</td>
<td>100.0</td>
<td>847</td>
<td>100.0</td>
<td>711</td>
</tr>
<tr>
<td>Commodity(^{(1)})</td>
<td>Transport mode</td>
<td>2013</td>
<td>2014</td>
<td>2015</td>
<td>2016</td>
<td>2017</td>
</tr>
<tr>
<td>-----------------</td>
<td>----------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td></td>
<td>kg share</td>
<td>kg share</td>
<td>kg share</td>
<td>kg share</td>
<td>kg share</td>
<td>kg share</td>
</tr>
<tr>
<td>Shark fins, dried</td>
<td>Water</td>
<td>1173</td>
<td>98.0</td>
<td>1178</td>
<td>99.0</td>
<td>1286</td>
</tr>
<tr>
<td></td>
<td>Air</td>
<td>24</td>
<td>2.0</td>
<td>11</td>
<td>1.0</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>§</td>
<td>0.0</td>
<td>0</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>1197</td>
<td>100.0</td>
<td>1190</td>
<td>100.0</td>
<td>1300</td>
</tr>
<tr>
<td>Shark fins, prepared or preserved</td>
<td>Air</td>
<td>2</td>
<td>80.1</td>
<td>1</td>
<td>65.0</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Water</td>
<td>1</td>
<td>19.9</td>
<td>1</td>
<td>35.0</td>
<td>§</td>
</tr>
<tr>
<td></td>
<td>All transport mode</td>
<td>3</td>
<td>100.0</td>
<td>1</td>
<td>100.0</td>
<td>1</td>
</tr>
</tbody>
</table>

Notes:

§ Less than 500 kg.

(1) Classification corresponding to the Hong Kong Harmonized System commodity codes.

(2) Figures may not add up to total due to rounding.

Annex 2

Number of Cases and details of controlled shark fin products seizures

<table>
<thead>
<tr>
<th>Year</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Case</td>
<td>0</td>
<td>2</td>
<td>6</td>
<td>4</td>
<td>11*</td>
</tr>
<tr>
<td>Estimate Value (Million)</td>
<td>--</td>
<td>0.82</td>
<td>0.38</td>
<td>0.65</td>
<td>1.92</td>
</tr>
<tr>
<td>Shark Species and Weight</td>
<td>--</td>
<td>Oceanic Whitetip Shark (980 kg) Hammerhead Shark (6 kg)</td>
<td>Oceanic Whitetip Shark (283.45 kg) Hammerhead Shark (215.377 kg) Whale Shark (12 kg)</td>
<td>Oceanic Whitetip Shark (0.25 kg) Hammerhead Shark (1 035.41 kg)</td>
<td>Oceanic Whitetip Shark (1 263.09 kg) Hammerhead Shark (1 382.7 kg)</td>
</tr>
<tr>
<td>Type of Shark Fin</td>
<td>--</td>
<td>Unprocessed Shark Fin; Dried Shark Fin</td>
<td>Dried Shark Fin</td>
<td>Dried Shark Fin</td>
<td>Dried Shark Fin</td>
</tr>
<tr>
<td>Mode of Trade</td>
<td>--</td>
<td>Import</td>
<td>Import</td>
<td>Import</td>
<td>Import</td>
</tr>
<tr>
<td>Year</td>
<td>2013</td>
<td>2014</td>
<td>2015</td>
<td>2016</td>
<td>2017</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Countries Involved</td>
<td>--</td>
<td>Columbia (1), South Africa (1)</td>
<td>Seychelles (1), Panama (1), Nicaragua (1), United Arab Emirates (1), Peru (1), Morocco (1)</td>
<td>Madagascar (1), Somalia (1), Panama (1), unknown (1)</td>
<td>India (1), Egypt (1), Kenya (1), Peru (2), Senegal (1), Guatemala (2), Indonesia (1), Somalia (1), United Arab Emirates (1)</td>
</tr>
<tr>
<td>Mode of Transportation</td>
<td>--</td>
<td>sea (2)</td>
<td>air (4), sea (2)</td>
<td>air (2), sea (2)</td>
<td>air (1), sea (10)</td>
</tr>
<tr>
<td>Penalty</td>
<td>--</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
</tr>
</tbody>
</table>

Notes:

# Including four suspected cases which the results for DNA analyses are pending.

^ The controlled shark fins in question have all been confiscated. None of the above cases contain sufficient evidence to initiate prosecution. Therefore, there is no relevant penalty information.

**Installation of radio base stations for mobile communications**

17. **MR CHARLES PETER MOK** (in Chinese): President, it is learnt that the use of and demand for mobile data have been rising rapidly in recent years. This, coupled with the upcoming introduction of the next generation (i.e. "5G") mobile communications services, has made it necessary for mobile network operators ("MNOs") to install more radio base stations for mobile communications ("base stations") so as to expand the coverage and capacity of their mobile communications networks for providing dependable and stable mobile communications services to members of the public. However, quite a number of members of the public are concerned that the radiation emitted from the base stations affects human health and demand MNOs to remove their base stations. As MNOs have difficulty in identifying suitable locations to install base stations, the coverage of their networks and the services provided by them have been affected. It was reported that two base stations in Lam Tsuen, Tai Po had to be removed at the end of last year due to objections raised by residents in the neighbourhood, resulting in the mobile communications services in the vicinity being paralyzed. Regarding the installation of base stations and the development planning of Hong Kong's mobile communications, will the Government inform this Council:
(1) of the respective numbers of complaints received by the authorities in each of the past three years about the coverage and the quality of mobile communications networks, broken down by District Council ("DC") district;

(2) whether it knows the number of base stations removed in each of the past three years, with a breakdown by DC district and reason for the removal;

(3) of the number of applications received from MNOs by the authorities in each of the past three years for installation of base stations in government properties, and set out by DC district (i) the respective numbers of applications received, approved and rejected, as well as a breakdown of the number of rejected applications by reason for the rejection, and (ii) the average time taken for vetting and approval of such applications; a breakdown by DC district of the current number of applications pending for vetting and approval as well as the average time since these applications were submitted;

(4) of (i) the procedure for MNOs to apply for the installation of base stations in the following types of government properties and (ii) the government department(s) responsible for vetting and approval of such applications (set out in the table below);

<table>
<thead>
<tr>
<th>Government properties</th>
<th>(i)</th>
<th>(ii)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complex</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sports centre/sports ground/swimming pool complex</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refuse collection point</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pumping station/pump house/sewage treatment plant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff quarters</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(5) whether the Government will (i) streamline the procedure for MNOs to apply for the installation of base stations in government properties and shorten the vetting and approval time, as well as (ii) identify more locations in government properties which are suitable for installing base stations; if so, of the details; if not, the reasons for that; and
(6) as MNOs will need to install base stations which are more densely distributed than that of the present in preparation for the introduction of 5G mobile communications services in 2020, whether the Government (i) has plans to review the situation of the overall infrastructure facilities for communications networks in Hong Kong (particularly in remote and rural areas) and to draw up plans for improving such infrastructure facilities, as well as (ii) has formulated policies and measures to encourage MNOs to expand their mobile communications networks and to assist them in identifying locations for installing base stations; if so, of the details; if not, the reasons for that?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, in consultation with the Government Property Agency ("GPA") and the Innovation and Technology Bureau, the consolidated reply of the Commerce and Economic Development Bureau is as follows:

(1) In the past three years (i.e. 2015, 2016 and 2017), the number of complaints received by the Office of the Communications Authority ("OFCA") concerning coverage and quality of mobile phone services are 186, 185 and 254 respectively. The complaints at issue included low data speed, unexpected service disconnection, poor signal reception, inadequate signal coverage, and even no coverage at certain locations, etc. OFCA does not have the breakdown by districts as categorized by District Councils.

(2) Mobile network operators ("MNOs") will, from time to time, adjust their radio base station ("base station") settings having regard to their own network planning and actual needs. In the past three years, MNOs installed 5 900, 7 000 and 4 800 new base stations and removed 340, 2 200 and 150 base stations respectively. These base stations are located in different areas across the territory. OFCA does not have the breakdown by districts as categorized by District Councils.

(3) and (4)

MNOs intending to install base stations at government properties should first submit applications to GPA. GPA will in turn require the MNOs to submit details of the setting of base stations concerned
to relevant government departments, including the department responsible for the management of the premises concerned ("premises management department") (see Annex 1), Lands Department, Planning Department, Architectural Services Department, Electrical and Mechanical Services Department and OFCA, for consideration under their respective purviews. Upon agreements of all relevant departments, MNOs will sign a lease agreement with GPA before proceeding with the installation. According to GPA's record, for the past three years, the status of applications submitted by MNOs for installing base stations at government premises and the time required are set out at Annex 2.

(5) The Government has all along been actively encouraging and assisting MNOs to enhance network coverage and capacity by expanding their network facilities, including allowing MNOs to install base stations at government properties. If MNOs, having regard to their own network planning and coverage needs, intend to install base stations at certain government properties, they may submit applications to GPA. If necessary, OFCA will coordinate with relevant departments to assist MNOs in meeting the approval requirements of the departments.

In addition, the Government allows MNOs to install base stations on highway facilities (e.g. lampposts, footbridges and flyovers). To facilitate the submission of applications by MNOs, OFCA issued the "Guidance Note for Submission of Application for Installing Micro-cell Base Station on Highway Facilities or on Unleased and Unallocated Government Land" which sets out in details the procedures, requirements and relevant matters concerning the application for installation of micro-cell base stations at the said locations.

In order to expedite the vetting and approval of the applications of MNOs, the Highways Department ("HyD") has provided MNOs with a list of pre-approved lampposts which are available for the installation of micro-cell base stations. The list contains information of the lampposts, such as their locations, capacity to support the weight of extra equipment, wind exposure areas, heights, etc. MNOs can also, according to their needs, submit additional information to HyD to apply for using other lampposts for installation of micro-cell base stations. OFCA has in coordination
with HyD and MNOs come up with a standardized design of micro-cell base station, so as to streamline the vetting and approval procedures and to shorten the processing time.

(6) To ensure that Hong Kong’s telecommunications infrastructure capacity can meet the long-term demand, the Commerce and Economic Development Bureau has commissioned a consultancy study on future supply of and demand for telecommunications infrastructure capacity in Hong Kong. The study is expected to be completed in the second half of this year.

In the meantime, the Government has put in place a number of facilitating measures to assist MNOs in extending mobile networks so that the public can enjoy better quality of services, including facilitating MNOs to expand their mobile networks to remote and rural areas, allowing operators to use Government buildings or facilities at hilltop sites to install base stations, leasing Government land at nominal rent for MNOs to install new base stations, allowing MNOs to use microwave stations to connect to their base stations in remote areas, assigning additional radio spectrum to MNOs and waiving the relevant spectrum utilization fee, etc.

The Chief Executive announced in the 2017 Policy Address that financial incentives in the form of subsidies will be provided to fixed network operators to encourage the extension of fibre-based network to villages in remote areas. OFCA has commenced the preparatory work for the subsidy scheme, and will report progress and seek comments from the relevant Panel of the Legislative Council in May. Thereafter, funding approval for the amount involved in the scheme will be sought from the Finance Committee. It is estimated that tendering work will commence in the first half of 2019. Upon completion of the project with fibre-based networks extended to villages in these remote areas, MNOs can make use of the fibre-based networks to install new base stations, thereby enhancing the mobile coverage and capacity in these areas.

Furthermore, the Policy Address also announced a multi-functional smart lampposts pilot scheme. According to information from the Innovation and Technology Bureau, starting from 2019, the Government will install some 400 multi-functional smart lampposts at selected urban locations to collect various real-time city data,
enhance city and traffic management and provide data network and
digital facilities. Space will be reserved in the multi-functional
smart lampposts under the pilot scheme for interested MNOs to
participate in installing base stations for rolling out 5G network
services.

Annex 1

<table>
<thead>
<tr>
<th>Government Property</th>
<th>Department(s) Responsible for the Management of the Premises</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government complex</td>
<td>The Building Management Committee of the Government complex</td>
</tr>
<tr>
<td>Stadium/sports ground/ swimming</td>
<td>Leisure and Cultural Services Department (&quot;LCSD&quot;)</td>
</tr>
<tr>
<td>pool</td>
<td></td>
</tr>
<tr>
<td>Refuse collection point</td>
<td>Food and Environmental Hygiene Department (&quot;FEHD&quot;)</td>
</tr>
<tr>
<td>Pumping station/ water pump house/ water pump house/ sewage treatment plant</td>
<td>Water Supplies Department/Drainage Services Department</td>
</tr>
<tr>
<td>Staff quarters</td>
<td>Quartering Division of the relevant department</td>
</tr>
<tr>
<td>Others</td>
<td>Common examples include:</td>
</tr>
<tr>
<td></td>
<td>Market—FEHD</td>
</tr>
<tr>
<td></td>
<td>Park—LCSD</td>
</tr>
<tr>
<td></td>
<td>Public toilet—FEHD</td>
</tr>
</tbody>
</table>

Annex 2

According to the information of the GPA, the status of applications as submitted by MNOs for installing base stations at government premises in the past three years is summarized below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Year</th>
<th>Year</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hong Kong Island</td>
<td>Kowloon</td>
<td>New Territories</td>
</tr>
<tr>
<td>2015</td>
<td>27</td>
<td>17</td>
<td>51</td>
</tr>
<tr>
<td>2016</td>
<td>23</td>
<td>18</td>
<td>48</td>
</tr>
<tr>
<td>2017</td>
<td>21</td>
<td>28</td>
<td>95</td>
</tr>
</tbody>
</table>

(i) Total no. of applications received
(ii) No. of applications approved

<table>
<thead>
<tr>
<th>Year</th>
<th>Hong Kong Island</th>
<th>Kowloon</th>
<th>New Territories</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>21</td>
<td>13</td>
<td>14</td>
<td>48</td>
</tr>
<tr>
<td>2016</td>
<td>7</td>
<td>6</td>
<td>20</td>
<td>33</td>
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<tr>
<td>2017</td>
<td>17</td>
<td>12</td>
<td>24</td>
<td>53</td>
</tr>
</tbody>
</table>

(iii) No. of applications rejected

<table>
<thead>
<tr>
<th>Year</th>
<th>Hong Kong Island</th>
<th>Kowloon</th>
<th>New Territories</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>3</td>
<td>0</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>2016</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>2017</td>
<td>1</td>
<td>0</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

(iv) No. of applications pending vetting and approval

<table>
<thead>
<tr>
<th>Year</th>
<th>Hong Kong Island</th>
<th>Kowloon</th>
<th>New Territories</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>3</td>
<td>4</td>
<td>33</td>
<td>40</td>
</tr>
<tr>
<td>2016</td>
<td>13</td>
<td>12</td>
<td>26</td>
<td>51</td>
</tr>
<tr>
<td>2017</td>
<td>3</td>
<td>16</td>
<td>67</td>
<td>86</td>
</tr>
</tbody>
</table>

GPA does not have the breakdown by districts as categorized by District Councils.

The time required by the relevant premises management department and other related departments to consider an application varies, depending on the specific circumstances of each application and having regard to all factors, including the scale of the proposed base stations, number of participating MNOs, MNOs' work progress in following up their applications (e.g. time required by MNOs in preparing for the information, their progress in submitting the information to the relevant departments and the completeness of such information), time taken by MNOs to meet the requirements of the relevant departments, etc. Upon agreements of all relevant departments, MNOs will sign a lease agreement with GPA before proceeding with the installation. The process for signing a lease agreement generally takes about two to three months. In the past three years, the average time taken for vetting and approving an application is 464 working days.

Main reasons for rejecting an application include failure of the MNOs to meet the requirements of the relevant departments, or the proposed installation would have adverse impact on the actual operation and/or management of the premises. For those applications still pending approval at present, most of them have yet to obtain agreements of the premises management departments and/or other relevant departments. As at 30 January 2018, applications pending approval have been submitted for 289 days on average.
Regulation of nutrition claims on food product labels

18. **MR CHAN HAK-KAN** (in Chinese): President, under the existing *Nutrition Labelling Scheme* (*"the Scheme"*), nutrition labels on prepackaged food products must contain information on energy and the seven core nutrients per package/per serving of food products. However, the making of those nutrition claims such as "natural" and "organic" on food product packaging is not regulated under the Scheme. As there are no standardized definitions for such nutrition claims, it is difficult for consumers to judge whether the food products concerned are healthier than other food products of the same type. In this connection, will the Government inform this Council:

(1) of the respective numbers of complaints received in the past three years by the authorities about false and misleading nutrition claims on the packages of prepackaged food products (with a breakdown by type of food product);

(2) of the most common cases of non-compliance with the nutrition labelling requirements in the past three years, and the number of food producers/traders convicted as a result; and

(3) whether the authorities will consider bringing those nutrition claims such as "natural" and "organic" within the ambit of the Scheme?

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, whether the food is "natural" or "organic" is not within the regulatory scope of the nutrition labelling scheme in the international arena. The definitions, certification standards or regulatory approaches regarding "natural" and "organic" food adopted by different regions/countries vary. The major differences between organic food and ordinary food are their ways of production, processing and handling. There is no significant difference between the two in terms of food safety.

All food for sale in Hong Kong for human consumption (either organic or ordinary food) must comply with the same set of statutory standards for food safety and quality, as well as labelling requirements to ensure its fitness for human consumption. The Centre for Food Safety ("CFS") of the Food and Environmental Hygiene Department ("FEHD"), through the risk-based Food
Surveillance Programme, takes food samples (including organic food) at the import, wholesale and retail levels for testing.

The Government has implemented a nutrition labelling scheme for pre-packaged foods under the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) ("Regulations") to help consumers make informed food choices. Under the Regulations, nutrition claims are representations which state, suggest or imply that a food has particular nutritional properties including the energy value, and the content of protein, available carbohydrates, total fat, saturated fatty acids, trans fatty acids, sodium and sugars, or vitamins and minerals. Nutrition claims also include nutrient content claims, nutrient comparative claims and nutrient function claims.

The Regulations also require that the name or designation of pre-packaged food shall not be false or misleading as to the nature of the food. In addition, the Trade Descriptions Ordinance (Cap. 362) forbids any person, in the course of trade, to apply a false trade description to any goods supplied or make misleading omission regarding any goods supplied.

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

(1) From 2015 to 2017, the Customs and Excise Department ("C&ED") received a total of 3,248 complaints regarding food products with false trade descriptions (including the type of product, place of origin, price, weight and ingredients). After investigation, C&ED initiated prosecutions in 29 cases, of which 19 cases resulted in the traders or persons being convicted, while the court proceedings for the remaining 10 cases are in progress. Separately, C&ED issued warning letters or advisory letters to traders in 21 cases. C&ED does not maintain a breakdown of statistics on the number of complaints or prosecutions by types of food.

In the same period, FEHD received a complaint about misleading information on label of a pre-packaged beverage product. The trader or person involved was prosecuted and convicted.

(2) From 2015 to 2017, FEHD made a total of 64 prosecutions against violation of the nutrition labelling requirements, in which 58 food producers/traders were convicted, and the court proceedings for the
remaining six cases are still in progress. Circumstances which are in breach of the nutrition labelling requirements include the absence of nutrition labelling as required by the legislation and inconsistency of individual nutrient contents with the declared values on nutrition labels.

(3) The Government has been promoting organic food labelling. For example, funds are allocated from the Agricultural Development Fund under the Vegetable Marketing Organization for the Hong Kong Organic Resource Centre ("HKORC") to provide voluntary certification service for farmers. HKORC has established a set of stringent guidelines with reference to international standards to ensure that the process adopted by organic farms complies with the certification standards of organic farming and production. Educational and publicity activities are organized by relevant government departments and HKORC to enhance public awareness of organic food labelling.

CFS will keep a close watch on the international scientific research, risk assessments, regulatory trends and local circumstances related to "natural" and "organic" food.

Handling of torture/non-refoulement claimants by the Immigration Department

19. **DR ELIZABETH QUAT** (in Chinese): President, in recent years, quite a number of illegal entrants ("IEs") lodged, immediately upon entry into Hong Kong, torture claims or non-refoulement claims (collectively referred to as "claims") under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. While handling such claims, the Immigration Department ("ImmD") will issue recognizance forms (commonly known as "going-out passes") to such claimants for them to temporarily stay in Hong Kong. On the other hand, the Castle Peak Bay Immigration Centre ("CIC") is a detention facility specifically for adult offenders who are detained, pending removal from Hong Kong under the Immigration Ordinance (Cap. 115). However, some CIC staff members have relayed to me that they are facing huge work pressure because of an incessant rise in number of detainees and serious
manpower wastage in CIC in recent years. While physical confrontations have occurred in CIC from time to time, CIC staff members have not been given adequate relevant training. In addition, some members of the public have relayed to me that some claimants come to Hong Kong for the purpose of seeking medical treatment, thereby straining the public healthcare services of Hong Kong. In this connection, will the Government inform this Council:

(1) of the existing procedure adopted by the authorities for removing rejected claimants from Hong Kong; the respective numbers of persons who (i) were removed from Hong Kong and (ii) refused to be removed, in each of the past 10 years; the current per capita expenditure on removing rejected claimants from Hong Kong;

(2) as it is learnt that some persons who have refused to be removed are allowed to continue staying in Hong Kong with going-out passes, of the current number of such persons; the annual public expenditure (including humanitarian and legal assistance expenditures) incurred by such persons' continued stay in Hong Kong;

(3) given that ImmD has earlier on removed 68 Vietnamese IEs from Hong Kong by means of a chartered flight, of the public expenditure incurred for the entire removal operation; whether the authorities will consider extending the practice of removal by chartered flights to persons who came from other countries (e.g. India, Bangladesh, Pakistan), with a view to expeditiously reducing the number of persons awaiting removal; if so, of the details; if not, the alternatives;

(4) of the numbers of claimants and IEs detained in CIC, and the per capita expenditure on providing meals for them, in each of the past 10 years;

(5) of the existing establishment of various ranks of staff members in CIC; whether the authorities will establish a supernumerary emergency response team in CIC so as to deal with physical confrontations more effectively; if so, of the details; if not, the reasons for that;
(6) of the respective numbers of (i) physical confrontations involving detainees (including torture/non-refoulement claimants) that occurred in CIC, (ii) persons punished as a result of involvement in such confrontations, and (iii) staff members injured when dealing with such confrontations, in each of the past five years;

(7) whether the authorities will step up the training for CIC staff members to enable them to deal with order and physical confrontations more effectively; if so, of the details; given that incidents of disturbances caused by detainees have frequently occurred in CIC, but only those CIC staff members who have undergone refresher tactical training organized by the Correctional Services Department four times a year are issued with the "exemption permits for licences for possession of arms and ammunition" on a continuous basis, which authorize them to use anti-riot equipment in the Centre, whether the authorities will (i) bring ImmD within the ambit of the Prisons Ordinance (Cap. 234) to facilitate the discharge of duties by CIC staff members, and (ii) conduct studies on expanding the scope of the Weapons Ordinance (Cap. 217) and the Firearms and Ammunition Ordinance (Cap. 238), so that CIC staff members are automatically authorized to possess arms and ammunition for the purpose of managing the Centre more effectively; if so, of the details; if not, the reasons for that;

(8) given that a large number of claimants are currently awaiting vetting/appeals in respect of their claims or removal from Hong Kong, and the detention capacity of CIC is very limited (although there has been a decline in the number of persons who have lodged claims in recent months), whether the authorities have plans to increase the capacity in detaining IEs (including torture/non-refoulement claimants) by expanding CIC, or making use of other existing prisons or re-opening vacant correctional institutions; if so, of the details; if not, the reasons for that; and

(9) given that some IEs suffering from Acquired Immune Deficiency Syndrome or other infectious diseases have lodged claims in an attempt to seek medications and treatment in Hong Kong, whether the authorities have compiled statistics on the number of such
persons, and of the measures in place to prevent the problem from worsening?

SECRETARY FOR SECURITY (in Chinese): President, since the comprehensive review of the strategy of handling non-refoulement claims commenced in 2016, the Government has already introduced several measures to prevent the arrival of potential claimants as far as possible, and also to expedite the screening of claims by the Immigration Department ("ImmD"). As a result, the number of new claims received in 2017 has dropped by 52% as compared to 2016 and by 63% as compared to the peak in 2015. Meanwhile, the number of claims pending screening by ImmD as at the end of 2017 has dropped by 41% as compared to the end of 2016, and by 47% as compared to the peak in March 2016. As at the end of 2017, 5,899 claims were pending screening by ImmD.

To prepare for the expected increase of appeals, the Government has appointed 74 new members to the Torture Claims Appeal Board ("TCAB") since July 2016, more than tripling its size of 28 members before. The number of decisions issued by TCAB in 2017 has increased by 384% as compared to 2016, and is expected to further increase in 2018.

Non-refoulement claimants are illegal immigrants, overstayers or refused landing passengers. Rejected claimants (including those whose claim has been withdrawn) must be removed from Hong Kong as soon as possible.

My reply to the various parts of Dr Elizabeth QUAT's question is as follows:

(1) Generally speaking, for persons to be removed from Hong Kong (including rejected claimants), ImmD will need to ensure that they have valid travel documents for returning to their home countries. For persons who do not, ImmD will seek assistance from the relevant consulates. Separately, ImmD will make flight arrangements for their return. For removees who remain reluctant to leave Hong Kong, ImmD will first explain to them the situation of their cases (e.g. that their non-refoulement claim and appeal have both been rejected) and try to make them cooperate. If their resistance persists, ImmD will consider the need to conduct forced repatriation, including deploying ImmD staff on board of planes to accompany the removees on their passage home.
The number of non-ethnic Chinese ("NEC") (including rejected claimants) removed by ImmD since 2011 are as follows (ImmD did not maintain statistics for 2010 or before):

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of NEC (including rejected claimants) removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>2 538</td>
</tr>
<tr>
<td>2012</td>
<td>2 836</td>
</tr>
<tr>
<td>2013</td>
<td>2 370</td>
</tr>
<tr>
<td>2014</td>
<td>2 273</td>
</tr>
<tr>
<td>2015</td>
<td>2 319</td>
</tr>
<tr>
<td>2016</td>
<td>2 922</td>
</tr>
<tr>
<td>2017</td>
<td>4 139</td>
</tr>
</tbody>
</table>

ImmD does not maintain statistics on unsuccessful removal operations. The cost of removing rejected claimants from Hong Kong consists mainly of staff cost of ImmD and air ticket expenses (including that of removees and of staff of ImmD where forced repatriation is required). Removal of rejected claimants is part and parcel of the work of the Enforcement Branch of ImmD, and ImmD does not maintain separate statistics on the average cost of removing rejected claimants.

(2) As at 31 December 2017, 1 828 rejected claimants were pending removal arrangement by ImmD; most of them were released on recognizance under section 36 of the Immigration Ordinance (Cap. 115). In deciding whether to release a person pending removal on recognizance in lieu of detention, ImmD will, in accordance with the prevailing detention policy, take into consideration all the relevant circumstances of the case, including whether the person's removal is going to take place within a reasonable time, whether the person constitutes a threat or security risk to the community, the risk of the person absconding, etc.

Handling persons released on recognizance is part and parcel of the work of the Enforcement Branch of ImmD, and ImmD does not maintain separate statistics on such cost. As regards the humanitarian assistance programme for non-refoulement claimants being operated by the International Social Service Hong Kong
Branch, the average cost per service user per month is $3,740 in 2017. Separately, since the non-refoulement claim of persons pending removal arrangement should have been either rejected or withdrawn, they would no longer be provided with publicly-funded legal assistance.

(3) As mentioned in part (1) above, ImmD will make flight arrangements for removees who possess valid travel documents to return to their home countries. In doing so, ImmD may secure flight tickets for individual removees on a case-by-case basis, or charter a commercial flight for a larger group of removees. In respect of the former, the number of tickets that ImmD is able to secure per flight is often limited, due to market situation or limitations imposed by airlines. In some cases, the latter approach would ensure that removal is effected as soon as possible. On 28 December 2017, ImmD removed 68 Vietnamese illegal immigrants from Hong Kong on a chartered flight. The operation cost is about $330,000.

ImmD will continue to remove rejected claimants by choosing the most effective and suitable means, depending on the circumstances of each case, including deploying chartered flights (to Vietnam or other countries).

(4) The average detainee population (including rejected claimants) per day since ImmD began to operate the Castle Peak Bay Immigration Centre ("CIC") in April 2010 is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Average detainee population per day</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010 (since April)</td>
<td>250</td>
</tr>
<tr>
<td>2011</td>
<td>301</td>
</tr>
<tr>
<td>2012</td>
<td>361</td>
</tr>
<tr>
<td>2013</td>
<td>407</td>
</tr>
<tr>
<td>2014</td>
<td>403</td>
</tr>
<tr>
<td>2015</td>
<td>414</td>
</tr>
<tr>
<td>2016</td>
<td>382</td>
</tr>
<tr>
<td>2017</td>
<td>385</td>
</tr>
</tbody>
</table>
The average cost of meals per detainee per day in each of the years during the period ranges from $81 to $102.

(5) To ensure the effective management of CIC, ImmD regularly reviews the provision of manpower and equipment there. After an injection of 30 additional posts in June 2017, there are now 177 civil service posts under the establishment of CIC. A breakdown by rank is as follows:

<table>
<thead>
<tr>
<th>Rank</th>
<th>Establishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Principal Immigration Officer</td>
<td>1</td>
</tr>
<tr>
<td>Chief Immigration Officer</td>
<td>1</td>
</tr>
<tr>
<td>Senior Immigration Officer</td>
<td>5</td>
</tr>
<tr>
<td>Immigration Officer</td>
<td>11</td>
</tr>
<tr>
<td>Chief Immigration Assistant</td>
<td>12</td>
</tr>
<tr>
<td>Senior Immigration Assistant</td>
<td>39</td>
</tr>
<tr>
<td>Immigration Assistant</td>
<td>103</td>
</tr>
<tr>
<td>Clerical Officer</td>
<td>1</td>
</tr>
<tr>
<td>Assistant Clerical Officer</td>
<td>3</td>
</tr>
<tr>
<td>Supplies Supervisor II</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>177</td>
</tr>
</tbody>
</table>

Certain services, including medical, kitchen and laundry, etc. are contracted out.

All frontline officers of ImmD are regularly provided with training aiming to enhance their responsiveness to emergency situations. As for staff of CIC, they will receive specific training tailor-made to ensure that they are capable of coping with any emergency situation that might happen at CIC, including resistance control, escort technique, the use of anti-riot equipment, fire drill, scenario training, etc. ImmD will keep the need for forming an emergency response team under review.

(6) The number of cases of physical confrontation involving detainees (including claimants) in CIC in the past five years is as follows:
(7) In view of the different nature of work between managing CIC and other immigration work, Immigration Service staff responsible for CIC's operation have to receive dedicated training in relation to the management of a detention centre, including:

(a) Before deployment to CIC, a three-week training course, comprising a one-week Detention Centre Management Course focusing on the daily operation of a detention centre, and two-week tactical training to train up staff to respond to riotous situations;

(b) Every three months, refresher training organized by the Correctional Services Department (in order to be qualified to carry and use anti-riot equipment in CIC); and

(c) Every two weeks, a one-hour in-house training session to further enhance on-the-job knowledge and capability to handle daily operations and unexpected incidents.

In addition, CIC operation staff will also be arranged to attend courses in relation to negotiation skills and counselling to enhance their ability to handle emergency situations.

The operation of CIC is governed by the Immigration (Treatment of Detainees) Order (Cap. 115E). There is no plan at this stage to have its operation included under the Prison Rules (Cap. 234A).
The Government is studying the suggestion of amending the Weapons Ordinance (Cap. 217) and the Firearms and Ammunition Ordinance (Cap. 238) to provide more effective operational support to detention facilities, as part of the review of the Immigration Ordinance and related ordinances to improve the screening procedures for non-refoulement claims and on other related matters.

(8) Persons detained under the Immigration Ordinance may be detained in places stipulated under the Immigration (Places of Detention) Order (Cap. 115B), including CIC, ImmD's other detention facilities at control points, as well as sites and buildings that are set apart for the purposes of prisoners under the Prisons Ordinance (Cap. 234) and specified in the Schedule of the Prisons Order (Cap. 234B). At present, illegal immigrants detained by ImmD (including claimants) are mostly detained at CIC, which has a capacity of up to 500.

We are considering different detention measures from the legal, public security and resources perspectives, including the availability of more detention facilities, and providing more effective operational support to detention facilities. We will update the Legislative Council in due course.

(9) In accordance with the current practice for waiving of medical charges for non-eligible persons, approval for one-off waiver of medical expenses at public clinics or hospitals will be given to claimants on a case-by-case basis, subject to the assessment by the Hospital Authority ("HA") or service units of the Social Welfare Department. In 2016-2017, the number of inpatient cases and outpatient attendance granted with medical fee waivers for non-refoulement claimants is 1,870 and 18,000 respectively. HA does not maintain further statistics with breakdown by the type of disease(s) suffered by claimants.

The Government will continue to tackle the issue of non-refoulement claims at root through targeted measures under the comprehensive review of the strategy of handling non-refoulement claimants, including on arrival prevention, screening procedures, detention, enforcement and removal.
Regulation of bike-sharing rental service

20. **MR CHAN HAN-PAN** (in Chinese): President, it has been reported that it has been less than a year since the automated bicycle rental service named the bike-sharing service landed in Hong Kong, and six operators have rolled out the service. Indiscriminate parking of shared bicycles is quite common on pavements and at other public places, causing inconvenience to pedestrians and other bicycle users. In this connection, will the Government inform this Council:

(1) of the follow-up actions generally taken at present by the relevant government departments upon receipt of complaints about obstructions caused by shared bicycles and the average time taken to complete the handling of such complaints; whether it has assessed which public places are more suitable for parking shared bicycles without causing obstruction, and whether it has made publicity efforts to remind renters of shared bicycles to be considerate when parking bicycles;

(2) as some members of the public have pointed out that under the "walk-up-and-hire" mode of operation of the bike-sharing service, no inspections are conducted on the bicycles by professionals to ensure that they are safe for use before they are hired, resulting in such bicycles being more likely than those available for rent under the conventional approach to have accidents due to mechanical failure, whether the Government will clarify with the operators concerned the party which should be held responsible in case of accidents due to mechanical failure of shared bicycles, so as to protect the rights of renters of such bicycles and other road users; and

(3) as the bike-sharing service has caused problems such as indiscriminate parking of bicycles, whether the Government has assessed if the current regulation of the bike-sharing service is adequate; if it has assessed, of the outcome; whether it will formulate relevant policies or introduce a licensing regime, so as to properly regulate the bike-sharing service?
SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my reply to various parts of Mr CHAN Han-pan's question is as follows.

(1) and (3)

Since April 2017, some private operators have launched automated bicycle rental service in Hong Kong in the name of "bicycle-sharing", whereby customers may rent and return bicycles anywhere on a self-service basis through smartphone applications. In terms of business nature, there is no fundamental difference between the automated and conventional bicycle rental services, only that the operators adopt different modes of operation.

Pursuant to the Road Traffic (Parking) Regulations (Cap. 374C), no person shall park a vehicle (including a bicycle) in non-designated parking places; nor shall he or she park a vehicle in a parking place for a continuous period of more than 24 hours. In addition, the Land (Miscellaneous Provisions) Ordinance (Cap. 28) prohibits unlawful occupation of unleased Government land, whereas the Summary Offences Ordinance (Cap. 228) prohibits people from leaving any article that may obstruct, inconvenience or endanger any person or vehicle.

In accordance with the above laws, operators and users should not park their automated rental bicycles at inappropriate locations. The Government will follow the established practice in handling illegal parking of bicycles, be they conventional non-automated rental, automated rental, or privately-owned ones.

The Government has all along been concerned about the illegal parking of bicycles and prolonged occupation of public bicycle parking spaces by bicycles (including abandoned ones) and other articles. Departments will arrange clearance operations according to their respective purviews. The Transport Department ("TD") is responsible for clearing bicycles illegally parked at covered public transport interchanges; the District Lands Offices ("DLOs") concerned are in charge of clearing bicycles illegally occupying unleased Government land; and the Hong Kong Police Force ("HKPF") is tasked to remove bicycles which may pose immediate
danger to road users. The time used by departments in handling illegal parking of bicycles will vary having regard to the actual circumstances.

To address the problem of illegal parking of bicycles more effectively, the District Offices ("DOs") concerned would coordinate, where appropriate, joint operations with such departments as DLOs concerned, TD, HKPF and the Food and Environmental Hygiene Department so as to clear the black spots of illegally parked bicycles or misplaced articles.

To more vigorously combat illegal bicycle parking, relevant government departments have been joining forces to implement a trial scheme at Sheung Shui MTR Station since January 2017. During the operations, illegally parked bicycles causing obstruction were removed without notice pursuant to sections 4A and 32(1) of the Summary Offences Ordinance (Cap. 228). The government departments concerned are currently reviewing the effectiveness of the scheme, and will consider whether it is appropriate to extend the scheme to other districts upon the completion of the review.

From July to December 2017, a total of nearly 28 700 legal notices on removal of illegally parked bicycles were issued, and a total of 5 876 illegally parked bicycles, of which about 300 were automated rental bicycles, were removed. Please refer to the Annex for details.

Apart from initiating law enforcement actions, the Government also promotes operators to exercise self-discipline, and has been proactively communicating with individual operators. In this connection, relevant government departments(1) arranged to meet with individual operator in June, July and September 2017. In addition to conveying the views of the local community and the District Councils ("DCs"), the government departments also reiterated the need for automated bicycle rental service operations to abide by the relevant laws above, and stressed that the departments

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(1) TD, HKPF and DOs attended all the meetings, while the Lands Department attended the meetings in July and September.
would pay close attention to the impact of the operator's bicycle rental activities on the community, and would step up law enforcement actions as necessary.

At the aforesaid meetings, the operator agreed to progressively implement improvement measures. These include displaying conspicuously a telephone hotline on its bicycles so that the public could lodge complaints about illegal parking immediately and its staff could remove the illegally parked bicycles as soon as possible, updating the operator's smartphone applications to display the locations of public bicycle parking spaces, and introducing a concession scheme to encourage bicycle users to park the bicycles properly. We have noticed that individual operator has started to reduce its scale of operation since mid-November 2017 by recalling around 2 000 to 3 000 automated rental bicycles.

On the other hand, individual operators launched their automated bicycle rental services in the urban areas in late 2017. TD has immediately contacted the operators and expressly conveyed to them that given the heavy traffic, narrow and crowded roads, as well as frequent on-street loading and unloading activities in the urban areas, the Government does not encourage the public to use bicycles as a mode of commuting in the urban areas due to road safety considerations. Coupled with the fact there are no comprehensive cycle tracks and on-street cycle parking spaces, TD does not support the operators to promote automated bicycle rental services in the urban areas. We understand that the operators are progressively recalling some of the rental bicycles placed in the urban areas.

TD is following up with the operators on their operation in various districts, particularly the parking arrangements of bicycles in public areas. The Government will continue to closely monitor the operation of automated bicycle rental services in various districts and study the regulatory measures on "bicycle-sharing" in other cities, in particular the parking arrangements for shared bicycles in public places. We do not preclude further regulating "bicycle-sharing" if necessary, but will need to ensure that the regulatory regime is pragmatic and viable and will not violate the principle of fair competition.
(2) The Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A) stipulates various requirements on bicycles (including automated rental bicycles). For instance, every bicycle has to be equipped with an efficient braking system, a bell capable of giving warning, and suitable obligatory reflectors. Any person who uses or causes or permits to be used on any road any vehicle which does not comply in all respects with the provisions of the said regulations commits an offence. Moreover, in accordance with the Road Traffic (Traffic Control) Regulations (Cap. 374G), a cyclist must show a white light at the front and a red light at the rear during the hours of darkness or in poor visibility conditions.

TD has reminded rental operators of their responsibility in ensuring that their bicycles comply with the requirements of the above regulations. The public should also check the safety of these bicycles before rental and make sure that the bicycles suit their body sizes, can be used safely and that the various parts (such as lights, brakes, etc.) are in good working order. The public should also pay attention to the terms and conditions for use of these rental bicycles, e.g., whether there is a disclaimer on maintenance. If there is any doubt on whether personal rights are safeguarded under the terms and conditions, they should refrain from using the service.

TD and the Police have all along collaborated with the Road Safety Council in organizing publicity and educational activities to heighten safety awareness among the public when cycling, and remind cyclists to adhere to the relevant laws, including prohibition of cycling on footpaths. For instance, the Road Safety Council has produced Announcements in the Public Interest on television and radio, a set of educational videos entitled "Safe Cycling: Rules and Tips", the Road Safety Bulletin promotional publication, as well as booklets on safe cycling. Furthermore, TD has launched a one-stop Cycling Information Centre website to provide to the public information on cycling, including the relevant laws and safety tips.

Having regard to the accident trend and the improper behaviour commonly found among road users, we will continue to devise suitable road safety publicity and educational campaigns so as to further enhance the awareness of road safety among cyclists.
Annex

Notices* issued for removal of illegally parked bicycles and number of bicycles removed during clearance operations (July 2017 to December 2017)

<table>
<thead>
<tr>
<th>District</th>
<th>Number of legal notices (for all bicycles)</th>
<th>Number of bicycles removed (number of automated rental bicycles removed shown in brackets)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central and Western</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Wan Chai</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Eastern</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Southern</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Kowloon City</td>
<td>171</td>
<td>57(0)</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>491</td>
<td>85(0)</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>0</td>
<td>0(0)</td>
</tr>
<tr>
<td>Kwai Tsing</td>
<td>344</td>
<td>133(0)</td>
</tr>
<tr>
<td>Yau Tsim Mong</td>
<td>280</td>
<td>72(0)</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>81</td>
<td>51(0)</td>
</tr>
<tr>
<td>Islands</td>
<td>2,485</td>
<td>540(6)</td>
</tr>
<tr>
<td>North</td>
<td>10,559</td>
<td>1,320(70)</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>3,414</td>
<td>820(42)</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>3,059</td>
<td>790(25)</td>
</tr>
<tr>
<td>Tai Po</td>
<td>3,677</td>
<td>777(68)</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>92</td>
<td>127(4)</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>1,262</td>
<td>415(27)</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>2,782</td>
<td>689(61)</td>
</tr>
<tr>
<td>Total</td>
<td>28,697</td>
<td>5,876(303)</td>
</tr>
</tbody>
</table>

Note:

* Notices issued under Land (Miscellaneous Provisions) Ordinance (Cap. 28) and Summary Offence Ordinance (Cap. 228)
The use of Putonghua as the medium of instruction for teaching the Chinese Language Subject in primary and secondary schools

21. DR CHENG CHUNG-TAI (in Chinese): President, over the past decade or so, the Education Bureau ("EDB") has set a long-term vision that Putonghua be used as the medium of instruction ("MOI") for teaching the Chinese Language Subject ("PMIC") in all primary and secondary schools. However, schools may decide by themselves having regard to their own circumstances on whether and how fast PMIC should be implemented. In this connection, will the Government inform this Council:

(1) of the respective current numbers of primary and secondary schools which are implementing PMIC;

(2) of the total number of primary and secondary schools to which the Government provided subsidies in the past five years for implementing PMIC in such schools, and the annual total amount of the subsidies;

(3) if it has assessed whether, when a school which uses Cantonese as MOI for teaching the Chinese Language Subject ("CMIC") switches to PMIC, the parents of the students in that school have a right to request the school to allow their children to continue to learn Chinese language in Cantonese; if it has assessed and the outcome is in the affirmative, how EDB ensures that these parents can exercise such a right; and

(4) given that the findings of the Progress in the International Reading Literacy Study 2016 published in December last year have revealed that, when compared with CMIC, PMIC is not more effective in enhancing students' reading literacy in Chinese, whether EDB will review the aforesaid long-term vision?

SECRETARY FOR EDUCATION (in Chinese): President, Hong Kong is a Special Administrative Region of China and also an international city. To maintain our competitive edge and embrace the opportunities brought by globalization, Hong Kong's policy on language education is to enhance the biliterate (Chinese and English) and trilingual (Cantonese, Putonghua and English) abilities of our students.
Regarding the question of Dr CHENG Chung-tai, my reply is as follows:

(1) The Standing Committee on Language Education and Research ("SCOLAR") conducted the "Territory-wide Survey on the Use of Putonghua as Medium of Instruction to Teach Chinese Language in Schools of Hong Kong" in the 2015-2016 school year with a response rate of about 80%. The findings are as follows:

```
<table>
<thead>
<tr>
<th>MOI Description</th>
<th>Primary schools</th>
<th>Secondary schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full adoption of Putonghua be used as the medium of instruction (&quot;MOI&quot;) for teaching the Chinese Language Subject (&quot;PMIC&quot;) (Putonghua is used in over 50% of lesson time of the Chinese Language subject in all grades and classes)</td>
<td>16.4%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Mixed mode of PMIC/Cantonese as MOI for teaching the Chinese Language Subject (&quot;CMIC&quot;) (Putonghua is used in over 50% of lesson time of the Chinese Language subject in some grades and classes while Cantonese is used in the remaining grades and classes)</td>
<td>55.3%</td>
<td>34.4%</td>
</tr>
<tr>
<td>Full adoption of CMIC (Cantonese is used solely in the Chinese Language subject in all grades and classes)</td>
<td>28.3%</td>
<td>63.1%</td>
</tr>
</tbody>
</table>
```

(2) In the 2008-2009 school year, SCOLAR implemented the six-year "Scheme to Support Schools in Using Putonghua to Teach the Chinese Language Subject" to support schools which aspired to make a pilot attempt of PMIC. In the past five years, a total of 40 primary and secondary schools participated in the scheme (which ended in the 2013-2014 school year). The funding expenditure involved amounted to about $14 million.

(3) Choosing an appropriate MOI is a decision related to school policy. Schools would decide on a suitable MOI policy based on their professional considerations, which is a reasonable and established practice. Schools may take their own school contexts, such as the
readiness of teachers, standards of students, language environment, curriculum planning, learning and teaching support as well as parents' expectations, into account when considering whether or not to adopt PMIC. Schools should also communicate with parents about their MOI policy. The Education Bureau has no plan to conduct any valuation on schools' choice of MOI.

(4) No matter PMIC or CMIC is adopted, the subject aim remains the same as enhancing students' Chinese language proficiency. Both PMIC and CMIC can raise students' Chinese reading ability. We are of the view that there is no clear correlation between students' performance in reading and whether PMIC is adopted or not by their schools.

Regarding the teaching of the Chinese Language subject, the Education Bureau will continue to provide assistance, professional training and on-site support to schools as appropriate.

Support for start-up enterprises

22. **DR ELIZABETH QUAT** (in Chinese): President, some persons-in-charge of financial technology ("Fintech") start-up enterprises ("startups") have relayed that they have encountered quite a number of difficulties in starting up their businesses. Firstly, support from the Government for testing new Fintech products is inadequate. At present, the governments in quite a number of regions around the globe have introduced sandboxes and encouraged the participation of startups, so that they can test their products or services under a controlled environment and free from the restrictions under the existing regimes. However, since only banks and their partnering technological companies are allowed to take part in the Fintech Supervisory Sandbox ("FSS") introduced by the Hong Kong Monetary Authority ("HKMA") in 2016, and Fintech companies can have access to FSS only by collaborating with banks, quite a number of startups have been denied access to FSS. Furthermore, startups have also encountered difficulties in opening bank accounts. Not only are the procedures complicated and time-consuming, the success rate is also low, thus significantly reducing the incentive for startups to develop their businesses in Hong Kong. Regarding support for startups, will the Government inform this Council:
(1) whether access to FSS 2.0 introduced by HKMA in September last year is still restricted to banks and their partnering technological companies only; if so, of the reasons for that; if not, the details;

(2) whether the authorities have put in place any measure to encourage startups lacking funds and operating experience to make use of FSS 2.0 to test products and collect market data; if so, of the details; if not, the reasons for that;

(3) given that the existing supervisory laws and regulations may impede the introduction of new Fintech products and services, whether the authorities have put in place any measure to help startups that provide such products and services apply for and obtain the relevant licenses under the existing regimes; if so, of the details; if not, the reasons for that;

(4) given that three regulators, namely HKMA, the Securities and Futures Commission and the Insurance Authority, have introduced their respective sandboxes, and a firm that plans to conduct tests for its cross-sector Fintech products needs only to submit one application for accessing the sandboxes, the regulator concerned will, upon receipt of the application, act as the primary point of contact and assist the firm concerned in contacting the other regulators to enable the firm to access other relevant sandboxes, of (i) the respective numbers of applications received and approved by the authorities, (ii) the average time taken from submission to approval of an application, and (iii) the number of applications rejected and the reasons for the rejection, as at to date;

(5) whether the authorities will provide startups with appropriate innovation laboratories and laboratory scenarios to assist them in conducting tests for improving existing products; if so, of the details; if not, the reasons for that;

(6) whether the authorities know the current success rate of startups in opening bank accounts, as well as the average time taken for opening a bank account;
(7) of the number of complaints received by the authorities last year from startups about their applications for opening a bank account being rejected; the types of startups mainly involved in those cases, and the main reasons for the applications being rejected;

(8) as some persons-in-charge of startups have relayed recently that although HKMA has reminded banks to refrain from imposing over-stringent customer due diligence procedures for anti-money laundering purpose, quite a number of startups' applications for opening a bank account have been rejected by the banks because they have failed to pass such procedures, whether the authorities have put in place any new measure to address this problem; if so, of the details; if not, the reasons for that;

(9) as quite a number of persons-in-charge of startups have relayed that since banks are not familiar with the new business processes and models as well as the application of advanced new technologies associated with their businesses, banks tend to reject such startups' applications for opening a bank account for risk-aversion purpose, whether the authorities have put in place any specific measure to address this problem; if so, of the details; if not, the reasons for that;

(10) of the authorities' measures to assist innovative Fintech companies which are not financial institutions in developing electronic payment services involving transportation and medical services, after such companies have complied with the legal requirements concerned; and

(11) whether HKMA has compiled statistics on the respective current numbers of Fintech companies registered locally and overseas, and among them, the respective numbers of startups; if not, how the authorities will assess the future development of Fintech?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, our consolidated reply to parts (1) to (5) and (11) of the question regarding regulation on financial technology ("Fintech") applications and support to start-ups is as follows:
Hong Kong strives to provide a vibrant ecosystem for developing innovation and technology and create an enabling environment for start-ups. In promoting Fintech, the Government needs to strike a right balance between promoting financial innovations and protecting investors and customers.

With the concerted effort and close collaboration among the Government, financial regulators and the industry, Hong Kong's Fintech community has become increasingly vibrant in recent years. Fintech cluster at Cyberport has over 250 Fintech companies engaging in applied research and development of blockchains, mobile payment, cybersecurity, artificial intelligence, big data, transaction engineering, etc., making Cyberport the largest Fintech community in Hong Kong. About 40 Fintech companies are located in Hong Kong Science and Technology Park ("HKSTP").

In terms of regulation, the Hong Kong Monetary Authority ("HKMA"), the Securities and Futures Commission ("SFC") and the Insurance Authority ("IA") have established dedicated Fintech platforms in early 2016 to help enhance communication between regulators and the Fintech community, handle enquiries from the industry and provide information on regulatory requirements to companies engaging in financial innovation to enhance the industry's understanding of the regulatory environment in Hong Kong.

HKMA then launched the Fintech Supervisory Sandbox ("FSS") in September 2016 which allowed banks and their partnering technology firms ("tech firms") to conduct pilot trials of their Fintech initiatives involving a limited number of participating customers without the need to achieve full compliance with the HKMA's supervisory requirements. Banks consider that FSS is useful in reducing the lead time for launching their Fintech products. With the successful experience of FSS, SFC and IA launched the SFC Regulatory Sandbox and the Insurtech Sandbox respectively in September 2017. The SFC Regulatory Sandbox provides a confined regulatory environment for qualified firms to conduct regulated activities utilizing Fintech. The Insurtech Sandbox facilitates pilot runs of innovative Insurtech applications by authorized insurers to be applied in their business operations.

In the light of industry feedback and operational experience, HKMA launched FSS 2.0 in November 2017. FSS 2.0 introduces Fintech Supervisory Chatroom ("Chatroom") which provides supervisory feedback to banks and tech firms at an early stage when new technologies are being contemplated, thereby reducing abortive work and expediting the rollout of new technologies. Tech
firms can directly access the Chatroom of FSS 2.0 without the need to partner with a bank. FSS 2.0 also allows a single point of entry for pilot trials of cross-sector Fintech products under the respective sandboxes.

As at end 2017, 28 new technology products involving nine banks have been tested in FSS. Out of these cases, 14 pilot trials have been completed, and the products have subsequently been rolled out. Separately, banks have collaborated with tech firms in 16 trial cases. So far SFC and IA have not yet received applications to use their respective sandboxes. Nevertheless, SFC has been in active dialogue with qualified firms showing an interest in using the sandbox. IA has received 16 enquiries relating to the Insurtech Sandbox and held a number of meetings with potential applicants, including start-ups. Since the launch of the Chatroom till end 2017, HKMA has received 22 requests to access the Chatroom from local and overseas tech firms (including start-ups). The topics discussed cover technology products related to customer authentication, application programming interface, remote account opening and cybersecurity. A number of tech firms which had accessed the Chatroom commented that the HKMA's regulatory feedback was helpful. It enabled them to clearly understand the relevant supervisory requirements and facilitated early enhancement, testing and launch of their Fintech products. HKMA will keep the Chatroom arrangement under review in light of operational experience and user feedback.

Regarding cross-sector sandboxes, regulators have not yet received applications at the moment. Nevertheless, regulators have received enquiries regarding the cross-sector arrangements of the sandboxes.

In accordance with the statutory functions of regulators, regulatory sandboxes are only applicable to regulated activities using Fintech. Start-ups are required to obtain the relevant licences or partner with regulated financial institutions if they would like to launch regulated activities using Fintech and make use of the sandbox. Start-ups may wish to first contact relevant regulators via the Chatroom or liaison platform to learn more about regulatory compliance issues. A number of tech firms have indicated that they would like to understand the procedure for applying to become an authorized institution and a stored value facility company. HKMA has provided the relevant information and advice to these firms. For those tech firms that are interested in applying for a licence, the HKMA's licensing teams have already followed up with them and offered appropriate assistance.
On providing appropriate testing scenarios for start-ups, HKMA launched with the Hong Kong Applied Science and Technology Research Institute ("ASTRI") the HKMA-ASTRI Fintech Innovation Hub ("the Hub") in 2016. The Hub provides a neutral ground for tech firms and banks to formulate innovative ideas about Fintech, perform testing and evaluation of Fintech solutions, and conduct proof-of-concept trials. HKSTP has been supporting and encouraging tech firms and start-ups to commercialize their research outcome or improve their launched products. For instance, the "First@SciencePark" provides suitable venues and invites its partner companies to showcase their innovative products or service solutions in HKSTP. This allows technology or product testing, collection of live data, use cases and constant feedback, so as to enhance the competitiveness of their products.

Our consolidated reply to parts (6) to (9) regarding the difficulty faced by start-ups in opening bank accounts is as follows:

The progressive tightening of international standards to combat money laundering and terrorist financing ("ML/TF") has led to strengthening of banks' anti-money laundering ("AML") systems and controls over the past few years. In order to carefully distinguish between the vast majority of bona fide businesses and those few businesses created as front companies for money laundering, banks require customers to provide relevant information/documentation in order to process the account opening applications. For a start-up with no business history or records to refer to or a Fintech company with a rather new business model or involving new technology applications which banks are not familiar with, provision of the relevant documentation/information may take more time.

HKMA has issued guidance to banks, emphasizing that they should adopt a risk-based approach where the customer due diligence ("CDD") requirements should be proportionate with respect to the customers' background, circumstances and likely ML/TF risk involved, while treating customers fairly particularly with respect to transparency, reasonableness and efficiency and should not pose an unreasonable barrier to bona fide businesses accessing banking services. For example, HKMA has specifically clarified that banks should not request a start-up to provide the same degree of detail on its track record, business plan and revenue projections as a long-established company. HKMA has also required banks to implement measures to enhance the account opening process and customer experience; for example, all retail banks have established review mechanisms to
help customers in re-examination of unsuccessful applications. The HKMA’s dedicated web page on account opening and maintenance also provides useful tips for reference by customers including start-ups.

HKMA has been monitoring the account opening situation. The retail banking sector opens an average of about 10,000 new business accounts per month, with some 60% to 70% of them relating to start-ups and small and medium-sized enterprises. For the successful cases, on average some 50% to 60% of them are opened within two weeks. It is noted that some accounts could be opened as quickly as within a few days, but the actual time frame for opening an account would naturally depend on the complexity of individual cases and the availability of the relevant information required of the applicants.

In 2017, HKMA received nine complaint cases concerning refusal of account opening applications of start-ups which mainly involved trading and finance businesses. HKMA has followed up on each complaint case, including reviewing whether a risk-based approach was applied in the CDD process. It is noted that the major reason for unsuccessful account opening was that the applicants did not provide the bank with the relevant CDD information or documentary proof as a result of which the bank was unable to have a reasonable understanding of their business nature and operations and the purpose for opening a bank account in Hong Kong. It is further noted that in four of these cases, accounts were subsequently opened after the banks re-examined the cases and the start-ups have provided to the banks concerned supplementary information and documents (such as clearer and more detailed explanation of their business models).

HKMA will continue to monitor the development closely and work with the banking industry, business community and relevant stakeholders on the account opening issue. Our aim is to maintain a robust AML and counter terrorist financing regime in Hong Kong which does not undermine access by legitimate businesses and ordinary citizens to basic banking services.

Regarding part (10) of the question on electronic payment in the public transport and medical service sectors, 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. For payment in public transport, Octopus is widely adopted, covering most public transport services. We understand that the MTR Corporation has launched a
trial programme which allows passengers to purchase single journey tickets from designated ticket issuing machines using e-wallets at some stations. Some e-wallet operators are also providing electronic payment services in some taxis to facilitate passengers to pay the taxi fares.

The Transport and Housing Bureau welcomes the introduction of new technology to facilitate fare collection in the public transport sector. At the same time, the Transport and Housing Bureau would need to ensure that any new electronic payment system to be adopted in the public transport sector for fare collection should be reliable, user friendly and efficient and would not cause disruption to the operation of the public transport and the road or traffic conditions, so as to protect the interest of passengers and road users.

In public health care system, the Department of Health ("DH") and the Hospital Authority ("HA") currently accept various electronic payment means, such as the Octopus card, credit cards, Internet banking service and PPS. DH and HA will review from time to time their current channels for paying medical fees, keep in view other electronic payment methods available in the market and explore the feasibility of adopting them.

GOVERNMENT BILLS

Second Reading of Government Bills

Resumption of Second Reading Debate on Government Bill


ROAD TUNNELS (GOVERNMENT) (AMENDMENT) BILL 2017

Resumption of debate on Second Reading which was moved on 12 July 2017

DEPUTY PRESIDENT (in Cantonese): Ir Dr LO Wai-kwok, Chairman of the Bills Committee on the Road Tunnels (Government) (Amendment) Bill 2017, will address the Council on the Committee's Report.
IR DR LO WAI-KWOK (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on the Road Tunnels (Government) (Amendment) Bill 2017 ("Bills Committee"), I submit the report of the Bills Committee to the Legislative Council and report on the major deliberations of the Bills Committee. Upon the expiry of the 30-year "Build-Operate-Transfer" ("BOT") franchise on 11 July 2018, the Tate's Cairn Tunnel ("TCT") will become a government tunnel. The Administration needs to provide the necessary legal backing for TCT to operate and be managed as a government tunnel, on top of repealing the Tate's Cairn Tunnel Ordinance (Cap. 393) and its subsidiary legislation which govern TCT under its existing operating model. After the Government takeover, TCT will be subsumed under the legal framework of the Road Tunnels (Government) Ordinance (Cap. 368) and its subsidiary legislation, same as the other Government tunnels.

The Bills Committee has held one meeting to discuss the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill"). The Bills Committee supports the implementation of the Bill. The Administration indicates that the takeover of TCT will be a technical exercise involving a change of the tunnel ownership as well as the establishment of legal backing and management mode for its continued operation. The Bills Committee notes that the takeover will bring no substantial change to the actual operation of the tunnel and the prevailing toll levels will not be affected.

Members are concerned about the progress of the Administration's study on the toll adjustment options to achieve better traffic distribution among the three road harbour crossings and the three land tunnels between Kowloon and Sha Tin.

The Administration advises that the Transport Department has commenced a study on the rationalization of traffic distribution among the six tunnels mentioned above. Toll adjustment proposals will be formulated in a holistic manner based on the study's findings. The Administration briefed the Panel on Transport ("the Panel") on the preliminary findings of the toll rationalization study in November 2017 and is going to put forward to the Panel the proposed toll adjustment options tentatively in July 2018.

Members also concern themselves with the protection of interests of the existing frontline staff of the TCT franchises and have asked the Administration to implement adequate measures to safeguard their pay and benefit.
In this connection, the Administration advises that in designing the tender document for the first management, operation and maintenance contract for TCT after the Government's takeover, the Transport Department has already included terms requiring the successful tenderer to make first offer of employment to the frontline staff members in the operations, engineering and maintenance departments of the franchises at the existing salary and major staff benefit levels.

The Bills Committee is not going to move any Committee stage amendments to the Bill and supports the resumption of the Second Reading debate on the Bill.

The deliberations of the Bills Committee are detailed in its report.

Deputy President, below is my view on the Bill.

Deputy President, Hong Kong used to adopt the BOT mode in the development and financing of road tunnels. This in fact is a public-private-partnership under which a franchisee is responsible for the construction, operation and maintenance of the tunnel concerned during the franchise period. The tunnel's operation, including the toll adjustment mechanism is stipulated in the relevant ordinance. Upon the expiry of the franchise, the tunnel will vest in the Government. There are obvious advantages of this mode of development. On the one hand, it encourages private participation and optimizes the use of public resources. On the other hand, as the investor is required to make substantial upfront capital investment, they should be given the franchise and thus the opportunity to make a reasonable return on their investment while bearing considerable commercial risk. At the end of the day, this helps to create an all-win situation among the Government, the investor and the general public who are road users.

As mentioned previously, the Bills Committee has only held one meeting to discuss the Bill. This is because the takeover of TCT is a technical exercise. More importantly, there are successful precedents for the takeover to draw on. Previously built and operated under the same BOT model, the Cross Harbour Tunnel and the Eastern Harbour Crossing were successfully taken over by the Government upon the expiry of their franchises in 1999 and 2016 respectively. Two other tunnels built and operated under the BOT model: the Western Harbour Tunnel as well as the Tai Lam Tunnel and Yuen Long Approach Road (that is Route 3) will have their franchise expired in August 2023 and May 2025.
After the passage of this Bill, both the actual operation and the prevailing toll levels of TCT will not be affected. Members might recall that on 19 May 2017 when the Panel discussed the takeover arrangement of TCT, an demand was made to the Administration for reducing the toll level at TCT from $20 at present to $8, on a par with its alternative tunnels (that is the Lion Rock Tunnel as well as the Eagle's Nest Tunnel and Sha Tin Heights Tunnel), to facilitate a redistribution of traffic flow among three land tunnels between Kowloon and Sha Tin. However, as explained by the authorities, due to the geographical locations of the tunnels, motorists do have a natural pairing effect on the use of three road harbour crossings and the three land tunnels. Hence, the traffic flow of the three land tunnels will impact on the usage of the three road harbour crossings, and vice versa. In this connection, the Administration tends to consider in a holistic manner the rational distribution of traffic flow among the six tunnels. It is hoped that with the formulation of various toll adjustment proposals, motorists will alter their choices and thus aiding to realize the rationalization of traffic distribution.

Deputy President, the authorities have tentatively decided to submit to the Panel the toll adjustment proposals in July this year. It is now too early to tell if the proposals can help achieve a rational distribution of traffic flow. But I can say for sure that this solution can only treat the symptoms but not the root causes of the problem.

In my opinion, the Administration should work on two aspects to address the root causes of the problem. First, to complement the update study of "Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030", it should roll out the Fourth Comprehensive Transport Study as soon as possible to formulate a set of comprehensive transport infrastructure development strategies for improving the capacity of the overall transport network and supporting infrastructure. Meanwhile, the authorities should stay abreast of the latest development, proactively take forward the implementation of Smart Mobility, prepare for the development of intelligent transport system in a bid to dovetail with Hong Kong's strategies in developing into a smart city. It should also seek to collaborate with private organizations in the use of big data and the development of diversified information system platforms, to facilitate the sharing of real-time transport information with the public, allowing them to plan for the best commuting route, make good use of various forms of public transport, optimize the management of transport demands, including that of the growth and use of private cars. It is only through the implementation of the above measures
in a multi-pronged approach that we hopefully can alleviate traffic congestion and actually realize the rationalization of traffic distribution throughout the entire territory.

Deputy President, I have to add that the Bill also provides, in line with the practice of other government road tunnels, an exemption from prohibition against conveying dangerous goods in government tunnels by prescribed vehicles under emergency situations and the permission of the Commissioner for Transport with necessary conditions.

Deputy President, I implore Members to support the Bill.

Deputy President, I so submit.

MR LAM CHEUK-TING (in Cantonese): Deputy President, the franchise of the Tate's Cairn Tunnel ("TCT") will expire in 2018, and the Government will then take over the operation of that tunnel. At present, the Government has an ambitious plan of achieving a balanced distribution of vehicular flow in all tunnels in Hong Kong through toll adjustment. However, as I highlighted time and again to the Bureau during our meetings, the present problem is that there are only five lids to cover ten teapots, and even distribution is impossible to be achieved.

We may take TCT in this discussion as an example. During peak hours, its hourly vehicular flow is 3,600 vehicles, amounting to 138% of its capacity. This means that the tunnel itself is already overburdened. Many residents from New Territories East have told us that when riding a bus from Hong Kong Island to New Territories East through TCT, the traffic is heavily congested in areas like Sha Tin, Ma On Shan and even North District. In Kowloon East, there are already signs of congestion, and it normally will take half an hour or even longer to arrive at TCT. Hence, I wonder whether the Government can adjust the vehicular flows of tunnels through tunnel toll adjustment in order to achieve the desired effect of greatly alleviating the traffic congestion problem.

Deputy President, as clearly highlighted from the data provided earlier by the Government, from 2006 to 2016, the number of vehicles has risen from 400,000 to 580,000, amounting to a yearly growth rate of 3.8%, whereas the growth rate of roads was only 0.6%. This picture can be easily understood as
Hong Kong has a large population but with limited land after all, and its urban areas are subject to grave geographical limitations. Hence, it is actually rather difficult to ask the Government to build more highways and expressways. Without controlling the speedy growth of private vehicles, there is basically no way for the Government to alleviate the imminent problem of traffic congestion. I dare say to the Secretary that the existing problem has nothing to do with insufficient roads but rather, it is attributed to too many vehicles. If the growth in the number of vehicles is not contained, no matter how the Government adjusts the tunnel toll levels or makes adjustment in other aspects, there will still be traffic congestion in urban areas. Besides, traffic congestion is also common from New Territories East to North District, including Sha Tin, and also in Tai Po Road (Sha Tin Section), where commuters used to be stuck in the traffic for half an hour or even longer. Therefore, the whole society is paying the price.

If the Government is really addressing the concerns of the people, it should adopt a new mentality in considering the traffic and transportation policy as a whole in a comprehensive approach. Apart from taking railway as the main means of transport, the Government also need to consider a package of measures to control the road network or the growth of vehicles, and even contain the number of vehicles. The Government should not think that after taking over the operation of TCT, it can achieve a rational distribution of vehicular flows in three tunnels and ease the traffic problem simply by adjusting tunnel tolls. This kind of measures is basically unable to redress the existing problem. Besides, do not forget that there are also a lot of black spots of traffic congestion on Hong Kong Island or in Kowloon. I hope that the Government can consider my proposal.

These are my remarks. Thank you, Deputy President.
been supportive of the arrangements. Therefore, I do not think any colleagues will vote against the Bill today.

However, I recall that when the Government took over EHC back then, some Members or members of the public were of the view that after the takeover, the toll level of EHC should tally with that of the Cross-Harbour Tunnel ("CHT") at Hung Hom or should be adjusted. During the present discussion on TCT, many people are also of the view that its toll level should be adjusted downward. I wonder if the Government has taken note of such views, and has therefore started examining ways to achieve traffic distribution by adjusting the toll levels of six tunnels, including three land tunnels and three road harbour crossings ("RHCs").

I personally think that toll adjustment may not be a very effective way to achieve traffic distribution. Some Members opined just now that there are adequate roads in Hong Kong, but I can hardly agree with them, since roads are indeed not adequate. Particularly, the traffic congestion problem in New Territories East is very serious, the North District is faced with the problem of traffic congestion every day, and commuters travelling from Tai Po and Sha Tin to the urban areas in the morning are often stuck in traffic jams. It is because the road networks of Tolo Highway were planned two to three decades ago, and so far no major improvement and extension has been made. In contrast, apart from Tuen Mun Road, New Territories West is also provided with the Tai Lam Tunnel ("TLT"), and a study is now being conducted for the construction of Route 11, but Tolo Highway is still the only major road we can rely on in New Territories East. Hence, although we can solve the problem concerning toll levels, roads linking to various tunnels will still be paralysed by serious congestion, thus discouraging motorists from using the related road networks.

Adjusting the toll levels of tunnels can of course achieve certain effects. Nevertheless, the problem is that if we plan to mobilize government resources, I think they should be spent in a more focused and precise manner and used in the most deserved area, and the best way is to introduce public transport priority measures. The Government should use the toll revenues received to support the granting of toll exemption to all modes of public transport. Public transport operators (except railway services which operate on exclusive railway tracks) can thus be benefited, and would then in a position to enhance their competitiveness to encourage more extensive use of public transport.
As we all know, toll levels of different tunnels vary very much at present. For example, with regard to tunnel tolls for double-decked franchised buses of three land tunnels, the toll charged by the Lion Rock Tunnel ("LRT") is $8 only, but that by TCT and TLT is as high as $59 and $153 respectively, and there is a difference of over 18 times between them. I am therefore of the view that after the Government's takeover of TCT, it should seriously consider whether it is desirable to keep the toll level at $59. The same thing also happens in the case of RHCs. The toll charged by CHT is $25, that by EHC is $100, while that by the Western Harbour Crossing ("WHC") is as high as $200, representing a difference of over 7 times. In other words, tunnel tolls for cross-harbour buses using TLT and WHC are 10 times higher than those for buses using LRT and CHT. This will not only have an impact on the promotion of a more extensive use of public transport but also lead to the taking of a detour by public bus operators deliberately in order to use tunnels charging lower tolls, thereby giving up the fastest, shortest and most direct driving routes. With the introduction of a blanket waiver on tunnel tolls for all public franchised buses, the Government will be in a better position to control vehicular flow, because bus companies will then simply choose to take the most convenient route to travel from destination A to destination B. This will not only help to achieve traffic distribution but also minimize unnecessary journeys.

The marked difference in tunnel tolls has also indirectly created an impact on the decisions made by public transport operators in their choice of routes, and due to costs consideration, they will choose to use tunnels charging lower tolls. I have discussed the matter with bus companies, and understand that tunnel tolls generally account for 10% to 20% of the operating costs of public transport operators. If the Government is willing to exempt them from the payment of tunnel tolls, bus companies are willing to make a full refund of the same to their passengers. Frankly speaking, this portion of the operating costs is never pocketed by bus companies, and they are just collecting the tolls from passengers on behalf of the Government. Hence, they are of course willing to attract more passengers by charging lower fares. If the Government can grant a toll exemption, this will not only help to promote public transport priority measures but also alleviate the burden of transport expenses on the people. Moreover, as the Government has launched the Public Transport Fare Subsidy Scheme, members of the public can achieve greater saving in transport expenses. We all know that the proportion of transport expenses to the income of the people in Hong Kong has all along been quite high, and I hope the Government would consider and examine the issue in parallel with the takeover of TCT.
We should not underestimate the effect of this proposed measure. If a toll exemption is really granted by the Government, there will be a saving of nearly $2 on the fare per journey for some cross-harbour buses, such as those using WHC. This will be of great help to commuters who travel by bus every day.

I remember that at the public hearing held in this Council to receive public views, I have directly asked representatives of various bus companies whether they are willing to make a full refund of the tunnel tolls collected to their passengers if a standardized toll is charged or a toll exemption is granted by the Government. They replied that they would hold an open attitude, and would be willing to accept the arrangement and make a refund as long as an approval has been obtained from the Government. Therefore, I very much hope that the Government would genuinely take forward the suggestion proactively after the takeover of TCT. After the Government has taken over TCT, it can determine the toll level of the tunnel at its liberty. Let us not talk about the question of whether it will be necessary for the Government to subsidize WHC on an ongoing basis, but the fact that it can determine the toll level of TCT by itself will help to save some of the trouble. It will of course not be possible to completely resolve the traffic congestion problem in Hong Kong by charging public buses a standardized toll or exempting them from the payment of tunnel tolls, but I consider it necessary for the Government to make better planning. People can now either choose to travel by the Mass Transit Railway, where they are packed like sardines in the overcrowded train compartments, or get stuck in a traffic jam for a prolonged period of time. The good news is that the Government is now planning to widen the bottleneck section of Tai Po Road (Sha Tin Section), which I think will be helpful. I would like to take this opportunity to spare no pains and remind the Secretary that as the population in New Territories East is ever increasing, the widening of Tai Po Road (Sha Tin Section) can only provide limited relief. The effectiveness of the widening project will be offset by population growth two to three years later, and the road section will then be saturated again.

We have put forward a number of suggestions to the Government, such as the early construction of a Sha Tin Bypass. With the provision of a Sha Tin Bypass, motorists leaving the North District and Tai Po may drive through a tunnel leading to Ma Liu Shui, take the road directly connected to the Eagle's Nest Tunnel, and then leave via the Eagle's Nest Tunnel. As we can all see, the Eagle's Nest Tunnel has a very low usage rate now.
On the other hand, I also hope that the Government would conduct a study on the road sections leading to TCT after it has taken the tunnel over. For example, would it be possible to provide some additional traffic lanes on Tate's Cairn Highway in the section across Shing Mun River near Sha Tin Sewage Treatment Works? Is it feasible to provide additional tunnel tubes at the two sides of TCT? I think the Government should conduct a thorough study and planning in this regard.

Besides, it is also my hope that the Government would not simply turn TCT into a government tunnel after the takeover. In fact, many people share the same views that much improvement is needed for TCT. For example, would it be possible to build a superstructure and provide temporary toilets there, and even expand the area for buses to pull in at bus stops? There is a need to carry out expansion works to the area because obstruction will be caused to other vehicles when buses are pulling in at bus stops if the area is not expanded. Hence, there are indeed many things for the Government to handle, and I very much hope that it would actively accept our proposals as early as possible after the takeover of TCT.

I support the Bill introduced by the Government today, and hope that apart from the six studies undertaken, the Government would take measures as soon as possible after the takeover of TCT for early implementation of different incentive schemes to benefit the community.

Deputy President, I so submit. Thank you.

MR FRANKIE YICK (in Cantonese): Deputy President, similar to the Eastern Harbour Crossing Legislation (Amendment) Bill 2015 last year, the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill") today also aims to propose technical amendments to the existing legislation so as to provide a proper legal basis for the Government to charge tolls and operate the tunnel upon the imminent expiry of the 30-year franchise when the franchisee's management will end.

The Government has really learnt from the experience relating to the Eastern Harbour Crossing ("EHC") last time. As the amendment concerning EHC was submitted near the time when the Budget was scrutinized, we had to delay the resumption of the Second Reading debate. The Council was almost unable to approve the bill before the expiry of the EHC franchise. It was such a
close call that the Government might have no legal basis to takeover EHC, which would lead to its forced closure. Therefore, with a view to arranging a smooth transition, the Government obviously has submitted the legislative amendment to the Council earlier this time lest last year's awkward situation will be repeated.

The Bill today is basically a proposal to introduce technical amendments. Given the uncontroversial nature of the Bill, the Bills Committee only held one meeting to examine the Bill, during which members discussed issues relating to tolls. At present, the tolls of the Tate's Cairn Tunnel ("TCT") range between $15 and $35 depending on vehicle types, while unified tolls are applicable for the other three alternative tunnels, namely the Lion Rock Tunnel, the Shing Mun Tunnels as well as the Eagle's Nest Tunnel and Sha Tin Heights Tunnel. Moreover, the tolls are relatively cheaper, which range between $5 and $8, much lower than TCT's level. I agree that the Government should lower the tolls when it takes over TCT in July, especially those on public transport, so that there is room for lower fares, such as bus fares, with a view to alleviating the people's burden. That said, to facilitate the transition, the Government insists that no changes should be introduced at this stage whatsoever, and that it will consider adjusting the tolls according to the findings after completion of the Toll Rationalisation Study of Three Road Harbour Crossings and Three Land Tunnels between Kowloon and Sha Tin.

With regard to the uneven traffic distribution among the three road harbour crossings, namely the Cross Harbour Tunnel ("CHT"), EHC and Western Harbour Crossing ("WHC"), which has failed to divert the traffic and caused congestion, the Government commissioned a consultancy study on toll adjustment and traffic diversion concerning the three road harbour crossings 10 years ago. The Government then introduced a toll adjustment proposal in 2013 but the proposed option to increase the tolls of CHT while reducing the tolls of EHC was not considered to be effective, and was not supported in society. The proposal was eventually withdrawn. Afterwards, the Government commenced another study on tunnel tolls and diversion in response to the unbalanced traffic distribution among different tunnels. On top of the three road harbour crossings, the study also covered three land tunnels linking Kowloon and Sha Tin. The Transport and Housing Bureau reported the preliminary findings of the study to the Panel on Transport last November. But I wish to point out that, though the study scope has expanded and it seems that we have taken one step forward, no proposal can effectively adjust the traffic distribution of the three road harbour crossings without reducing the tolls of WHC either through subsidization or buying back.
According to the preliminary findings, the Government believes that an excessive level of tolls on goods vehicles will, to a certain extent, have an adverse impact on the logistics industry. I surely agree with this point. Therefore, I hope the Government can consider lowering the tolls on goods vehicles in addition to lowering those of public transport when it adjusts the tolls of TCT in the future.

I appreciate the Government's concern that reducing the tolls of TCT will place further burden on the already saturated EHC. Yet I believe lowering the tolls on goods vehicles will not significantly increase the traffic of TCT and EHC as goods vehicles will plan their routes depending on the distance, time and fuel costs involved. Never will they detour to take a longer route simply because the toll is cheaper following the decrease in the toll levels of certain tunnels.

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

MR CHAN HAK-KAN (in Cantonese): Deputy President, I speak in support of the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill"). As mentioned by quite a number of Members earlier, they hope that after the Government has recovered the franchise of the Tate's Cairn Tunnel ("TCT"), it can return wealth to the public by lowering the fares of public transport and buses. I hope that the Government can consider another suggestion from this Council of aligning the toll of TCT with the tolls of other three tunnels connecting to Kowloon, namely Eagle's Nest Tunnel, Lion Rock Tunnel and Shing Mun Tunnels, at $8.

Deputy President, why would I say that? You should remember that a few years before the expiry of the franchise granted to the Tate's Cairn Tunnel Company Limited ("the Company"), the Company's representative came to the Legislative Council, telling Members its request for an increase in tolls as it had to recover the costs. This proposal was, of course, met with objection from this Council. However, the Government told us that we had no other alternatives as this was a commercial decision, and that since there were only a few years left of the Company's franchise, Members could just let it make a profit during these few years. The toll for private cars was raised from $10-odd at the beginning to $20 at present, much higher than the flat toll of the few tunnels at $8 that I mentioned.
earlier. However, since the Company's franchise was about to expire and there was no objection from the Government to the Company's approach of making the most out of the franchise, we could do nothing about it.

Nevertheless, after the franchise is returned to the Government, should the toll level of $20 for private cars be still maintained? Can this toll level be adjusted downwards to be aligned with the toll level of the few government tunnels? I think the Government can study this issue seriously, because the public highly expect that the toll level can be lowered after the TCT franchise is returned to the Government. This is a very sensible expectation, because the tunnel will no longer be under private operation but will be owned by the Government. Why does it have to punish commercial vehicle owners and private car owners or charge such high tunnel tolls from public means of transport? This is unreasonable indeed.

The Government is now saying that the tunnel toll adjustment will be shelved due to the assessment on the long-term traffic flow and the traffic flow of road harbour crossings. I would find this unreasonable. Once the Government has taken back the tunnel franchise, it should immediately lower the tunnel tolls. Otherwise, this would mean double punishment to private car owners and commercial vehicle drivers, as the car owners, apart from paying licence fees each year, also have to pay very high tunnel tolls. As mentioned by Members earlier, the Build-Operate-Transfer ("BOT") model was adopted when the construction of tunnels was entrusted to the developers in the past. After the Government has taken over TCT, why will it still need to charge such high tunnel tolls? Deputy President, I have a more innovative suggestion: for the few tunnels owned by the Government, no tunnel tolls should be charged as the costs have already been recovered. Even if tunnel tolls are levied by the Government, they will only be for the purpose of covering certain operating costs. This will be a fair approach.

Under the BOT model, tunnel tolls are levied because the costs for tunnel construction have to be recovered. However, when the BOT franchise is returned to the Government, that means the costs for tunnel construction have already been recovered. Then why will the drivers still be charged? I think this is unfair to them. Besides, when the Treasury is flooded with cash today, if the Government is still making money out of commercial drivers, this is not fair. In the past when the Company asked for toll increase, we had no means to raise any opposition, but today, we insist that the Government should align the tunnel
tolls. Furthermore, residents in the New Territories have already been waiting for 30 years. If the Government still insists not to lower the tunnel tolls after it has recovered this tunnel franchise, I will be highly disappointed.

Apart from commercial vehicle drivers, many residents in the New Territories also have to go to work in the urban areas. If the Government can lower the tunnel tolls, this will be a substantial help to them. At present, the Government is planning to move a large number of people to New Territories East. North East New Territories New Development Areas can accommodate 200 000 to 300 000 residents, while the Hung Shui Kiu New Development Area will accommodate a few hundred thousand residents in the future. According to the government planning in "Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030", the number of jobs provided in New Territories East only accounts for 13.7% of the population in that area. That means a large proportion of residents must work in the urban areas. If the transportation network is unable to be improved or the cost of transportation is too high, the burden on the public will be aggravated. Besides, Secretary, as you live in the New Territories, every day when you go to work, you should know that Tolo Highway, Tai Po Road (Sha Tin Section), TCT and Lion Rock Tunnel are very congested. And for reasons unknown, sometimes they are also very congested on Saturdays and Sundays. Under the circumstances, can the public have other alternatives? Some of them may choose MTR which, however, is sometimes not reliable as there may be breakdowns and accidents. It is really not easy for the public to get to work on time. Hence, if the Government wants to move a large number of people to the New Territories, it has to improve the tunnel supporting services.

The return of the TCT franchise has exactly provided a prime opportunity. How can we reduce the traffic flows in Lion Rock Tunnel and Shing Mun Tunnels? The best solution is to lower the TCT tolls. As mentioned by a Member earlier, even if the TCT tolls are lowered, drivers will not deliberately make a detour to use TCT. Drivers will, of course, choose the most direct and convenient tunnel to reach the destination. Since the fuel cost at present is not cheap, drivers will not deliberately make a detour in order to use TCT. Secretary, the lowering of the TCT tolls will bring benefits rather than loss to the Government. I just said to Secretary WONG Kam-sing that the reduction in the number of vehicles on roads and the shortening of the driving time will help improve roadside air quality. Therefore, I hope that the Secretary can seriously consider my proposals of lowering the tunnel toll from $20 to $8 so as to be
aligned with the tolls of other tunnels concerned, as well as lowering the fares of public transport.

Thank you, Deputy President.

MR LEUNG CHE-CHEUNG (in Cantonese): Deputy President, today, we are discussing the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill"). Upon the expiry of the 30-year Build-Operate-Transfer ("BOT") franchise, the Tate's Cairn Tunnel ("TCT") will vest in the Government and become a government tunnel on 11 July 2018. This Bill also provides the necessary legal backing for TCT to operate and be managed as a government tunnel. This arrangement is similar to the arrangement for the takeover of the Eastern Harbour Crossing ("EHC") upon the expiry of its franchise in August 2016. Although this Bill is rather straightforward, I believe that Members, including me, would support the content and the clauses of this Bill.

However, there is great public concern over the issues relating to the tunnel. As especially mentioned by some colleagues earlier, the tolls or operation of the tunnel will affect the overall transport structure. It is because most of the tunnel users are professional drivers and members of the public, and the general drivers have a few criteria in using the tunnel: First, the toll level; second, whether it is the appropriate route to reach the destination as fast as possible. Hence, when Members were discussing the review on traffic distribution among the six tunnels, they would express their opinions in regard to the tolls.

Mr CHAN Hak-kan just raised a toll reduction or toll free proposal, with the latter being a better option. Of course, if the tunnels are toll free, the public will surely raise their hands to show support. However, if they are toll free, the situation will be the same as present, as drivers will choose the fastest route to the destination and the Cross Harbour Tunnel ("CHT") will definitely be seriously congested. Hence, toll free will equally pose a problem while levying tolls can be an approach to strike a balance technically. Then can the CHT tolls be increased? The answer is in the positive as the Government is now in charge of it. But a raise in tolls does not mean that drivers will not use CHT. And if part of the traffic flow turns to the Western Harbour Crossing ("WHC") or EHC, this will lead to traffic congestion in these two harbour crossings.
At present, the traffic flows of these few tunnels are rather alarming. While the traffic flow of CHT has exceeded its maximum capacity at over 110%, EHC is now near saturation. For WHC, it is better and is below saturation, but is close to saturation even not yet saturated. I am not clear where other colleagues live, but Mr CHAN Han-pan and Mr Steven HO and I live in Yuen Long. Every day when we come out from Yuen Long to the Legislative Council for meetings, we will definitely use WHC. But unfavourably during rainy days, if we do not leave half an hour earlier, we will surely be late due to traffic congestion in Tai Lam Tunnel and WHC where vehicles can only go very slowly and will be stuck there for at least 10 minutes. If the traffic flow has almost reached the maximum capacity, the situation will be very scary. Secretary, although this Bill is seemingly unrelated to other tunnels—if I speak too long, Deputy President may say that I have digressed—But certainly, if this Bill will give no consideration to the traffic problems which are likely to happen, it will not be a good legislation. Sure enough, the operation of TCT is not as bad as other tunnels. But I think the Secretary also needs to consider how this law can resolve the problems concerned in the future.

Besides, among the existing six tunnels, WHC is still not returned to the Government. If WHC has become government-owned, the situation will be different, because this will be beneficial to the overall planning, including the study on traffic distribution among the six tunnels. Nevertheless, the present shortcoming is that the WHC franchise has not expired yet and the tunnel cannot become government-owned immediately. Then how can the Government resolve the existing traffic congestion problem and launch its policy on rationalizing the use of tunnels? In my view, this is well worth consideration by the Secretary.

I think that the toll-free proposal for all tunnels just put forward by Mr CHAN Hak-kan is also worth considering. I have been asking the Bureau whether it will consider offering a tunnel toll waiver for public transport only. This is similar to Mr LAU Kwok-fan's proposal of offering a tunnel toll waiver for all public buses. However, I also suggest raising the toll for driver-only vehicles, as the road surface and expenditure per capita are actually larger, and this move can reduce the number of these drivers using tunnels. No matter in the Mainland or overseas, carpooling to work is very common. When a driver is taking three to four persons to work, the vehicle will not occupy too much road surface, thus easing the traffic congestion during rush hours in the morning. For instance, Mr CHAN Han-pan, Mr Steven HO and I can travel in one car instead
of driving separately. In case the tunnel tolls are increased, we may also be forced to do so. Hence, should the Secretary be more people-oriented when considering the matters. The sweeping approach now being adopted by the Secretary is not humanized enough. Under a policy which is not humanized, there are more and more vehicles using the roads and traffic congestion is getting more and more serious.

Therefore, I also think the Government should consider offering a toll waiver for public transport while increasing the tolls on vehicles which occupy more road surface per capita in order to reduce the number of drivers during peak hours. The Government can even increase the tolls during peak hours but charge the usual tolls during non-peak hours. If the Government wants to launch the Electronic Road Pricing Pilot Scheme, this mode of charging can be first introduced in tunnels to replace manual toll booths. It is because drivers paying at toll booths will cause congestion at tunnel entrances and the overall traffic flow will be greatly slowed down, which is detrimental to social effectiveness as a whole.

With these remarks, Deputy President, I support the passage of the Bill. Thank you.

MR LUK CHUNG-HUNG (in Cantonese): Deputy President, the Hong Kong Federation of Trade Unions ("FTU") is in support of the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill") summited by the Government today.

The Bill seeks to provide the necessary legal backing for the Tate's Cairn Tunnel ("TCT") to operate and be managed as a government tunnel on the expiry of the franchise on 11 July this year. It includes amending the Road Tunnels (Government) Ordinance (Cap. 368) and its subsidiary legislation to extend their application to TCT; incorporating the existing tolls chargeable in respect of TCT into the Road Tunnels (Government) Regulations (Cap. 368A); and repealing the Tate's Cairn Tunnel Ordinance (Cap. 393) and its subsidiary legislation.

In regard to the transitional arrangements for TCT, the primary concern of FTU and I as the representative of the labour sector is the rights and interests of the tunnel staff. Last year, the Hong Kong Tunnel and Highway Employees' General Union ("the General Union"), an affiliate of FTU, met the transport
related government officials a number of times to reflect the staff aspirations.

Over the past 30 years, TCT has been operated by the same franchisee. Quite a
number of staff have been working there for over 20 years, and among them,
some even started to work for TCT from day one of its operation, and thus have
accumulated seniority, wage increments and leave entitlements. Therefore, FTU
and its affiliate, the General Union, have urged the Transport Department ("TD")
a couple of times to incorporate into the tender criteria a requirement that the new
operator must ensure the smooth transition of the original staff welfare (including
remuneration, leave arrangement and other treatment benefits). The new
operator is also encouraged to receive ensure the incumbent employees who are
willing to stay so that their employment can be protected.

In this connection, I thank TD and the Transport and Housing Bureau for
accepting most views of the General Union, and am glad to see that the
Government can heed good advice. I believe that this mechanism is also
applicable to other government outsourcing contracts in future. This is to ensure
that after transitioning to a new company, the new company will start a new
employment relationship with the old staff and provide them with the
remuneration treatment no worse off than the original terms. The new company
will receive old employees and make proper arrangements on recognizing their
seniority and leave entitlements. Hence, the present arrangement of TD is
praiseworthy. In my view, when dealing with other outsourcing contracts in
future, the Government can make reference to TD's arrangement. And here I
express my commendation to TD again, because these old staff, who have been
working hard to ensure the smooth operation of this tunnel, are of utmost
importance to the tunnel as our strategic transport link. Hence, when we are
using the tunnel, we should not think that they are just doing simple tasks. With
our communication with the General Union, I can understand that what they do
are rather professional and challenging. Thus, their contributions and hard work
should be duly recognized with reasonable remunerations.

Besides, we think that the Government must put in place a mechanism on
working hours arrangement such that the staff can, for example, be duly
compensated for their overtime work. Concerning the wages of the newly
employed staff, the company should make reference to the sector's median wage,
so that the wages of new staff will not be lower than the median wage of tunnel
staff. This can make sure that the wages of old and new staff are remunerated at
market rate.
Moreover, the Government has demonstrated how to deal with the loss incurred by the staff due to change of contracts (for example, they are not entitled to statutory labour holidays in the first three months of the new contract when it comes into effect) through setting up a leave compensation mechanism. As I understand, TD has undertaken to ensure that the new contractor can provide the arrangements concerned. This time, the new contractor and TD have adopted most of our views. But after certain years, the tunnel services will be outsourced through tenders. Hence, we hope that the authorities can ensure continuity of the mechanism concerned, under which the new contractor is required to incorporate the arrangements relating to leave, remunerations and benefits into the employment contracts, so as to set an example for other government departments to follow.

Finally, I think tunnels are the thoroughfares which serve the long-term needs of the public, and thus the Government must properly manage the operation of tunnels. Instead of outsourcing the services, it should provide services through the staff directly recruited by TD in accordance with the Civil Service establishment. I do not mean that the quality of the existing outsourced staff is not good enough, but only think that the staff recruited according to the Civil Service establishment can enjoy better welfare and employment protection.

Moreover, quite a number of colleagues mentioned that after the Government has taken over the TCT franchise, it should conduct a study on the three tunnels connecting Kowloon and Sha Tin and on the three road harbour crossings. In this regard, we expect that the Government can take this opportunity to align the tolls of the three tunnels connecting Kowloon and Sha Tin, especially when the existing tolls of TCT are rather expensive—If I can recall correctly, the toll for private cars is $20. However, the toll of using Eagle's Nest Tunnel, Sha Tin Heights Tunnel and Lion Rock Tunnel, which are all government operated, is only $8, a level lower than the existing toll range from $15 to $35 charged for using TCT. When I drive, I also like using these tunnels. Secretary, people naturally go for a cheaper tunnel unless they are in a rush.

As explained by the Government, since it is not appropriate to introduce drastic changes during the transitional period, it will not adjust the tolls—I would accept this explanation reluctantly—However, when the takeover is complete, the Government really has to listen to the aspirations from the public, especially those from the residents of the New Territories East. They all hope that the tolls
of TCT can be remarkably reduced to roughly align with the toll level of Eagle's Nest Tunnel, Sha Tin Heights Tunnel and Lion Rock Tunnel, or even align with their toll level at $8, with a view to facilitating a balanced traffic distribution of the three tunnels. After the TCT tolls are reduced, there will be room for bus fare reduction, as the toll for buses is not cheap at present. If the tunnel toll for buses is reduced, each passenger may be able to save a few dimes or nearly $1 per trip. By that time, I hope that the Government will have a mechanism to require franchised bus companies to return some benefits to their passengers. Hence, the General Union hopes that the Government can take this opportunity to align the tunnel tolls of Eagle's Nest Tunnel, Sha Tin Heights Tunnel, Lion Rock Tunnel and TCT so as to alleviate the burden of the people.

Although I drive only one to two days per week, I will also use the Western Harbour Crossing ("WHC") whose toll for private cars is $65, the most expensive among the tunnels. But $65 is only a very small fraction of the statutory toll as it can reach $225 at the maximum. The toll for buses is even more expensive. While the existing toll is $170, the statutory toll is $400. Therefore, the Government really has to consider this issue seriously. If the WHC tolls are further increased, we will have no choice but to accept the increase. I have no idea whether the Government will welcome this move, because the increase in WHC tolls will mean fewer vehicles using that tunnel and smoother traffic on the roads. I wonder if the Secretary also shares this idea, or thinks that the lowering of the tunnel tolls can attract more people visiting various districts by vehicles.

I cannot read the Secretary's mind, but I only want to highlight the problems of WHC in the hope that the Government can seriously study getting back its franchise in advance (which means a buyback). As an alternative, it can persuade the Western Harbour Tunnel Company Limited ("the Company") not to increase the tolls, while the Government will subsidize part of the fares as an incentive to attract more people using WHC. At present, some people use the Cross Harbour Tunnel ("CHT") because of its lower tolls, especially taxi drivers as the toll for taxis is much cheaper in CHT than others. On the contrary, WHC has the lowest utilization rate among the three road harbour crossings at the moment, with the utilization rate at about 90% during peak hours and an even lower rate during non-peak hours. Under the circumstances, if the WHC tolls can be reduced or be more aligned with the tolls of CHT and the Eastern Harbour Crossing ("EHC"), a balanced traffic distribution can be achieved.
In conclusion, I think it is timely for the Government to conduct a study on the congested situation of tunnels in Hong Kong, but it really has to be bold enough. While I expect that the Government can come up with a proposal from this study to effectively improve the operation of these six tunnels, I am also worried that the result will remain the same after this hustle and bustle. That means after spending some efforts, the Government still thinks that not any other way is feasible, and as a result, the status quo is maintained to the effect that the congested tunnels remain to be congested, and the tunnels with low utilization rate continue to waste the spare resources. I certainly do not want to see this result, but would hope that the Government can seriously conduct a feasibility study on a balanced traffic distribution of the six tunnels. Therefore, FTU hopes that the Government can reach an agreement with the public transport service operators that once there is room for toll reduction, they must offer a rebate to passengers through reduced tolls so that both drivers and public transport commuters can be benefited and have their burden of transportation fees lessened.

Finally, I would like to talk about the Government's takeover of TCT, which was constructed under the model of Build-Operate-Transfer ("BOT"). This model was just being commended by a Member as a multi-win model. But Deputy President, I hold a different view. I must emphasize that this BOT model should not be applied by the Government to the construction of any public infrastructural projects in the future. As we have seen, when a BOT model is adopted, the Government can only allow the operator to increase the charges and is unable to monitor it before the takeover. How can we put these significant infrastructural projects, which form our economic lifeline and are the basic needs of people's livelihood, into the hands of private companies? Deputy President, even though Hong Kong is a capitalist society, we still should not entrust these infrastructural projects to private companies, right? Therefore, I hope that the Government will no longer adopt the BOT model in the construction of infrastructural projects in the future. Frankly speaking, we are not short of money at the moment as the fiscal reserves of the Government stand at over $1 trillion. Since infrastructural projects are beneficial to people's livelihood and economic development, they must be undertaken by the Government to prevent the emergence of various kinds of unnecessary problems due to the adoption of this BOT model.

Lastly, Deputy President, I emphasize again that I support the Bill. Thank you, Deputy President.
MR WU CHI-WAI (in Cantonese): Deputy President, the Bill is indeed very simple and straightforward. The franchise of the Tate's Cairn Tunnel ("TCT") will expire next year, and the Government will take it over. There is nothing particularly worth discussing in this part. But now, as I hear the Government say that it is studying the issue of tunnel tolls, I think I must point out the one myth associated with such studies and discuss it with Secretary Frank CHAN here.

The myth is the belief that the Government can adjust tunnel tolls as a means of diverting vehicular flows and tackling traffic congestion. Let me talk about a simple case here, and Members can compare the tunnel tolls concerned. There are four tunnels in Sha Tin, including the Eagle's Nest Tunnel ("ENT"), the Shing Mun Tunnels ("SMT"), TCT and the Lion Rock Tunnel ("LRT"). These four tunnels charge different tolls. ENT and SMT charge a lower toll that is the same as that charged by LRT. If we adopt the Government's perspective, we will probably think that normally speaking, most drivers who use LRT will also choose or try to use ENT because its toll is equally low. But this is not the case in reality. Why? The answer actually tells of a very important point. Indeed, the result will remain the same if I use TCT instead of LRT for comparison. Among the three tunnels of TCT, LRT and ENT, TCT charges the highest toll but, as we can see, its traffic flow and utilization rate in the morning are way higher than those of ENT. Therefore, I call on the Government to abandon the misconception that vehicular flow can be adjusted as long as the issue of tunnel tolls is solved. I think we need to first deal with such a misconception.

I am always of the view that if all tunnels charge equal tolls, drivers will make their tunnel choices on the basis of the routes to and the directions of their destinations. During this process, they will consider not only the toll fee but also the traffic congestion problem, or the time cost, of the journey. I think for many drivers, the time cost is rather a prime consideration. I believe the time cost will substantially affect drivers' choices of routes. This is the first point.

Second, what is BOT (Build-Operate-Transfer)? The concept of BOT is that a tunnel operator will return the tunnel to the Government after it gets the right to operate it for several 10 years. To the Government, the tunnel will no longer require capital input, and its only expenditure will be the operating costs. If the Government uses the tunnel toll to fund the tunnel's operation and adjusts its traffic volume, the Government actually seeks, to a certain extent, to make profit from the tunnel or generate revenue from tunnel tolls. Is it an appropriate
approach of public finance? Or is it a matter that needs to be contemplated in public policies? I doubt it. Hence, I hope that the Government can figure out the concept of its review of the overall surface road toll levels after the return of the BOT tunnel upon expiry of the franchise. We have toll-free tunnels and toll-free bridges as well. Theoretically, a tunnel can become toll free after the Government takes over it. Hence, what is the meaning of charging and not charging tolls? The Government needs to clearly explain its rationale for the decision; it owes it to the public. If the Government imposes tolls as a means to adjust vehicular flow, I think we need to re-examine if this is the case.

Mr LAM Cheuk-ting says Hong Kong has been building roads all the time. But no matter how hard we build roads, we cannot keep pace with the growth of vehicles. From this perspective, we are repeating the mistakes of many big cities in the United States. Specifically, the Secretary may be very familiar with the problems encountered by these cities in the 1960s when the economy took off. The two cities of San Francisco and Los Angeles did invest a lot in building expressways that time. In the end, the majority of their citizens had to live in the suburbs and spend one to two hours travelling to their workplace in downtown every day. The point is we cannot solve the problems if we just rely on road building and tolling arrangements, paying no attention to the needs and choices of the residents in respect of their jobs, living places and transportation. What is the purpose of toll-charging as a tool? The purpose was clear when the contractor of the BOT tunnel had to recover its investment costs. This is perfectly justifiable. But whether the Government should follow the same concept is another matter.

Apart from this, I would like to raise the third point. The Government is often reluctant to touch upon this point when discussing its tunnel toll studies. I have argued with the Government that there are two variables in the problem of tunnel congestion. The first variable is the utilization of tunnels by vehicles. The second one is vehicular traffic flow. Whether you like it or not, in the existing tolled tunnels, the vehicular traffic flow is actually restricted by toll booths. I do not know if the Secretary agrees with my observation. Due to the toll booth restriction, vehicles are unable to enter the tunnel tubes directly after they edge into the tunnel areas. Instead, they have to experience congestion twice. The first congestion occurs when vehicles edge into the toll plazas. After the toll payment, vehicles still have to weave their ways into the tunnel tubes. I believe that the Secretary may understand that such process will actually create additional … or slow down traffic flow. Therefore, the future
Tseung Kwan O—Lam Tin Tunnel ("TKO-LTT") will be operated under another concept and it will be a tolled tunnel without any toll booth. In other words, vehicles using the tolled TKO-LTT will have to install a sort of electronic toll collection system. This will even require the enactment of legislation to cater for the tunnel management. If this process is already underway, but the Government does not include the concept of the provision or otherwise of toll booths in its study, the entire study on the traffic flow, traffic congestion as well as traffic distribution of the tunnels will only fall into the trap of satisfying the misconception of the Transport and Housing Bureau, a long-time misconception that traffic distribution among tunnels can be rationalized through the tunnel toll adjustments. But does this actually work? Without undergoing any study on toll booths, we will not be able to grasp the changes therein? Objectively speaking, quite a number of tunnels in Hong Kong are toll free. Kai Tak Tunnel and Cheung Tsing Tunnel are toll free. There will sometimes be traffic congestion in these toll-free tunnels, just like the ordinary vehicular bridges. But they do not have to face the "second congestion", which is an additional congestion arising from the need to pay tolls at the toll plazas. Academically, the second congestion will also give rise to economic costs and social costs. How can the "second congestion" not be a portion of social costs? However, instead of considering ways to tackle the "second congestion" problem in order to reduce the social costs so incurred, the Government continues to devote strenuous efforts to figure out how to adjust vehicular traffic flow through tolled tunnels. This is inadequate, if not wrong. I think the whole study is just unable to get to the crux of the matter.

Another issue I want to talk about also involves toll plazas. We always say that priority use of road tunnels or roads by public transport must be the prime consideration in the entire thinking process of the Government. Many colleagues have said under the public transport priority measure, the Government should allow public bus operators to use some public facilities free of charge. At the least, as a support measure, the Government should waive bus companies' tunnel tolls, so that they can return such costs to passengers, thereby attracting more people to take public transport.

Apart from tunnel tolls, the most important support certainly comes from the limited priority in the use of tunnels and roads. The traffic congestion at the Hung Hom Cross Harbour Tunnel ("CHT") is largely due to the pick-up/drop-off arrangements for buses at the toll plaza. With only a limited area, the plaza has to accommodate a huge volume of bus traffic, in particular during the morning
and evening peak hours. We often see a lot of buses queuing up on the lane towards Cheong Wan Road, making it even more difficult to use the road surface. If the Government adopts the idea of abolishing toll plazas as proposed, this can help release most of the plaza space for buses pick-up/drop-off before they queue up to enter the tunnel tube. Will this be another solution to the current congestion problem at the entrance of the tunnel?

Unfortunately, this option is absent from the authorities' study on the rationalization of traffic distribution among tunnels. I do not know how the authorities can model the relevant traffic conditions, but I am quite sure that the traffic modelling done by the authorities does not include nor examine the model of abolishing toll plazas. The authorities merely say they do not expect the setting up or abolition of toll plazas to have an impact on the traffic volume. I agree that the traffic volume will remain the same. But the traffic flow will change, and this already warrants a study by the authorities. However, the authorities have not conducted such a study. Instead, they focus their minds and efforts on the options of "increasing CHT tolls and reducing the Eastern Harbour Crossing ("EHC") tolls" or "reducing the Western Harbour Crossing ("WHC") tolls" which they think are the feasible solutions, and on what they have to do after taking over the tunnels, or how they can hand out subsidies if not taking over the tunnels, etc. I concur that these are part of the work, but if the authorities does not adopt a different perspective, it is just impossible to come up with a reasonable solution.

Lastly, quite a number of colleagues have suggested that we may as well buy back WHC. However, the Bureau does not even have a clear mind to get to the crux of the matter, as the first step to solve the problem. In fact, the franchise of WHC will expire in 2023, and that of the Tai Lam Tunnel in 2025. In the few years before the franchise expiry, one question that the Government must answer is the operation mode and tolling concept that it should adopt after the tunnel takeover. Instead of dwelling on the WHC buyback as a solution to the problem concerned, the Government have to figure out the problem in order to truly get to the crux of the matter.

The expiry of the WHC franchise is getting closer and closer. Now we are in 2018, five years from 2023. I expect that the Government would take the opportunity of the TCT takeover to listen to our views. The next to deal with is the TKO-LTT issue, as it may be the first road tunnel without a toll plaza in Hong Kong. In times when the transport tolling modes in society are likely to undergo
substantial changes, the authorities should all the more adopt a wider perspective to consider and study the impacts of different tolling modes on the overall traffic flow. The authorities should no longer fancy that the tunnel tolling can affect the number of vehicles because this hinges on the actual overall number of vehicles in Hong Kong. Therefore, I hope that the Secretary will take these perspectives into account when conducting the study on the rationalization of traffic distribution among tunnels so as to make the study rich and holistic.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I would like to remind Members that the Road Tunnels (Government) (Amendment) Bill 2017 seeks to provide legal backing for TCT after it becomes a Government tunnel upon the expiry of the franchise. Issues covered by the Bill include: (a) incorporating the existing tolls chargeable in respect of TCT into the Road Tunnels (Government) Ordinance and its relevant subsidiary legislation; and (b) providing for an emergency exemption from the prohibition against vehicles conveying dangerous goods in tunnels.

I notice that some Members discuss in the current debate the ways to improve the traffic flow in Hong Kong and the tolling arrangements of other tunnels. I have handled such situation with a lax approach and allowed Members to present their views. Yet, I hope Members will focus their discussion on the overall merits of the Bill. For other topics, Members may give a brief account or follow up on other occasions.

MR CHARLES PETER MOK (in Cantonese): Deputy President, I will try to be as brief as possible. The Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill") is introduced because on the expiry of the franchise of the Tate's Cairn Tunnel ("TCT"), the Government has to take over the tunnel, repeal the governing legislation of operating TCT in the Build-Operate-Transfer ("BOT") mode, and charge tunnel tolls directly from vehicle owners and motorists. These are just routine businesses, but as we all know, whenever traffic issues are involved, the matters will cause grave concerns among various political parties, camps and sectors of the community. I therefore would also like to take this opportunity to express some of my views.
I do not wish to repeat the arguments that other Members have already presented just now, but I understand that when talking about traffic problems, the Secretary is sometimes faced with a lot of restrictions. Particularly, as far as fees and charges are concerned, people all hope that every tunnel is toll-free, or as previously suggested, no attempt will ever be made by the Government to increase penalty charges, and so on and so forth. It is true that this legislature will try to impose all sorts of restrictions in this respect, and I do not want to say that these suggestions are nothing but populism. However, I only wish to raise the following point here: When considering policies in this regard in the future, I hope the bureaux and departments concerned will make an analysis by using the scientific data available as far as possible.

We can notice from examples cited by several Members including Mr WU Chi-wai just now how we can make optimal use of the large amount of data available to perfect the analyses we make, and then adopt different models for reviewing and predicting various possible scenarios. For example, what effects will there be if tunnel tolls are adjusted upward? How about offering a complete waiver of tunnel tolls? What will happen if upward adjustments are made to the toll levels of this tunnel and downward adjustments are made to those of another tunnel?

From what I have always heard in the Legislative Council, quite a number of Members tended to follow their intuition and suggest waiving or lowering the tolls of all tunnels. Besides, I also understand that the Government would like to maintain a check on the number of vehicles running on our roads, and it is also very important to control traffic flow. I therefore hope that the Government would apply various data and scientific analyses more extensively in its study in the future, and if it can prove that we would be able to achieve the maximum optimization by adopting certain particular measures, I believe Members and the public will also understand and give their support. In a few years’ time, the Government will complete its work in taking back the franchise of all of the six BOT tunnels, and with three tunnels connecting Kowloon with the New Territories and another three tunnels linking Hong Kong Island and Kowloon under its management, the Government will genuinely be in complete control of the operation of all tunnels, including their toll levels. There will thus be much wider room for the Government to handle the matter.

A number of Members have talked about just now their own experiences in driving or travelling to work in Central from various districts, and I wonder if fellow Members share my views that with the enhancement of the flow of
information, we have actually achieved a better traffic distribution in recent years. Motorists can simply check their smartphone before and even during the journey to obtain real-time information about the traffic conditions in various tunnels, and then get to know which tunnel they should use in order to arrive earlier at their destination. Motorists of all vehicles have already got used to the practice, with taxi drivers being the only exception. I therefore consider it a very good example to illustrate how such applications and information can to a very large extent help the people to assist the Government and other road users in regulating traffic flow, thus demonstrating the importance of data. In this connection, I have two proposals to make.

If my memory serves me right, during the oral questions session in the meeting of last week, the Secretary has discussed the initiatives in Smart Mobility mapped out in the Smart City Blueprint for Hong Kong, and the issue of car-pooling or car-sharing has also been brought up in the relevant consultant study. I think the Government can use this as a criterion for adjusting the existing toll levels of tunnels, and under certain circumstances, introduce concession measures at some tolled roads as appropriate and charge a reduced toll or exempt the toll payment as in many overseas places when a vehicle carries more than two or three passengers. This may be a feasible tool for the Government to consider when it is developing analysis models in the future. Ultimately, I consider it most important for the Government to keep more traffic data in the future and make them accessible by members of the public and third-party software developers, so that they may provide the public with more information for reference.

If it is considered that tunnel tolls should always be charged, I agree very much with the suggestions made just now by two Members, namely Mr LEUNG Che-cheung and Mr WU Chi-wai, and concur that we should ask the Government to consider using real-time data or traffic flow to determine the toll levels. Moreover, automatic toll collection systems should definitely be used, and motorists should no longer be required to stop and pay at toll booths by cash or by electronic payment ("e-payment") means. When we discussed the introduction of "stop-and-go" e-payment service in the last term of the Legislative Council, many Members regarded it as a very desirable and convenient option, but I have mildly expressed objection to the idea. I recall that I have suggested back then to the Government that it should simply introduce automatic toll collection systems, so that all motorists can drive right through toll booths without stopping, and the suggestion is in fact feasible. It is always my hope that the Bureau
would consider affixing a smart tag to vehicle licence, and I have encouraged the Bureau to put the idea into practice, so that the function of automatic payment can be included into vehicle licence. By storing the bank account information of a licence holder in the smart tag affixed to his vehicle licence, the licence may be used for automatic payment or for performing other functions, such as facilitating the implementation of Electronic Road Pricing Scheme in the future. All these are measures that the Government should adopt as early as possible.

With regard to the proposal put forward by some Members to buy back the Western Harbour Crossing ("WHC"), I only wish to state briefly that I myself have all along been doubtful about this suggestion, because it may already be too late to negotiate with a private commercial company on the related matters when there are just a few years left before the expiry of the relevant franchise. As it will already be 2023 a few years later, it may not be possible to produce positive results with the negotiations conducted by the Government, since the private commercial company will definitely push up the selling price of the tunnel. Such being the case, it would be more desirable to make proper planning for various tunnels which the Government has already taken over, because there is only one private tunnel left. Hence, I do not support the idea of buying back WHC when we have already come to this stage, mistaking that this would help us achieve some good results.

Deputy President, I will not spend too much time on repeating what other Members have said, but would like to make one more point. The Government often adopts the concept of public transport priority to handle the use of roads by different types of vehicles. I wish to briefly point out that the Government must face the reality, and accept the fact that the carrying capacities of the public transport system in Hong Kong have already been saturated. I notice that the Secretary is also a public transport user, and has taken some photos of his travelling on the Mass Transit Railway, but he may not have travelled by such modes of public transport during morning or evening peak hours, when the conditions are really unbearable to the commuting public. No wonder many people have said that if they are given a choice and can afford to drive their own car, they will rather travel in private car. I think the Government can never solve all problems simply by encouraging the use of public transport, and should also understand that it must try its best to tackle road traffic issues effectively and balance the needs of different types of vehicles and even private cars, so that their drivers will be able to enjoy a certain degree of rights to use roads.
Deputy President, I wish to reiterate my support for the Second Reading of the Bill, and I hope that the Government would genuinely make use of the most updated technology and open up government data, thereby realizing genuine Smart Mobility.

**DR KWOK KA-KI** (in Cantonese): Deputy President, I rise to speak in support of this motion.

Deputy President, this is actually a formality. We all know that the 30-year franchise of the Tate's Cairn Tunnel ("TCT") will expire this year. The operation and management of the tunnel will then be handed back to the Government. As far as I remember, the incumbent Secretary was not in this position yet when we conducted the discussion relating to TCT in 2015 last time. The previous Secretary applied for a toll increase in relation to TCT then, and therefore the relevant Panel of the Legislative Council had to consider the application. Perhaps I can briefly talk about the excessively increased rates proposed at that time. In fact, although TCT had been reaping profits consistently, the tunnel company still wanted more by proposing a toll increase for motorcycles by 15%, from $13 to $15. The proposed rate of increase for private cars was the most unreasonable, which involved an increase of 18% from $17 to $20. The proposed increase covered all types of vehicles, in which tolls on minibuses were proposed to be increased to $26, light goods vehicles to $24, and buses to $35.

Deputy President, at that time, we asked the Government if there was any way to deal with the application. The Government responded that nothing could be done under the franchise arrangement as the tunnel company would sue the Government if the application for toll increase was rejected. Since the tunnel company was granted the franchise, all applications for toll increase in 1995, 1996, 2000, 2005, 2008, 2010, 2013 and 2016 were all approved. This is all because of the franchise given by the Government under the Tate's Cairn Tunnel Ordinance. The Government becomes a "toothless tiger" under the franchise. In fact, it was superfluous to ask for the Legislative Council's permission for toll increase, as the Government knew very well that we could only compromise as the tunnel company would bring the case to court and lodge a judicial review if we rejected the toll increase.
The Government received many opinions then. The relevant Panel passed all motions concerning the issue, stating that upon the expiry of the franchise, the Government must unify the tolls of all tunnels to align TCT tolls with those of the Lion Rock Tunnel ("LRT") and Eagle's Nest Tunnel and Sha Tin Heights Tunnel. It should be done from 11 July 2018 onward. The motion was passed on 19 May 2017.

Deputy President, if the Government tells us in this discussion that nothing will change even after the franchise expires, we will not accept that. As everyone can see, the difference between toll levels among tunnels is intolerable. The tolls of LRT and Eagle's Nest Tunnel under the Government's management are unified, regardless whether the vehicles are private cars, minibuses and buses. Yet, it can be said that the arrangement for TCT has been wrong over the last three decades as the tunnel company has been reaping disproportionate profits. When the Government granted the franchise in the past, the estimated construction cost was $2 billion, but the toll income in 2016 alone was as high as $496.3 million, which almost amounted to $500 million. So, suppose the Government is not going to introduce any changes, it will earn around $500 million after resuming control of the tunnel.

It is fine for the Government to earn $500 million if this means some actual improvements in rationalizing traffic distribution, and all vehicles will benefit regardless of the tunnels they use. However, what we witness now is that LRT has recorded an average traffic flow equivalent to 118% of its capacity; and, owing to factors relating to location and traffic flow, not many vehicles take the Eagle's Nest Tunnel, the capacity of which has not been reached. This indicates the random nature of the Government's infrastructural planning. Though the Government's estimation on the traffic flow of the Eagle's Nest Tunnel may not necessarily be a random guess, many upcoming transport infrastructure projects like such "white elephants" as the future Route 11 and the Hong Kong-Zhuhai-Macao Bridge, are based on some sloppy estimations, as the estimated traffic flow of the latter is horribly wrong.

(THE PRESIDENT resumed the Chair)

As regards the tunnels currently in use, the Government has done nothing whatsoever. The highest traffic flow of TCT only equivalent to 75.4% of its design capacity at present, so there is much room to increase throughput.
Despite the high toll levels and the inconvenient location of TCT, the Government still expects the people to use TCT simply because LRT is saturated. They will take TCT only if they are all foolish enough, right? So, what if the Government still insists its fallacious practice, or introduces no changes as in the case after the Government resumed management of the Eastern Harbour Crossing ("EHC")? Earlier on, the Government commissioned a survey on the rationalization of traffic distribution among the three tunnels, in which it suddenly brought forward proposals such as increasing the tolls of the Cross Harbour Tunnel while reducing that of EHC, or even subsidizing the Western Harbour Crossing ("WHC"), with a view to rationalizing traffic flows. Secretary, if you believe this is not the best moment to buy back WHC, as claimed by some Members, I have to tell you that the best moment will never come as long as the Government keeps delaying the decision. The buy-back option will just look more and more uneconomical while the franchise expiry date is approaching. This is true. However, we can never accede to the Government's proposal to subsidize WHC as it is tantamount to conceding everything to the tunnel company. As Members may know, the tolls of WHC have not yet reached statutory levels, so even if the tunnel now charges as much as $65, it can still claim that it is charging concessionary fares. Therefore, if the Government truly opens the floodgates, it will just squander taxpayer's money. As we all know, WHC is now owned by some pro-Beijing businessmen, therefore we must act carefully in this respect.

Back to the topic, as TCT will be handed back to the Government this year, we hope, first, the Government can enhance the ancillary facilities inside the tunnel, such as the signage and the public address system; second, it can improve the treatment of employees. We frequently receive complaints from staff of the tunnel company about poor service conditions of theirs, yet the issue does not arouse much attention. Now that the Government will take over the management soon, the situation will improve in theory. That said, President, the main question is how to solve the uneven traffic distribution. The situation during rush hours is highly different indeed. The traffic flow of LRT during rush hours is 5 100, while that of TCT is 4 400; the gap during non-rush hours is even wider, as the respective numbers of vehicles are 3 400 and 1 900.

Honestly, the Government has done something right. For example, new bridges and tunnels are made toll-free, including the Stonecutters Bridge or the Route 3 which are used by some vehicles. The Ting Kau Bridge is free of charge if vehicles do not enter Route 3. This is understandable, and it helps the traffic too.
Equally, if the tunnel company has recovered the cost already and reaped some handsome profits, should it keep on extracting money greedily from the people? I consider the profits unjust as the company has collected some hefty revenue already. So, I do not agree to any further toll increase. More importantly, the toll levels will directly affect the public transport fares, including minibuses and buses fares, etc.

Based on the Government's current practice, the problem is not easy at all because the Government did not hold clause by clause negotiations on franchise contracts with bus companies. I do not agree to this practice. If clause by clause negotiations were held, the Government would have informed bus companies that fare levels should reflect any reduction in operation costs if future toll levels are not the same as those of the present.

First, of course I wish the Government can align the tolls of TCT with those of the other two tunnels managed by the Government in future. The overall income will decrease afterwards, but the benefits from reduced tolls should not directly enter the pockets of minibuses or franchised bus companies. I reject this. In fact the Government has its responsibility in this regard but it is always outplayed by the bus companies in negotiations on the franchises. It has raised no additional demands to bus companies either. On the other hand, in the Legislative Council, the authorities will certainly press us for a quick passage, citing such reasons as bus service will have to be suspended otherwise. Therefore, more often than not, we are actually forced to renew their franchises, and the lengths of the franchises can be as long as a decade. In the end, the daily commuters suffer the most.

Therefore, I eagerly hope that the Secretary can give a positive response in his speech. After the tunnel is handed back to the Government this year, it has to let us know when, if not immediately, it will rectify this unfair and unsatisfactory system of unduly high tolls. Of course, the Government has to formulate a set of transport policies which prevents these transport companies from reaping the benefits and earning more income by exploiting the reduced toll levels, including minibuses or franchised bus operators. Some Members have asked if we can apply technology to control the traffic so as to improve traffic distribution. I do not reject this suggestion, say, adopting different tolls in different time of the day in a bid to encourage more users. For example, concessions can be offered during rush hours, or even the tolls can be reduced.
Say, if LRT charges $8 for each use, why can the Government not charge $6 if it wishes to attract more patronage? Will it be better if they charge $6 during rush hours? It can serve to alleviate the traffic and congestion of LRT. The Government does have good reasons to do so.

As regards the application of electronic toll collection, this is a rather controversial question. First, Autotoll has a service fee. I would say that it would be right if the Government can bear the service fees in order to facilitate the traffic. Otherwise, if drivers are forced to pay $25, which is the current fee level as I am not sure about the magnitude of fee increases in the future. I do not think that drivers should be charged on monthly fees or administration fees for Autotoll or electronic toll collection.

Mr Charles Peter MOK has just asked if the Government can insert an electronic chip in every newly replaced driving licence. This is all right, yet it does not mean that we accept electronic toll collection or real time location tracking. Members have to understand that Hong Kong is a place where personal privacy is highly respected, and we also have to know that "Big brother is watching you". Therefore, we will not easily accept any tracking devices which expose the people's privacy or driving records to the Government's data system. Frankly, when our Government is edging closer to the north …

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, you have strayed from the topic. Please return to the debate topic.

DR KWOK KA-KI (in Cantonese): President, I am going to finish speaking soon. There is only one minute left.

Against the backdrop, we have reservations over these electronic tracking devices …

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, though you will soon finish speaking, you have strayed from the topic. Please return to it.
DR KWOK KA-KI (in Cantonese): OK, President. I return then. So, finally, I will not and cannot reject this motion relating to TCT. However, I believe that if the Government still insists against rationalizing the tolls of TCT or reducing the toll levels of the other two tunnels, it will fail the people, and it will be grossly unfair to many road users, especially those who need to travel by public transport. I so submit.

MR CHAN CHI-CHUEN (in Cantonese): President, the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill") today seeks to incorporate the Tate's Cairn Tunnel ("TCT"), whose franchise will soon expire, into the scope of the Road Tunnels (Government) Ordinance. After TCT has become a government tunnel, the Government should make good use of the relevant resources and opportunity to alleviate the transport problem or further still, to bring relief to people's difficulties.

Upon the expiration of its 30-year franchise on 11 July 2018, TCT will be taken over by the Government. When TCT is commercially operated, the service provider naturally accords top priority to balancing the books and maintaining enough profit to meet the tunnel's running costs. As a matter of fact, the operation of TCT has been in the red before 2007. Though it broke even in 2007, the profit made since then has been lower than expected. To boost its profit, TCT has raised its tolls a number of times, and hence widening increasingly the gap between its tolls and those of government tunnels. The current toll rates of the Eagle's Nest Tunnel and the Lion Rock Tunnel stand uniformly at $8 regardless of vehicular type, while TCT's tolls range from $15 for motorcycles to $32 for double-decker buses. This shows that the toll rates charged by TCT are at least double of those by government tunnels.

Despite charging higher tolls than government tunnels, TCT is protected by its geographic advantages against severe inadequate vehicle flow. The opening of the Eagle's Nest Tunnel has diluted its vehicle flow to a certain extent. The average daily vehicle flow at TCT as at October 2017 exceeded 60,000 vehicles and the flow reached saturation during peak hours in the morning. Citing saturated traffic flow as the reason, the Government, at least for the time being, is not going to consider lowering the tolls after taking over TCT.

The Government's deciding not to consider lowering the toll levels of TCT has triggered concern among many people and from this Council. Responding to queries, the Government said a decision on the overall tunnel toll levels would
only be made comprehensively after all tunnels in Hong Kong have been taken over by the Government. Meanwhile, according to the Government's latest research report, a major reduction of tolls at TCT seems unlikely in the short run. The Government worries that a toll reduction will invite more motorists to TCT, causing even more serious congestion at the tunnel during peak hours. But then, is toll reduction not a viable option among all vehicular types?

In this Bill, the Government is planning to collect tolls from various vehicular types in strict accordance with the current toll levels charged at TCT. The Government and the Tate's Cairn Tunnel Company Limited classify vehicles that use the tunnel into 10 types. Among them, I notice that some obviously will not increase their usage in response to a toll reduction. An example is the public light bus. Green public light buses run on fixed routes which cannot be changed at random. Even if the toll rate for public light buses is reduced from $23 to $8, on a par with that of the Lion Rock Tunnel, green public light buses will not increase the use of TCT significantly. Another vehicular type running on fixed route is the bus of course, single-deckers or double-deckers. Their routes are stipulated by law and cannot be changed arbitrarily. Even if the toll for these buses is reduced to $8 from the Government's suggestion of $32 to $35, the buses will not switch to use TCT.

From this, we understand that the Government can possibly reduce the tolls for some vehicular types in a flexible manner while adhering to the prerequisite that traffic flow at TCT should not be raised. If the tolls for public buses and public light buses can be reduced to $8, their operating costs will be lowered and their passengers will thus be benefited. Let me cite a simple example. If a green public light bus, which carries passengers to its full capacity of 19 persons, has its toll reduced from $23 to $8, it can save $15 per trip. Then, each of these 19 passengers can save an average of $0.78. Is $0.78 a significant amount? Many wage earners commute on a daily basis and the small amount of saving will certainly add up to a big sum in the long run. Likewise for buses, if their tunnel toll is reduced from $35 to $8, $27 will be saved. Provided that the amount is to be shared by 100 passengers, each of them can save $0.27.

But you might query: just like what Dr KWOK Ka-ki said just now, given the toll reduction, public transport service operators might not reward their passengers with savings directly as they would possibly gobble up such savings instead. Of course, it is hard for us to mandate a fare reduction from public transport service operators according to the adjustment of tunnel tolls. But then,
if the Government is willing to reduce tunnel tolls considerably, I believe these operators will be under pressure to lower their fares. To put it even more indirectly, at least when the operator is planning a fare hike next time, we can ask it to show us its operating costs, ask it not to raise fares immediately or drastically, given that tunnel toll as an item of operation cost has been reduced. Over the years, the Government has been encouraging people to use public transport system as the major form of transport. The Government should seize the opportunity presented by the takeover of TCT to reduce the tolls, especially those for public transport vehicles, that is, buses and public light buses, so as to promote fare reduction in public transport or to lessen their pressure for a fare hike. Under the circumstance that a toll reduction will not lead to a significant increase in traffic flow at TCT, I think the Government should definitely consider it.

While giving support to the Bill today, we regret the Government's failure to grasp the opportunity and consider reducing tunnel tolls for public transport vehicles. I so submit.

MR HOLDEN CHOW (in Cantonese): President, I speak in support of the resumption of the Second Reading debate on the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill"). President, many Members talked about the main principle of the Bill today, which is to take over the Tate's Cairn Tunnel ("TCT") for operation by the Government. I believe no Members will oppose the takeover.

But I notice from Members' speeches that many of them mainly want the Government to take the opportunity of the takeover to make some adjustments, especially to the tolls. Some Members also mentioned in the debate that the Government had been insisting on resuming the operation right of TCT but it had not made any promise on toll adjustments. Mr LEUNG Che-cheung of the Democratic Alliance for the Betterment and Progress of Hong Kong mentioned this point just now. And Mr CHAN Hak-kan also repeatedly said that the TCT tolls had been a burden to the general public, especially drivers of commercial vehicles, and this is true. President, I wish to point out that given the Government intends to take over the operation of TCT, I do not see why it does not take this opportunity to suitably adjust the tunnel tolls of public transport vehicles and commercial vehicles.
President, perhaps, let us take a look at the overall, or macroscopic, transport situation of Hong Kong now. The Government all along discourages too much road traffic. In the past year, it has been advocating railways as the transport backbone, encouraging people to take mass carriers such as MTR rather than private cars, so as to avoid having too many vehicles on the road. However, President, we need to know that the development of the New Territories and establishment of many new towns by the Government have led to mass relocations of population to the New Territories in the past period of time, and a major part of the population will continue to be concentrated in the New Territories. With the situation as such, we need to consider carefully how to enable New Territories residents to go to Hong Kong Island or Kowloon efficiently and speedily.

President, although the Government encourages using railways as the transport backbone, not every places in the New Territories, which is a vast area, are directly reached by MTR. People living in certain parts of the New Territories may prefer taking direct coaches to Hong Kong Island or Kowloon if they have a choice. President, there are a number of tunnels in Hong Kong. Although some of them are operated by private companies, the Government may take over their operation in the future, just like the case of TCT now. The Western Harbour Crossing may then become the only privately-run tunnel left in the future. After taking over the operation of TCT, or gaining effective control of the operation, why shouldn't the Government use the opportunity to comprehensively review and consider the overall transportation in Hong Kong and then make suitable adjustments to the tunnel tolls? I hold that the Government can do so, but it seems a little indifferent to the proposal.

President, the Government is fond of saying that relaxing the tunnel tolls, lowering TCT's tolls for instance, may increase the usage level of the tunnel, and the authorities do not encourage too much road traffic and thus do not prefer doing so. President, we are very familiar with these remarks, but what I disagree is that the objective condition and situation are that there are more and more people living in the New Territories. Frankly, the Government cannot ask them to travel to the urban area by MTR only. If they prefer road transport, they need roads.

President, I need to stress again that we are talking about public transport means here. There is nothing wrong with people who prefer taking bus to the urban districts. We are providing an additional transport option to them. How
could the Government say that lowering tunnel tolls will bring more buses or other public transport vehicles on the road? President, bus frequencies are another problem. We often request in District Councils that bus frequencies and bus routes should be increased, but will the Government immediately do so? We know that it will not.

Second, setting aside whether bus frequencies and bus routes will be increased, and purely based on public aspiration for having a formal arrangement, if people need to take public transport to go to urban districts, they should be given the public transport means to do so. And frankly, if there is such a need, it does not make sense to say that since it will be cheaper to use the tunnel after a toll adjustment, the adjustment will encourage more tunnel traffic, and since the Government discourages road traffic, it will not lower the tunnel tolls. These logics disregard the needs of the people, especially those of the lower echelons. If people can lower the cost of their bus trip, they can lower their burden. But the Government refuses to lower the tunnel tolls because of the reason just mentioned, that is, it does not want too much road traffic, whether it is created by public transport vehicles or private vehicles. President, this is not a tenable argument, and to a certain extent, the Government is transferring the burden to the people.

I need to stress again that transport fares are a burden to the public and to lorry drivers or commercial vehicle drivers as well. Will a lower tunnel toll really bring up the usage level of the tunnel? I hope there is concrete data to support this argument. The Government has been saying this every time, but I wonder perhaps our transport system, whether a tunnel or a road, has already reached a certain usage level, and this level will remain unchanged even if the fares are lowered. If this usage level will not further rise, the Government should not use this reason to turn down our request for a toll reduction. So, President, simply put, I do not think the Government's refusal to adjust the tunnel tolls is justified.

I hope the Government would not adopt such a straightforward thinking in considering the overall transport arrangement. President, we should still remember that the two-way toll arrangement of Tsing Ma Bridge implemented earlier. Traffic was ground to a standstill on the morning of the new arrangement due to misarrangement of the toll plaza. Mr CHAN Han-pan went there immediately to follow up the matter on that day. Honestly, we heard some Members suggest just now that the Government should simply allow some
tunnels to be toll-free if it is determined to solve this problem. I am not saying that all tunnels should be toll-free, but only some. This will make things simpler and save the problems with the toll plaza. President, if we are to seriously discuss the subject of transport fares, we can dwell on. I do not want to repeat the points Members have raised, but I do think that Members of all parties in this Council are of similar views and opinions. They all request the Government to do something in this regard.

Last but not least, President, I wish to point out that the Government really need to review the whole transport system. We have waited for so many years. It needs to do so because this concerns not just a few tunnels, but also whether there are enough parking spaces in the territory, how much the traffic volume is, and how Route 11 will be positioned in the future, as its alignment may span from Tuen Mun to Northern Lantau. I often say that the Government should not just look at Tuen Mun and Yuen Long individually when it reviews this issue because the traffic flow of Route 11 will eventually reach Northern Lantau, but there is only a Tsing Ma Bridge connecting Hong Kong and Kowloon. So, should the Government not look into the transport of Northern Lantau as well in the study?

So, President, I hope the Government can make use of the TCT takeover after its franchise expiry, and respond to the many requests of Members. Apart from resuming the operation of TCT, the Government can also initiate a comprehensive transport review. In particular, it should comprehensively consider and review the tunnel tolls so as not to waste this opportunity.

President, I so submit.

MR CHAN HAN-PAN (in Cantonese): President, Mr Holden CHOW is right to say that the amendments to the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill") this time around actually involve technical issues, and therefore we will basically support all the amendments. Nevertheless, we still hope to take this opportunity to discuss issues concerning tunnel tolls and the relevant policy because we consider that we may not have a chance to discuss these issues on other occasions.

In fact, we have been waiting for 20 years for the ownership of the Tate's Cairn Tunnel ("TCT") to be returned to the Government. Since the day of its construction to its commissioning, everybody has been wondering when the
operating rights of the tunnel will be handed back to the Government. Finally, the time has come. The Government will be operating TCT after 11 July. Everyone has the same expectation as they had for the Eastern Harbour Crossing ("EHC") when the Government took over EHC in August 2016. We hope the tolls can be reduced after the Government takes over TCT so as to help the public save some money. Unfortunately, a problem will emerge every time after the Government has taken over the ownership of a certain tunnel. That is, should the traffic throughput be evenly distributed among the three road harbour crossings ("RHCs"), the six or eight tunnels, or what should be done? How can these RHCs be used in a reasonable way? We have been discussing the issue for 10 years and the Government has more than once published reports in the past decade. However, the Government usually refuses to use public money to subsidize them on the pretext that the franchise of a certain tunnel has yet to expire and then sweeps the whole issue under the carpet.

I still recall that last time we had a heated debate on the report. That is, during the discussion on the option of "toll increase at the Cross Harbour Tunnel ("CHT") and toll reduction at EHC" in 2013, the relevant industry expressed its opposition after the option was proposed. After that, since the option had caused strong repercussions in the community, the option was withdrawn by the Government in February 2014 before it was officially launched. After rounds of back-and-forth discussions on the takeover of EHC from the year before last year to the present day in 2018, the franchise of TCT will expire soon, eventually. Of all the six tunnels, except the Western Harbour Crossing ("WHC"), the Government holds the ownership of all the remaining five tunnels. When the Central-Wan Chai Bypass is commissioned in 2019, we believe the traffic condition on Hong Kong Island will greatly improve. Therefore, we consider that it is the right time to discuss ways to deal with traffic congestion, including the ways to deal with these tunnels.

Regrettably, the Government is playing the same old trick again by producing a report as a delaying tactic. The Government makes various proposals but eventually says it has yet to regain the ownership of WHC. Nevertheless, WHC has its own capacity. Therefore, the Government is rather innovative this time around. It says that it has to study a subsidy plan in order to achieve even traffic distribution among EHC, CHT and WHC. To be fair, I consider that the Government has done something innovative as it is trying to think out of the box, which is commendable. In reality, will the three RHCs get
the tolls they want through the subsidy scheme, will the scheme make an even
distribution of traffic possible, and can the road network around WHC bear the
load? All these are issues that we should take into consideration.

About granting subsidy to the tolls of WHC, will it be full subsidy or
partial subsidy? Will WHC demand an exorbitant price by requesting the
several hundred dollars of tolls for each vehicle as prescribed in the law first?
With regards to this issue, we believe there will be a prolonged discussion in
society. The entire process may take three to five years. It may not necessarily
be resolved when the franchise of WHC is expired by 2023. For that reason, the
scheme to achieve even traffic distribution among the six tunnels is merely a
delaying tactic.

Nor can we see any solution from the report this time. Therefore, it will
be the same as the case of the takeover of the EHC ownership before. That is,
no changes can be made even the franchise is expired. The tolls will remain the
same at $20. I consider that as far as the delaying tactic is concerned, this
approach is absolutely brilliant, and Secretary CHAN's is really good at it. The
Government has been adopting this approach of publishing reports, from dealing
with the issues of even distribution of traffic among the three RHCs to the even
distribution of traffic among the six tunnels. Basically, there is nothing to be
discussed as the entire matter has been displayed before the public. Even though
the issue of the $20 tolls has to be discussed on every occasion and it is far from
perfect, we have no choice but to accept it.

Neither do we think that the Government can do nothing at the present
stage. There are lots of things to do. For example, the percentage of auto-toll
booths can be increased, ways to encourage the use of "Autotoll" can be studied,
and even a more comprehensive automatic tolls collection system can be
introduced. If such a system is in place, basically we do not need large toll
plazas. After they are downsized, there will be more space for interchange
purpose or even park-and-ride facilities. I consider that we should make good
use of the space after a more comprehensive automatic tolls collection system is
introduced.

Next, we should take this opportunity to rationalize the road network
around the tunnel area. If the Government wishes to achieve the even
distribution of overall traffic after resumption of the ownership of WHC within
five years, we anticipate that it should design and plan the road network system
now so that the objective of traffic distribution can be achieved. Be it the road network on Hong Kong Island or in Kowloon, we should make the improvement to tie in with the Government's takeover, and the design and planning of the improvement works should commence now.

Moreover, the Government should enhance the monitor system on sites near the tunnel. Everyone knows that if a vehicle breaks down in the tunnel, it will cause a major congestion. The monitor system can help mitigate the congestion and it can also allow the authorities to adopt appropriate contingency measures. The Government should proactively encourage public buses to use the Eagle's Nest Tunnel and WHC to increase the speed of their flow and encourage the public to take these bus routes.

As to the intelligent transport system, we believe that the Government should allocate more resources in projects such as the development of information system of tunnels and road to provide early warnings to the public. The system may also warn the public to avoid congested zones or road sections. I think the Government should make an effort in these areas.

As to interchange, basically nobody will opt to drive or cross the harbour by driving a car as long as he has an option. Very often, people are forced to drive their cars. I have explained many times that places with park-and-ride facilities are either very inconveniently remote or they are already fully occupied. The population in the New Territories is very high and everybody knows that. However, several park-and-ride facilities are basically fully occupied. The authorities make no follow-up actions and ignore the situation. As a result, motorists who cannot find a parking space there will drive their vehicles to urban areas directly. However, when they reach the urban area, they will cause traffic congestion and affect the commuting time of the public. For that reason, I think the Government's efforts to encourage everyone to use public transport are empty slogans. Has the Government really made any extra efforts besides chanting these slogans?

Of course, the fact that the 90% usage rate of public transport in Hong Kong is the highest in the world. We advocate that the public should use private car less and public transport more. As to this usage rate of 90%, no place on earth has achieved this public transport usage rate of 90% as we do. As we have achieved the 90% usage rate, our public transport is already overloaded. Should we accept the fact that the public have to drive their own vehicles? If we accept
that, they will cause traffic congestion. But the problem is that all the park-and-ride facilities are fully occupied. Therefore, I think the Government should deal with this issue of parking space shortage.

As to park-and-ride, I hope the Government can look into the following matters. For example, if the Electronic Road Pricing ("ERP") is introduced, the Government may make use of the space of Autotoll booths. WHC's toll plaza is a vast space where a multi-storey car park can be built there to meet the need of the public and let motorists park their cars there. Members of the public may take the buses at the interchange area to cross the harbour. They do not have to pay the $60 toll. If the Government wants, it can achieve a lot of things.

The other thing is that in my capacity as an elected Member representing the New Territories West ("NTW") constituency, I have no alternative but to make use of this opportunity to air the views of disgruntled NTW residents. We can see that TCT, EHC and CHT are all linking up New Territories East ("NTE"), but the tolls are relatively cheap. Let me cite the tolls of TCT as an example, $20 for private cars, $35 for buses; as to EHC: $25 for private cars, $75 for buses; as to CHT: $20 for private cars, $15 for buses. Now let us take a look at the tolls NTW residents have to pay. At Tai Lam Tunnel ("TLT"): $44 for private cars, $153 for buses; as to WHC: $65 for private cars, $170 for buses. If we add up the tolls, we can see that NTW residents have to bear a very high commuting cost. Of course, we are not trying to say that the transport cost of NTE residents should be increased, but the living costs of NTW residents are already too hefty.

Therefore, I have asked the Secretary if the burden of NTW residents can be reduced and if it is possible to waive the $15 toll of the Tsing Ma Bridge. The reason is that annual tolls collected by the Tsing Ma Bridge are no more than $200 million to $300 million. In fact, it is an insignificant amount to the public coffers. Why must the Government collect them? As a matter of fact, a number of toll-free tunnels in Hong Kong, such as the Stonecutters Bridge that we have mentioned frequently, are open to the public for free. No tolls will be charged on road users. However, why should Tung Chung residents be charged the tolls? They have no other choice but to use these roads and bridges. They have to pay the tolls. For that reason, I hope the Secretary will waive the tolls when the Government considers in future the issue of how the tolls of these tunnels, bridges and roads should be adjusted to facilitate the even distribution of traffic throughput, so that they may use these roads in a fairer and more equitable way.
If one considers the tolls of TLT too high, they may opt to use Tuen Mun Road. If one considers the tolls of Lion Rock Tunnel expensive, they may opt to use Tai Po Road. People can choose other routes. The mere choice for Tung Chung residents is the Tsing Ma Bridge. People living in that district have to use the Bridge and have to pay the tolls. I have raised the issue to the Secretary many times that the authorities should abolish the tolls of the Tsing Ma Bridge.

Besides, I wish to take this opportunity to advocate one thing. If the Government waives the tolls of public transports, their fares will not necessarily be reduced. However, if the Government waives the tunnel tolls, the passengers of one type of public transport would benefit, that is, taxi. If we consider taxi a type of public transport, can the Government waive the tunnel tolls of taxis, in particular, the tolls for government tunnels? At present, because of the tunnel tolls, passengers have to pay the round-trip tunnel tolls when they take a taxi to cross the harbour. Let me cite an example. If a person takes a taxi to cross the harbour via EHC, he needs to pay the $25 tunnel tolls, and the round-trip tolls will be $50. To the public, $50 is an expense. If he opts to take the taxi instead of driving his own vehicle, it can still be considered a form of travelling that one public transport mode is used. The Government may encourage the public to take taxis, instead of driving or owning their private vehicles. This will be beneficial to the taxi industry. I am not sure if the Government will consider my recommendation.

All in all, as far as the capacities of our tunnels are concerned, CHT is already overloaded by 77% of its designed capacity and EHC is overloaded by 38%. However, WHC has only reached 90% of its designed capacity. That is to say, it still has spare capacity. Basically, we consider that the Government should make good use of the remaining capacity. If the Government reviews the operation of TLT together with WHC, some Sheung Shui residents may opt to use Route 3 and then they can travel to Hong Kong Island via TLT and WHC. In this case, they need not suffer the traffic congestion at Sha Tin en route to Hong Kong Island. As what I have said, we should take all the tunnels into consideration.

President, I support the Bill and hope that the Secretary will listen to our heartfelt remarks.

Thank you, President.
MS YUNG HOI-YAN (in Cantonese): President, I support the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill"). Although I have not participated in the discussion of the Bills Committee, I still hope that the Government can properly explain and deal with the following issues after the passage of the Bill. First, how should the traffic congestion problem, especially the traffic jam at the New Territories East ("NTE") be resolved? Second, how can the traffic congestion issue be resolved by means of technology? Today, Members have raised questions about smart lamp poles. How will the Government alleviate traffic congestion by making good and effective use of the big data collected via smart lamp posts? Third, how can air quality be improved by mitigating traffic congestion?

President, the SAR Government is going to develop North East New Territories in a proactive way, and it is anticipated that the population there will increase by 500,000 in 10 years. Nevertheless, the surface traffic in NTE is constantly congested. For example, people travelling from the North District, Tai Po and Sha Tin to Kowloon via the Tolo Highway will definitely meet major traffic congestion at rush hours. If any traffic accident occurs, the entire traffic network will be paralysed.

I believe that proper planning of a reasonable and even distribution of traffic flow at all tunnels, including the efforts to reduce the use of the Lion Rock Tunnel ("LRT") or Shing Mun Tunnels by motorists, will help alleviate the traffic congestion in NTE. Toll reduction is definitely the incentive to motorists when they are choosing which tunnel they should use. For that reason, I have been urging the Government to adjust the tolls of the Tate's Cairn Tunnel ("TCT") as soon as possible. It is because the present tolls of TCT, ranging from $13 to $34, are four times higher than the flat toll of $8 at LRT, Eagle's Nest Tunnel and Sha Tin Heights Tunnel. When we make a comparison, the tolls of TCT are quite high. For that reason, I hope the Administration can review and then announce the tunnel toll-adjustment option as soon as practicable, so that the reduced tolls of TCT can help alleviate the burden of the public as soon as possible. At the same time, it can also help achieve the reasonable and even distribution of traffic flows at various tunnels.

President, in order to rationalize the even distribution of traffic flow at various tunnels, we should not rely solely on the toll adjustment exercises. Whether the ancillary facilities of tunnels are adequate would also be an important factor. Although the Government indicates that "stop-and-go"
e-payment facilities will be installed after the handover of TCT, motorists still need the time to stop their vehicles and pay the tolls by e-payment means. As a result, it will still affect the traffic flow of the tunnel to a certain extent. I hope the Government will keep on studying the feasibility of introducing other forms of toll payment facilities which do not require motorists to stop, as well as adopting the relevant measures to encourage more motorists to use the faster, more convenient means which do not require motorists to stop their vehicles when paying the tolls. I believe it will help alleviate traffic congestion.

Furthermore, I consider that in the long run, technology will do a big help. The installation of smart roadside lamp posts will help the Government collect all forms of traffic information. Through the analysis and usage of the big data, the Transport Department may be able to grasp a more comprehensive and accurate picture of the road traffic condition. The Government may have more effective management of road traffic while motorists may decide which road or tunnel they should use according to such data. The Government may also coordinate traffic lights and signals in a smarter manner to control the road traffic condition so that motorists can avoid entering congested road sections, or even leave it for them to decide whether they should drive considering the road traffic condition …

PRESIDENT (in Cantonese): Ms YUNG Hoi-yan, instead of other traffic issues, the Bill is about road tunnels. Please return to the subject of the motion debate.

MS YUNG HOI-YAN (in Cantonese): Alright, I will finish my speech very soon. Lastly, the third point is about reducing the number of vehicles or private cars on roads, with a view to improving the air quality. I hope the Government will allocate more resources and open up the relevant information for public use. I hope the Government will be able to alleviate traffic congestion and achieve the objective of environmental protection through the use of technology.

President, I so submit.

MS ALICE MAK (in Cantonese): President, I rise to speak in support of the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill") presented by the Government. The Bill seeks to provide the legal basis for the continued operation and management of the Tate's Cairn Tunnel ("TCT") after it becomes a
government tunnel upon the expiry of the franchise on 11 July this year. But we think that after taking over TCT, the Government should do better when handling related issues.

First, we are concerned about the transition arrangements for the remunerations and fringe benefits of all existing frontline staff of the franchisee. Since TCT will be taken over by the Government, The Hong Kong Federation of Trade Unions is highly concerned about the transition arrangements concerning these two labour rights. Will there be any changes to the remunerations of employees of the new company after the Government takes over the tunnel? Can they continue to enjoy the same remunerations which may even be improved? Second, will all existing frontline staff be able to maintain their employment? Will the bid-winning contractor give priority to existing staff for employment? Particularly, some veteran workers with rich experience in tunnel operation and maintenance are very important to the handover of the tunnel. Therefore, we strongly hope that the successful bidder can accord priority to existing workers in the future and recognize their seniority in the old company so that they can enjoy the same remunerations.

As Members may remember, the one-way toll collection arrangement for the Lantau Link was changed to a two-way system several months ago, and this caused serious traffic congestion. We can see from this that whether a management company is experienced will affect traffic flow. If a company lacks the relevant experience or is inexperienced, it will not know what to do in case of emergency. As we have learnt, it could even happen that the relevant management company did not have enough coins for change when the one-way toll collection arrangement for the Lantau Link was changed to a two-way system. Subsequently, it had to divert traffic to the lower deck as the Hong Kong Observatory hoisted the No. 3 Strong Wind signal. However, owing to its lack of experience, it failed to do a good job, thus causing serious traffic congestion around Ting Kau Bridge and the Lantau Link. We can see from the above that whether a management company has adequate experience, and whether its staff have a long history of employment at the company to acquire adequate experience in tunnel and road management, are very important to the public. This involves not only labour rights and interests but also traffic conditions faced by other road users, passengers and drivers in the community. I say so because the traffic condition in a district will be affected if its staff fail to do a good job due to their lack of experience.
Besides, can frontline staff be guaranteed that their seniority and remunerations in the old company will be recognized after re-employment? We hope that apart from requiring the bid-winning contractor to accord priority to existing workers when employing staff, the Government can also set up a mechanism to require the contractor to adopt the latest median monthly wage in the industry when formulating a wage level to ensure that the workers' remunerations are close to the market level. Besides, as I said just now, we also hope that the successful bidder can recognize the seniority of experienced workers in the old company. At the same time, we also hope that the Government can study the setting up of a vacation leave compensation system for these employees in the future. The reason is that they may have accumulated certain fringe benefits and vacation leave when working for the old company. How should the Government protect the fringe benefits, rights and interests of such employees? I think this is a duty of the Government.

Another point concerns the toll rates of tunnels. Many people have asked whether it is possible to adjust TCT's toll rates after the Government takes over its management. The toll rates of government-operated tunnels are actually lower than those managed and operated respectively by private companies and franchisees. For example, TCT's toll rates are higher than those of the Lion Rock Tunnel. So, we are very concerned about the issue of toll rates. Moreover, Members have pointed out that it may be possible to lower TCT's toll rates as TCT will soon be taken over by the Government.

I also wish to bring up the issue of toll rates for using the Lantau Link. The Lantau Link is managed by the Government, and no other company has been granted the franchise. But why should the Government refuse to pay heed to our repeated request for abolishing the toll rates of the Lautau Link? The revenue from the Lautau Link only accounts for a very tiny portion in the Government fiscal income. But why should the Government insist on the necessity to impose tolls on the Lantau Link?

As I said just now, the toll collection arrangement for the Lantau Link was changed from a one-way system to a two-way system several months ago, thus causing serious traffic congestion in the entire region, including Lantau Island, Tsing Yi, and Ting Kau afar. Most importantly, Lantau Island residents must rely on this tolled road to travel to and from the area. Residents of other districts, including Tin Shui Wai, can opt for a route via Tai Lam Tunnel or Tuen Mun Road. In contrast, Lantau Island residents only have one option, namely
this tolled road. The Government's takeover of TCT will present an opportunity for possible downward adjustment of TCT's toll rates. However, we even hope that the Government can examine the toll levels of other trunk roads and tunnels.

According to the Government, toll levels depend on vehicular flow, and without any tolls on tunnels, vehicular flow will increase. Shouldn't the Government give consideration from the angle of an overall transport policy? Just now, some Members said that it would not be enough regardless of how many tunnels were built because there were honestly too many vehicles. But it is already a fact that there are many vehicles. In that case, shouldn't the Government resolve vehicular flow problems by building additional trunk roads and tunnels instead of solely resorting to the imposition of tolls as a means of containing vehicular flow as this may add to the already heavy burden of the people?

Let me return to the issue concerning the Lantau Link. It is most undesirable that Lantau Island residents have no other alternative. Speaking of crossing the harbour, people may still choose the Cross Harbour Tunnel if they do not want to pay heavy toll charges for using the Western Harbour Crossing ("WHC"). All they have to do is to wait. But Lantau Island residents have no chance to wait or other options, and they can only rely on a single tolled trunk road. Therefore, we also hope that the Government can conduct a serious study on the toll levels of the Lantau Link and other tunnels apart from those of TCT after taking over TCT. We hope that this will become an important issue in the Government's study on the entire mass transport system.

Just now, some Members such as Ms YUNG Hoi-yan discussed toll collection facilities. Although the President asserted that this was a transport issue, I nonetheless think that it actually involves the Government's arrangement after taking over TCT. In the past, a management company might not have the desire to enhance the relevant facilities after being granted a franchise for managing a tunnel. I hope that following its takeover of TCT, the Government can introduce smart toll collection facilities at other tunnels or trunk roads while increasing the number of toll collection facilities so as to make the toll collection system smarter by applying various technologies.

Members have asked what the Government intends to do with other tunnels after taking over TCT. For instance, when will the Government consider the handling of WHC's franchise? All along, some people have criticized WHC for
charging an outrageously high toll rate of some $60 for crossing the harbour. Sometimes, however, it may not be much faster even if drivers use WHC. For instance, they may encounter traffic congestion when using WHC in the morning. Is it really the case that toll levels are pegged to vehicular flow, just as the Secretary or the Government has imagined? Despite its high toll rates, WHC is plagued by traffic congestion all the same. This reflects that the problem may be related to road design. We hope that after taking over TCT, the Government can seriously consider the idea of buying back those road facilities which are not owned by the Government, such as WHC, and give holistic consideration to various aspects, such as toll rates and designs of various tunnels, so as to facilitate people’s access to various places.

President, here comes the end of my speech. I hope the Government can give serious thoughts to the transition arrangements for TCT employees.

President, I so submit.

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


Similar to the Eastern Harbour Crossing Legislation (Amendment) Bill 2015 which was passed by the Council two years ago, the Tate's Cairn Tunnel ("TCT") will be returned to the Government and become a government tunnel upon the expiry of its 30-year Build-Operate-Transfer franchise on 11 July this year.

However, the Government should not simply consider the takeover of TCT to be a technical exercise involving a change of the tunnel ownership as well as the establishment of legal backing and management mode for its continued operation. Instead, the Government should look at this exercise from a macro perspective and take into account all land tunnels and road harbour crossings ("RHCs") in its review of the rationalization of traffic distribution among various tunnels to divert vehicular traffic from tunnels which have long been overloaded during peak hours, so that drivers and public transport commuters will no longer
have to put up with traffic congestion. In this respect, the Government should consider the taking over of the operation of TCT an opportunity to reduce traffic congestion.

It is inevitable for Hong Kong, like major developed cities in the world, to face the problem of traffic congestion. In view of the concentration of the industrial and commercial activities on Hong Kong Island and in part of Kowloon, a large number of commuters have to travel to their workplaces from across the territory. Despite the huge scale of our mass transit railway system, it is still unable to absorb the passenger flow of hundreds of thousands of office workers. We thus have to rely on other road-based public transport. Due to the design of road network and the destination constrain, the three RHCs and the three land tunnels between Kowloon and Sha Tin (namely TCT, Lion Rock Tunnel ("LRT"), and the Eagle's Nest Tunnel and Sha Tin Heights Tunnel ("Route 8K")) play an important role in easing traffic flow. Yet, the different locations of tunnels make the distribution of traffic among them highly uneven. For tunnels which are conveniently located with better transport connectivity such as the Cross-Harbour Tunnel ("CHT"), the Eastern Harbour Crossing ("EHC"), LRT, and TCT, their traffic volumes often exceed their design capacities. This overload problem is particular serious for CHT. During weekday morning and evening peak hours, the hourly southbound and northbound traffic of CHT exceed its design capacity by more than 70%. The traffic volumes of EHC and TCT are nearly 40% more than their design capacities, while LRT is overloaded by 46%.

The traffic overload in several major tunnels will not only affect drivers using the tunnels, but it will also bring a more undesirable and bigger impact to residents on public transport who have to endure traffic congestion during the commuting hours. The tunnel congestion will also increase the traffic load of their connecting roads, causing a wider area of congestion. For example, the rush-hour congestion at CHT will affect the traffic along Happy Valley, Wan Chai, and even Aberdeen Tunnel on Hong Kong Island, as well as areas along Hung Hom and To Kwa Wan in Kowloon, causing congestion of various degrees in these areas.

President, I know it is not easy to root out the problem. These major tunnels were so designed and laid out in the town planning years ago. It is thus impossible to introduce fundamental changes to them. Instead, we can only seek to tackle the symptoms of the problem. The Government published the preliminary findings of its study on the rationalization of traffic distribution
among six tunnels last year. In the study, the Government looks into various proposals raised in the community, including "lowering EHC tolls to align with CHT tolls"; "unifying the tolls of the three land tunnels by lowering TCT tolls to align with LRT and Route 8K tolls"; "unifying the tolls of three RHCs by raising CHT tolls and lowering WHC tolls to align with those of EHC"; and "lowering the tolls of all six tunnels". According to the preliminary findings, none of the five tunnel toll adjustment options will be conducive to improving the traffic conditions at tunnels which are now over-utilized during peak hours. Worse still, it is expected that by 2021, the overall time required to cross the tunnels would be further lengthened, affecting some two million daily tunnel users on weekdays. These proposals, which will incur substantial social costs, are not in the public interest.

The Government kicked off this study on the rationalization of traffic distribution among the six tunnels two years ago following the EHC takeover. However, after all the hubbub, the study faded into obscurity. Actually, as early as 15 years ago, the Government proposed to deal with the traffic distribution among the three RHCs and put forward 12 proposals after it completed a consultancy study on the Mainland and overseas experience in the provision and operation of tunnels. The study also sank into obscurity. Ten years ago, the Government once again commissioned a consultancy study on the rationalization of the utilization of the three RHCs to comprehensively assess factors affecting traffic distribution among the three RHCs. In the light of the study, the Government proposed a toll adjustment option of decreasing the EHC tolls and increasing the CHT tolls in 2013 in an attempt to reduce the traffic queue at CHT by 30%. One year later, however, the Government announced its decision to put in abeyance the implementation of the toll adjustment scheme on concerned that the capacity of EHC might not be able to absorb additional traffic arising from the toll adjustment.

President, the Government has conducted three studies on the traffic distribution among tunnels in the past decade or so, and has put forward some stopgap proposals. However, every time, it is all thunder and no rain. It seems that the preliminary findings of the study announced at the end of last year could not escape this fate and would not be followed up further.

Nevertheless, with the advances in technology, I sincerely hope that the Government can make good use of the construction of the smart city to wisely reduce the tunnel congestion. In the Smart City Blueprint for Hong Kong
published at the end of last year, "Smart Mobility" is one of the main areas we have to work on. The measures include integrating various existing e-transport applications into an all-in-one mobile application; releasing real-time information of franchised buses through information display panels at government Public Transport Interchanges and covered bus stops; engaging the public to develop an Electronic Road Pricing Pilot ("ERP") Scheme in Central and its adjacent areas in 2019; and completing the installation of traffic detectors in all strategic roads to provide real-time traffic information by 2020.

However, I have to remind the Government that if we simply look at the ERP Scheme, we can see that it has yet to be implemented even after the commissioning of three studies. I hereby call on the Government to resolve the decade-old problem of congestion at tunnels with its greatest determination.

President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Transport and Housing to reply. Then, the debate will come to a close.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I move that the Second Reading of the Road Tunnels (Government) (Amendment) Bill 2017 ("the Bill") be resumed.

Upon the expiry of its 30-year Build-Operate-Transfer franchise, the Tate's Cairn Tunnel ("TCT") will be taken over by the Government on 11 July this year. Having regard to this, the Government introduced the Bill to the Legislative Council last July, so as to provide the necessary legal backing to operate TCT as a Government tunnel after vesting it in the Government.

TCT connects Sha Tin and Diamond Hill, serving as one of the major traffic links between the New Territories and Kowloon East. In 2017, the daily
traffic volume of TCT exceeds 60,000 vehicle trips. It is necessary for the Government to ensure a smooth takeover of TCT and the continuation of its smooth operation.

As described by a number of Members just now, the amendments proposed in the Bill are purely technical in nature. It seeks to subsume TCT under the legal framework of the Road Tunnels (Government) Ordinance (Cap. 368) and the Road Tunnels (Government) Regulations (Cap. 368A), including the incorporation of the existing tolls chargeable for using TCT, adding TCT to the schedules of removal fee and permit fee for vehicles passing through Government tunnels, allowing the continued use of certain traffic signs at TCT, and so on.

The Bill also seeks to repeal the Tate's Cairn Tunnel Ordinance (Cap. 393) and its subsidiary legislation. Meanwhile, it also provides for savings and transitional arrangements to ensure that the repeal will not affect any matters relating to TCT which the Government may need to pursue afterwards. Apart from this, the Bill retains the current exemption from prohibition against vehicles conveying dangerous goods of Categories 2 and 5 to use TCT under emergency situations with the permission of the Commissioner for Transport. The Bill also seeks to extend this exemption to other Government tunnels, including the Cross-Harbour Tunnel, to enhance the Government's ability to respond to unforeseen incidents and emergencies.

The general public and many Members just now expressed their concern over issues such as traffic congestion and whether toll levels can be adjusted. We are looking into these issues proactively. The Transport Department started rolling out a study last year on the rationalization of traffic distribution among the three road harbour crossings and the three land tunnels between Kowloon and Sha Tin, namely TCT, the Lion Rock Tunnel, and the Eagle's Nest and Sha Tin Heights Tunnel. The Government also briefed the Panel on Transport last November on the preliminary findings of the relevant study and the proposed framework for toll adjustment. We have listened to many precious comments and the Transport Department is now analysing the impact of toll adjustment onto the traffic flow of the tunnels and will submit to the Panel on Transport specific and practicable toll adjustment options within the current legislative session. If consensus can be reached in the community, we will implement toll adjustments for the relevant government tunnels through legislative amendments.
As for comments made by individual Members just now on the application of technology, smart transport, control of the size of vehicle fleet, long-term transport planning, and so on, I am not going to respond to them one by one as the discussion concerned has gone beyond the scope of the debate today. However, the Government will closely monitor and conduct review on the issues from time to time, so as to provide an accessible transport network for the general public.

To ensure a smooth transfer of TCT, the Government considers it in the public interest to retain existing staff of the franchisee as far as possible, with regard to the operational necessity of the tunnel. Therefore, the management, operation and maintenance contract to be granted through open tender will contain terms requiring the successful tenderer to make first offer of employment to the frontline and technical staff members in the operations, engineering and maintenance departments of the franchisee at the existing salary and major staff benefit levels (including annual leave entitlements). This arrangement will not only provide appropriate protection for staff of the existing franchisee but also ensure the smooth running of TCT before and after the Government's takeover. The Transport Department will give special reminder to the successful tenderer, asking it to consider granting leave commensurate with individual staff members' seniority in the franchisee.

Lastly, I would like to take this opportunity to express my gratitude to Ir Dr LO Wai-kwok, Chairman of the Bills Committee, and all other members for the time and effort they contributed towards the successful scrutiny of the Bill. I also hope that the arrangements made by the authorities will be concluded and passed today.

President, I earnestly implore Honourable Members to support the Bill, so that the Government can take over TCT successfully upon the expiry of its franchise, and in turn ensure this main trunk of transportation can continue its vital function.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Road Tunnels (Government) (Amendment) Bill 2017 be read the Second time. Will those in favour please raise their hands?

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

(No hands raised)

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


Council became committee of the whole Council.

Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the Road Tunnels (Government) (Amendment) Bill 2017.

ROAD TUNNELS (GOVERNMENT) (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 20.

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 20 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 Road Tunnels (Government) (Amendment) Bill 2017 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I now report to the Council: That the Road Tunnels (Government) (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 Transport and Housing 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.

(No hands raised)

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


ROAD TUNNELS (GOVERNMENT) (AMENDMENT) BILL 2017

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I move that the Road Tunnels (Government) (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 Road Tunnels (Government) (Amendment) Bill 2017 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

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

(No hands raised)

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


Resumption of Second Reading Debate on Government Bill


DUTIABLE COMMODITIES (AMENDMENT) BILL 2017

Resumption of debate on Second Reading which was moved on 21 June 2017

PRESIDENT (in Cantonese): Mr YIU Si-wing, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

(Mr YIU Si-wing is not present)

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Food and Health to reply. Then, the debate will come to a close.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the Food and Health Bureau introduced the Dutiable Commodities (Amendment) Bill
"the Bill") to the Legislative Council in June last year. The Bill seeks to amend the Dutiable Commodities Ordinance and the Dutiable Commodities (Liquor) Regulations ("the Regulations") to prohibit the sale or supply of intoxicating liquor to minors in the course of business. The Government has, from January to August 2017, consulted the trade and relevant stakeholders, adequately discussed with them the legislative proposal. I now express my gratitude to all the deputations and individuals that participated in the discussion or provided their comments.

Moreover, the Bills Committee on Dutiable Commodities (Amendment) Bill 2017 ("the Bills Committee") has held five meetings to discuss the policy objectives and provisions of the Bill in an in-depth and comprehensive manner. The Bills Committee has also held a public hearing session to heed views from various deputations. The great majority of participants support the amendment.

Background of the Bill

The Government has responded to queries raised on the provisions of the Bill by the Bills Committee in the meetings. After careful deliberation, the Government suggested further amendments to certain provisions of the Bill to which support from the Bills Committee is won. I will move the relevant amendments later at the committee of the whole Council. I would like to express my gratitude to Mr YIU Si-wing, Chairman of the Bills Committee and the other members, the Secretariat and the Legal Adviser for their efforts in bringing the scrutiny of the Bill to completion.

Regulation 28 of the Regulations provides that no liquor licensee shall permit any person under the age of 18 years to drink any intoxicating liquor on any licensed premises. There is however no statutory prohibition against the sale or supply of intoxicating liquor to minors in licensed premises.

Neither is there statutory prohibition against the sale or supply of intoxicating liquor to minors in non-licensed premises, including retail stores such as liquor stores, convenience stores and supermarkets. The retail industry has been refraining from selling such liquor to minors on a voluntary basis for a number of years. However, there are concerns over the effectiveness of such a voluntary measure. Furthermore, there is also no statutory prohibition against the sale or supply of intoxicating liquor to minors through remote means, such as orders received on the Internet, over the phone, and by mail.
In view of the above, the current legislative amendment is proposed and its major objective is to plug the loophole in the sale of intoxicating liquor to minors on licensed premises and non-licensed premises, as well as through remote distribution, for the overall well-being of minors.

Details of the Bill

The Bill adds a new Part 5 to the Regulations and seeks to regulate the sale or supply of intoxicating liquor to minors in the course of business. Some of the major measures are as follows:

(a) The sale or supply of intoxicating liquor to minors is prohibited, including in face-to-face distribution and remote distribution, in the course of business.

(b) The sale of intoxicating liquor from vending machines is restricted.

(c) For face-to-face distribution, it is one of the defences to a charge for selling or supplying intoxicating liquor to minors to establish that the person charged had inspected a proof of identity purporting to be the proof of identity of the purchaser or recipient of the intoxicating liquor, and was reasonably satisfied that the purchaser or recipient was not a minor.

(d) For remote distribution, it is one of the defences to a charge for selling or supplying intoxicating liquor to minors to establish that the person charged had received a declaration from the purchaser or recipient that he or she had reached the age of 18 years, and there was no circumstance that caused the person to reasonably suspect that the declaration was false.

(e) At the place of sale or supply of intoxicating liquor, it is required to display a sign containing the prescribed notice written in specific legal wording, that is "Under the law of Hong Kong, intoxicating liquor must not be sold or supplied to a minor in the course of business".

(f) Inspectors or law enforcement officers appointed by the Secretary for Food and Health are granted with the necessary power for effective law enforcement.
Major concerns of members

Members have raised their concerns in the Bills Committee during the deliberation of the Bill. I will now expound on members' major concerns and the Government's responses to them.

(a) "Agent"

In relation to the sale or supply of intoxicating liquor, "agent" under the existing Bill does not include a person who delivers the relevant liquor in the course of business but is not otherwise involved in that sale or supply, for instance employees of Hongkong Post, delivery companies and courier companies. Members suggest to the Government that it should define the responsibility concerned more clearly to facilitate the trade's compliance with the new requirements. Having considered members' views, the Government has decided to propose an amendment which seeks to exclude a person who delivers the liquor in the course of business but is not otherwise involved in that sale or supply from the new regulatory regime.

(b) Remote distribution

During the discussion in the Bills Committee, a member has expressed concern about enforcing the regulation of remote distribution in future. In the sale of liquor by way of remote distribution, the Bill requires that the contents of the Chinese or English version of the prescribed notice be read out in a sound recording or an oral communication when an offer to sell or supply is made. In addition, a declaration from the purchasers or recipients that they are 18 years of age or over should be received before the sale or supply of such liquor.

After the Bill has come into effect, the Department of Health will conduct random or targeted inspections to see if statutory requirements are complied with in the remote distribution of liquor concerned to customers, including sale or supply orders received on the Internet, by mail or over the phone. Furthermore, the Department of Health will follow up on complaints and conduct investigation and enforcement action in relation to the relevant information provided. The Government will review the mode of law enforcement with reference to the actual situation to ensure its effectiveness.
There are members who suggest the Government impose stricter regulation with regard to remote distribution. We would like to reiterate that the Bill aims to plug the loopholes in existing legislation. The sale or supply of intoxicating liquor to minors is not prohibited by the Regulations. Neither is the sale or supply of intoxicating liquor to minors prohibited in non-licensed premises such as retail stores, or specifically convenience stores and supermarkets where the purchase of intoxicating liquor is relatively easy. More stringent control on remote distribution will involve the formulation of elaborated requirements and carry significant implications in implementation of the legislation. These are not the priority of this legislative amendment. We will however closely monitor the development trend in the sale of liquor by remote distribution and reinforce the regulation when necessary.

(c) Powers of inspectors and search warrants

Members have raised concerns as to whether the powers given to inspectors are too wide. For the sake of effective law enforcement, inspectors should be given adequate powers to enter and inspect any "distribution point" to ascertain the compliance of Part 5, which includes the prohibition of the sale or supply of intoxicating liquor to minors and the display of prescribed notice. During the inspection, if the inspector finds any evidence relevant to the offences stipulated by Part 5, he or she should be empowered to obtain anything pertaining to evidence of the offences stipulated by Part 5 and to exercise other auxiliary powers, including the taking of laboratory samples, making copies of documents and requiring assistance from anyone.

Offences stipulated by the new Part 5, particularly the prohibition of sale or supply of intoxicating liquor to minors in the course of business, may take place in domestic premises. Alternatively, there might be evidence relevant to offences stipulated by Part 5 in domestic premises which are not regarded as "distribution points". Hence, the Government will move Committee stage amendments to stipulate if a magistrate is satisfied by information on oath by an inspector that there are reasonable grounds for suspecting that there is within domestic premises, anything that is or is likely to be evidence of an offence under the Part 5, he or she may issue a search warrant to let inspectors exercise their powers as set out under the new regulations.
If support can be gained from the Legislative Council, we will notify the stakeholders of the relevant amendments upon the passage of the Bill. We will also introduce subsidiary legislation to appoint a commencement date. The new amendments are now expected to come into effect six months after the passage of the Bill.

President, I earnestly implore Honourable Members to support the Bill and the amendments that I am going to move in the Committee stage. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2017 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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


Council became committee of the whole Council.

**Consideration by Committee of the Whole Council**

**CHAIRMAN** (in Cantonese): Council now becomes committee of the whole Council to consider the Dutiable Commodities (Amendment) Bill 2017.
Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2017

CHAIRMAN (in Cantonese): I will first deal with clauses with no amendment. 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 6.

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

MR YIU SI-WING (in Cantonese): Chairman, I would like to express my personal views on the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"), and talk about the views of the Bills Committee on Dutiable Commodities (Amendment) Bill 2017.

According to the World Health Organization ("WHO"), alcohol consumption is the third largest risk factor for ill health in developed countries after tobacco consumption and hypertension. It has been linked to more than 60 types of diseases, and alcohol-related illnesses include cirrhosis, hepatitis, pancreatitis, cancer, cardiovascular disease, diabetes and a weakened immune system. However, the health risks in alcohol use are not as well known to the public as those in tobacco consumption, and they can be easily overlooked by young people, thus bringing harmful effects to their health.

The harmful effects of alcohol can be more pronounced for young people than adults, especially when their brains are still developing. As reported by WHO, alcohol use is the single biggest risk factor for deaths among young people aged 15 to 29, and more importantly, early initiation of drinking is associated with a higher frequency of drinking as well as a higher chance of alcohol abuse in later life.
In view of this, it is the Government's responsibility to enact law to protect the health of minors, and I hope that with the passage of the Bill, we will be able to achieve several objectives as set out in the ensuing paragraphs.

Firstly, to arouse social concern and build up a correct concept of alcohol consumption. According to statistics, alcohol consumption is becoming more and more popular among young people in Hong Kong. As reflected from the statistics of 2003, for the age group of 15 to 24, only 28.2% of respondents indicated that they drank alcohol "occasionally" or "regularly", but in 2014, the relevant percentage has increased drastically to 58.3%. A health survey was conducted on the people of Hong Kong earlier by the Department of Health, and it was found that the mean age of alcohol users was 20, and 50% of them first started drinking when they had not yet reached the age of 20. For minors aged 15 to 17, 35% of males and 25% of females had drunk alcohol in the year preceding the survey, and the situation was obviously far more serious than that over 10 years ago. This is mainly due to the fact that young people in Hong Kong do not understand the harmful effects of alcohol consumption, and have even regarded it as a kind of lifestyle. The legislative amendments introduced in the current exercise seek to prohibit the sale of liquor to minors from retailers, and I hope this can expressly convey a correct message to the community, and alert parents of the undesirability of allowing minors to drink alcohol, since it is harmful to both their physical and mental health.

Secondly, to specify that retailers have the responsibility of refraining from selling liquor to minors. According to the results of a survey conducted by the Hong Kong Federation of Youth Groups, 58% of the young people under survey usually purchased alcoholic beverages from convenience stores or supermarkets. Apart from premises issued with a liquor licence, there is currently no regulation in Hong Kong that prohibits the sale of liquor to minors in retail stores. Hong Kong is an international city where the duty on red wine has already been abolished, and there is an ample supply of wine products from different countries, flooding the market with alcoholic beverages in all sorts of attractive packages. Given the keen competition, wine products are generally sold at low prices, and coupled with the fact that there is no legislation restricting the sale of alcoholic beverages to minors in retail stores, many young people have overlooked the harmful effects of alcoholic beverages, thereby increasing indirectly the prevalence of alcohol consumption.
Through this legislative exercise, it is hoped that we can effectively prevent minors from buying liquor from retail outlets by drawing up clear code of practice and guidelines for the retail sector, and stipulating that non-compliance shall be a criminal offence and be liable to a fine of $50,000, so that the sector will be made to assume a certain degree of responsibility. As a matter of fact, regulations have already been fully implemented in many countries or places throughout the world to prohibit minors from purchasing or using alcohol, and requirements have even been imposed for the inspection of proof of identity of a purchaser of liquor, regardless of his/her age. This is indeed a major international trend for Hong Kong to follow and enact legislation prohibiting the sale of alcoholic beverages to minors, so that business operators may fulfil the social responsibility that they should take up.

Thirdly, to clearly provide for the criminal liability of business operators, frontline personnel and deliverers from a third party. Given the popularity of online shopping, the sale of liquor may not necessarily be conducted in an actual store, and non-face-to-face transactions conducted via telephone and on websites have become increasingly popular. As compared with transactions conducted in an actual store, parties involved in non-face-to-face transactions are different, and apart from business operators and frontline sales personnel, deliverers from a third party may also be involved. While persons responsible for selling liquor have a statutory responsibility to inspect the proof of identity of a purchaser or recipient, so as to confirm that the purchaser or recipient has reached the age of 18, it may not be fair and enforceable to require deliverers from a third party to be responsible for inspecting proof of identity if they are not directly employed by business operators. Hence, Committee stage amendments will be moved by the Government to directly exclude deliverers from a third party from the regulatory regime, so that they will not be required to assume the responsibility of inspecting proof of identity. I think this can clarify the responsibility of business operators, frontline employees and deliverers from a third party …

CHAIRMAN (in Cantonese): Mr YIU Si-wing, we are now debating on clauses 1 to 6, which are clauses with no amendment. We will deal with clauses with amendments in the next debate, so please wait until then to elaborate your points on the amendments. Please return to the subject of the current debate and explain why you support or oppose that clauses 1 to 6 shall stand part of the Bill.
MR YIU SI-WING (in Cantonese): Alright. Let me talk about the spirit of the Bill then.

We are now at our wits end and have to prohibit the sale of liquor to minors through legislative means, but in the long run, a correct concept of alcohol consumption has to be established. Apart from purchasing liquor themselves, minors may also acquire alcoholic beverages from other channels, such as from their family and friends. In my opinion, only by seeking a consensus in society with respect to the harmful effects of alcohol consumption on minors can we limit minors' access and exposure to alcohol. The best way out is to encourage through moral persuasion and publicity from the health perspective, so that people will make moderate consumption of alcohol on a voluntary basis.

I notice that the Department of Health has recently launched the "Young and Alcohol Free" campaign, which seeks to work with youth and parent groups, schools and health care professionals to step up efforts to prevent and combat underage drinking. I consider these publicity and educational activities very meaningful. Apart from strengthening its efforts in such respects, as a long-term strategy, the Government should also keep these measures under regular review, and timely adjust its publicity measures and the intensity of law enforcement actions in response to the review results.

I will state my views on the Committee stage amendments later. Thank you, Chairman.

CHAIRMAN (in Cantonese): I would like to remind Members that this Council has now proceeded to the Committee stage, and we are now debating on the question of whether clauses 1 to 6 shall stand part of the Bill.

MR HOLDEN CHOW (in Cantonese): Chairman, as we may be aware, the objective of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") is indeed very simple. In order to keep up with international trends, the Government is seeking to impose further regulation on the sale of liquor to persons under the age of 18.

Chairman, I would like to talk about some backgrounds in this debate session. A wine drinking culture has been very popular in many countries throughout the world, western countries in particular, and even young people are
very fond of drinking. I have lived in the United Kingdom previously for a number of years, and can still remember that when I was young, I have witnessed someone hiding wine products at school for consumption during spare time, and some of them had even got heavily drunk. As such a drinking culture has been established in some countries in the world, especially in western countries, these countries have attached great importance to regulating the sale and consumption of liquor. Can they really achieve the desired effects effectively after imposing the relevant regulation, and build up a society which is completely alcohol free? I am sure anyone who once lived in western countries would understand that this would not be the case, but I think there is no cause for much criticism to rectify certain situations and behaviours by putting some appropriate regulations in place.

With regard to the Bill, there is no need to argue over the regulation imposed on the sale of liquor to persons under the age of 18, and the issues in contention are perhaps pertinent to the amendments to be discussed later. I will reserve time for speaking in that part of our debate on the Bill, but I wish to point out that it is perfectly alright to regulate by legislation, but importance has to be attached at the same time to the principle of "proportionality". If the offence in question is, comparatively speaking, not a serious offence, but the Government has granted law enforcement agencies too much power to tackle the problem, the whole exercise will deviate from the principle of "proportionality" and have an impact on the social system as a whole.

Chairman, with regard to the requirements proposed in the Government's amendment on entering and searching domestic premises, I will express my view later, but I wish to thank fellow colleagues here for offering a lot of very valuable opinions during deliberation by the Bills Committee formed to study the Bill. They have repeatedly stated and emphasized that while there is a need to regulate the sale of liquor to minors, consideration should also be given to the feasibility of enforcing the law. Simply put, we do not wish to see that some innocent people would be unnecessarily caught by the amended legislation, and this is indeed the last thing we want to see.

Therefore, apart from me, other members of the Bills Committee have also pointed out during deliberation by the Bills Committee that the Bill should only be used to regulate suppliers who sell liquor. If persons who receives purchase orders are only responsible for transporting and delivering the purchased goods but would unknowingly be subject to regulation under the Bill, and thus be caught
by the law unknowingly, I think it would be much too unfair to them. Hence, various members including me have pointed out during deliberation by the Bills Committee that although there is a need to legislate for this purpose, we should never overdo anything and have some innocent people caught unnecessarily by the law. The Government has already undertaken to move amendments to stipulate that persons responsible for delivering liquor should not be the main targets of regulation, and this is indeed a point that should be made clear.

However, I think in addition to our discussions on the Bill, it should also be pointed out that apart from regulating through legislative means, it may also be necessary to strengthen public education efforts in this respect if we want to tackle the problem at source. Frankly speaking, as I have said at the beginning of my speech, it will undeniably be necessary to legislate in order to regulate acts which may have adverse consequences. However, it is not correct in thinking that we can simply have all problems resolved by imposing regulation purely from a legal perspective.

I would also like to express my views here on the issue of public education. We all understand that it is not suitable for persons under the age of 18 to drink alcohol, but apart from regulating through legislative means so that it would not be possible for them to purchase wine products, I think efforts should also be made to ensure that they are aware of the fact that if wine drinking has become an addiction or a bad habit that they cannot give up, it will have certain impacts or harmful effects on their health or their personal development. In this connection, I think public education should be conducted.

Yet, I hope the Chairman would allow me to hereby point out that although a wine drinking problem does exist among young people in Hong Kong, from my personal observation, it is far less serious a problem in Hong Kong compared to wine drinking habits of young people or the gravity of the same problem in some western countries, including the United Kingdom and the United States. Members are most welcome to present to us other data which suggest otherwise, but according to my real life experience in the past, there are indeed overseas examples of some very bad behaviours and even serious consequences caused by indulgence in wine drinking.

Chairman, I cite this as an example to illustrate my points because I hope the Bureau would listen to our views. I understand that the Government intends to regulate by legislation and rectify the problem, but the situation in Hong Kong
is actually far less serious than that in western countries or in other places with a more serious wine drinking problem. Hence, if the details of the provisions to be enacted are too stringent, or the Government has overdone in righting the wrong and imposed regulation that is not proportionate as I mentioned earlier, many problems or inconvenience will be caused to the people. This will, on the contrary, have an adverse impact on our society.

Therefore, I wish to point out very clearly that the situation in Hong Kong is far less serious than that in other places with a very serious wine drinking problem. I understand that Hong Kong has to follow the world trend and legislate for regulating the sale of liquor, but I hope we would all understand that it is not desirable to overdo in righting the wrong, or to enact a piece of legislation that is completely not proportionate. I think this is a point worth noting, especially when we discuss the Committee stage amendments to be moved later on the requirements to enter and search domestic premises. I personally have very great reservation about the amendments, and consider the proposed requirements not proportionate at all. However, I will wait until the next debate to elaborate my views in detail.

Chairman, I so submit.

MR TOMMY CHEUNG (in Cantonese): Chairman, I would like to ask you whether I can speak on other amendments in one go.

CHAIRMAN (in Cantonese): Mr CHEUNG, you are not advised to do that, because this Council has already entered the Committee stage. We are now debating whether clauses 1 to 6 should stand part of the Bill and will only deal with the Secretary's amendments to clause 7 afterwards.

MR TOMMY CHEUNG (in Cantonese): I know. I ask this question because I might not be here later.

CHAIRMAN (in Cantonese): Then you should try to stay here and make use of your time to speak.
MR TOMMY CHEUNG (in Cantonese): All right, I will try to make the most use of my time here.

CHAIRMAN (in Cantonese): The committee of the whole Council will first deal with the motion that clauses 1 to 6 stand part of the Bill.

MR TOMMY CHEUNG (in Cantonese): Chairman, although I did not join this Bills Committee, in fact, convenience store operators are my constituents, while operators in the catering industry are also my constituents. Among the operators with liquor licences in the catering industry, bar operators, in particular, are in support of this Amendment Bill. In fact, the reason is very simple. Let us assume that there is a convenience store opposite to a bar. The convenience store is not subject to regulation in the sale of liquor but the bar is subject to various regulations, which include prohibiting the sale of liquor to persons under 18 years of age. There can be a case when some people have bought liquor from the convenience store, which is near to a bar, and drank it on the street, while some residents coincidentally saw them, some drunken men and women on the street who might be under 18 years old. Sadly, when that bar applied to renew its liquor licence, the residents raised opposition.

In the Hong Kong society, how can there be different standards in regulation? Certain trades are not subject to any regulation by the Government. They do not need to apply for liquor licences and can sell liquor 24 hours round the clock. Is it fair? It certainly is not fair to me. Hence in my industry, particularly the operators with liquor licences, are in support of this Amendment Bill.

Bar operators and the catering industry have long been subject to strict regulation, and one of the regulations is to prohibit the sale of intoxicating liquor to persons under 18 years of age. In fact, this does not only apply to persons under 18 years old. If an operator sees that some people, though above 18 years old, are already drunken but still sells liquor to them, his application for renewal of liquor licence may be refused or his licence may even be immediately suspended by the Liquor Licensing Board or by the Police.

We often receive complaints about people under 18 years old drinking liquor on the street and even disturbing the residents, who thus take the bars of my industry to task for it, as I mentioned earlier. However, most of the people
concerned actually bought their liquor from the convenience stores, supermarkets or stores. Hence, it is unfair when all the problems are dumped onto the shoulders of my constituents. I dare not say that with the passage and implementation of the Amendment Bill, the bars of my industry will not continue to be blamed for these problems. Over the years, my industry and I have been reflecting to the Government that not only are the loopholes from the law in the past unfair to the bars and the catering industry, but they are also leading to insufficient protection for youngsters under 18 years old. We are very glad to hear that the Government is willing to listen to our views. Although this Amendment Bill is still a distance away from our proposal of introducing a liquor licence system to retail shops like convenience stores and supermarkets so that they are also subject to the same regulation standard as liquor-licensed premises, a balance has after all been struck between facilitating business operation and fairness under the law.

Of course, there are both pros and cons. People in the industry reflected to me that some bars have installed vending machines for customers to purchase liquor on their own. If this Amendment Bill is passed, the sale of intoxicating liquor from vending machines will be prohibited and the industry will incur losses. However, I understand that it is impossible to prevent sales to certain categories of people through vending machines, and I also believe that there is only a very small number of operators using vending machines in the industry. I hope that these operators can understand the situation and must take note that vending machines shall not be used after this Amendment Bill is passed.

Thank you, Chairman.

MR CHAN CHI-CHUEN (in Cantonese): Chairman, today we are discussing the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"), which mainly seeks to put an end to any channels selling liquor to persons under 18 years of age, including the sale of liquor from vending machines. A vending machine is a special sale channel where there is no direct contact between the operator and the purchaser. Since it would be difficult to prevent sales to minors through vending machines, the sale of liquor from vending machines is simply prohibited.

Secondly, it seeks to prohibit the sale or supply of intoxicating liquor to minors in the course of business, and to impose requirements on online sales—the phrase "remote distribution" is used in the paper—that the vendor of liquor must
display a notice stating that no liquor will be sold or supplied to any person under 18 years of age, and need to receive a confirmation from the purchaser that he is not under 18 years of age before liquor can be sold to that person.

Chairman, in the course of business under regulation, I feel that while part of the new rules are unable to effectively prohibit the persons under 18 years of age from purchasing liquor, some people may even contravene the law inadvertently. In regard to one of the regulations under the Bill, during remote distribution or what we call online sales of liquor, the vendor must display on the website a notice stating that no liquor will be sold or supplied to any person under 18 years of age, and must receive a confirmation notice from the purchaser that he is not under 18 years of age before liquor can be sold to that person.

How effective can this regulation be? As we all know, a bona fide declaration of viewer is required to access, for example, pornographic websites on the Internet. The viewer shall click whether he is above or under the age of 18. If he clicks the box of under the age of 18, he has to leave that website, but if he clicks the box of above the age of 18, he can continue to browse.

According to this regulation, the website selling liquor will only need to add a statement. If a person, who is under the age of 18, clicks the box to indicate that he is 18 years old, he can successfully go through the liquor purchasing procedure. And if this young person even has a supplementary credit card or uses a credit card of his family member, the transaction can actually be conveniently done.

A Member from the Bills Committee asked the Government why there was not a regulation requiring the online purchaser of liquor to show his identification document to the vendor. The Government said that this would involve privacy and cyber security. I thus reckon that the youths under 18 years of age can still purchase liquor online. When liquor is delivered to his place and he has to collect the delivery, there are in fact many ways. At present, the delivery …

CHAIRMAN (in Cantonese): Mr CHAN Chi-chuen, what you are mentioning now should be under the next item of debate.

MR CHAN CHI-CHUEN (in Cantonese): No, I know that the next item of debate concerns clause 7 …
CHAIRMAN (in Cantonese): You are already talking about clause 7. Please return to the subject of this debate.

MR CHAN CHI-CHUEN (in Cantonese): I got it. I am now referring to the effectiveness of this Bill in regulating online sales. I know the next group of amendments to clause 7 of the Bill is about the kinds of delivery persons that have or have no criminal liability. Since courier companies have no participation in the business, they are not liable. But the stakeholders of business or the vendors themselves are liable. This aspect can be discussed in depth in the next part of discussion. But is it really practicable? I only briefly make a few remarks in this regard. There are really many ways to accept delivery. Is it forbidden to leave the delivery at the management office? Can I receive on behalf of my father, or he has to collect the delivery himself? If I collect the delivery on behalf of my father, do I need to show my identity card to prove that I am already 18 years old? These are some technical questions that the Government also has to attend to.

In the next part of debate, we will discuss the amendment concerning entry into domestic premises. In the opinion of the Government, since some people operate online shops selling liquor at home and may sell liquor to minors, law enforcement officers need to be vested with the power to collect evidence in domestic premises. I have grave reservations about this amendment, and of course, I will explain in detail in the next part of debate. Today, I heard many Members from both the pro-establishment camp and the pro-democracy camp express their grave reservations about this amendment, and I am really worried whether this amendment from the Secretary can be endorsed.

In respect of the part without amendments, in fact, the Government is adopting a multipronged approach to prevent persons under 18 years of age from drinking. In fact, I think it may only get half the desired result with all its efforts. One of the reasons is that the public do not quite understand the serious consequences the minors will have after drinking. Of course, we know that the Government has launched some publicity activities about this. But in fact, some people of the older generation even encourage the persons under 18 years of age to drink. This is what I often heard of and is not anything weird.

According to the paper submitted by the Government to the Panel on Health Services of the Legislative Council, 43.5% of students from Primary One to Primary Six have taken liquor, and among these senior primary students,
51.5% got the liquor products from their parents. Of course, I have no idea whether they drank it secretly, have asked permission from their parents, or just drank the liquor products which are left at home without special permission or otherwise from their parents. Only less than 10% of senior primary students bought liquor on their own. This survey shows that only a small number of senior primary students have bought liquor, but does not show the number of senior primary and secondary students who drank liquor under the encouragement, permission or connivance of their parents or relatives. Perhaps most of the students drink liquor under the encouragement, permission or connivance of their parents or senior relatives, but we are now spending considerable efforts and resources in amending the law to prohibit the sale of liquor to persons under the age of 18. Some Members even think that the law enforcement officers are given too much power. Considering the proportionality mentioned by Mr Holden CHOW, do we need to think about it more seriously?

Sure enough, the Government thinks that drinking is detrimental to persons under the age of 18. The Government's paper also mentions that if youngsters are allowed to drink too early, there may be permanent damage to their brain development. Nevertheless, I would like to highlight that quite a number of grown-ups and parents do not know or do not recognize the seriousness of this negative impact. Hence, whenever the Government proposes to increase tobacco duty or alter cigarette packages to include gruesome pictures of rotting flesh and legs that cover a certain percentage of each pack, I will ask why similar arrangement or warning is not required on wine bottles. Why is a label of skeleton not attached to the bottle to state that drinking is detrimental to brain development of persons under the age of 18? The public will then clearly develop a value that liquor is harmful to minors.

Nonetheless, when some Members of the Bills Committee proposed to discuss the proposal of displaying a warning sign on the wine bottle, the Government said that this proposal was not related to the theme of this Bill. At the end, no Member proposed the amendment concerned. I feel puzzled and angry that the Government has refused to accept the proposal of displaying warning signs on wine bottles. Of course, concerning the different standards applied to tobacco and liquor, I have already mentioned many times and will not mention again today. If the Government says that this Bill is unable to deal with this issue, I would ask the Government to undertake a study itself on this issue. On the one hand, the Government says that liquor is highly detrimental and thus law enforcement officers need to be vested with massive power to enter into premises and even domestic premises for evidence collection, sequestering and
confiscation of properties. But on the other hand, the Government has not done well in education concerning the harmful impact of liquor or the harmful impact of liquor on persons under 18 years of age. On such a small pack of cigarettes, the brand name and security label even have to be covered ... I remember Mr SHIU Ka-fai has mentioned that during the discussion on cigars, the Government did not make any concession at first but was only willing to make very slight changes after repeated discussions. When the surface area of a wine bottle is so large, why is there any legislation to require displaying warning notices?

(The Chairman's Deputy, MS STARRY LEE, took the Chair)

The Government has to show its value that persons under 18 years of age should not drink, otherwise there will be dire consequences. It is now proposing to legislate on prohibiting the sale of liquor from vending machines. The delivery persons, not referring to couriers of course, may also be held liable. If the business is suspected to be run on a domestic scale, law enforcement officers can enter into domestic premises for investigation. However, better effectiveness can be achieved only if the Government do a little bit more on education. Why does it not consider it? Of course, I think Mr SHIU Ka-fai will also disagree to this proposal. If 50% or 85% of the wine bottle surface has to be covered by a picture of rotting legs, skeleton or crashed car, or a warning sign, there will be additional cost to manufacturers. He may not want to see this requirement additionally imposed on liquor when it has already been imposed on tobacco. Nevertheless, I just heard Mr Tommy CHEUNG express his view with the same logic. He said that the Government is very strict in regulating bars and Chinese restaurants, but has no regulation on retail points, or distribution points in this context. He suggests that both should be subject to equally strict regulation to strike a balance. In this way, the business of bars and Chinese restaurants will not be taken away. If this major direction is recognized, the Government should impose equally strict regulation on both of them.

However, if this is the case, the Government should really have to start with education. It should have the wine bottles attached with a warning notice so that parents will think twice before allowing their children or youngsters to drink. It is better to spend efforts in this aspect than to mete out punishment according to law. Frankly speaking, I think there is no way to regulate online sales, and it is also very difficult to regulate the arrangements on collecting
delivery. I hope that the Government will consider our opinions. If it is really serious in combating underage drinking, apart from heavily punishing the vendors and prohibiting the sale of liquor to minors, it definitely has a very large room to do more in education to prevent underage drinking. I so submit.

MR SHIU KA-FAI (in Cantonese): Deputy Chairman, talking about drinking liquor, many people would cite studies conducted by the World Health Organization ("WHO") and international organizations. These studies claim that alcoholic beverages are associated with cancers, cardiovascular diseases and diabetes. The International Agency for Research on Cancer of WHO also classifies alcoholic beverages as a Group 1 carcinogen, which is in the same grouping as tobacco smoke, asbestos and ionizing radiation, and the Agency strongly advices putting control and levying more tax on these beverages.

Actually, I want to say that in Hong Kong, adults have the freedom to drink liquor and smoke cigarettes because adults are not prohibited from doing so here. However, I strongly disagree that the Government should adopt many different means, higher tax for instance, to urge adults not to do so. Otherwise, smoking and drinking liquor would become exclusive to people with money and not those without. This is what we often call the disparity between the rich and the poor, which is the cause to the never-ending argument in Hong Kong.

However, if we are talking about underage liquor problem, I believe most people would not oppose prohibiting minors from drinking liquor because their mind are not matured enough and their body not fully developed for liquor, and they have poorer judgment and self-control. If they are allowed to do so, I believe the impact on them would be great. Hence, society in general has little controversy over this.

I represent the wholesale and retail sector, but the business sector I represent is precisely made up of people selling alcoholic beverages. But I wish to say that as far as doing business is concerned, as many people say, a gentleman should make money the right way. In fact, I have consulted many members of my sector during the scrutiny of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"). When they know that the Bill is to prohibit them from selling alcoholic beverages to people at or under the age of 18, none of them tells me to oppose the Bill. Some of them have some views about the amendments to the Bill. Perhaps I will briefly mention the details later.
However, I wish tell the people of Hong Kong on behalf of my sector that many years ago, long before the Government formulated this type of ordinances to ban the sales of cigarettes and alcoholic beverages to minors, the Hong Kong Retail Management Association already issued a code of practice requesting all members of the Association not to sell cigarettes and alcoholic beverages to minors. The sector all along requires its members not to do so, and I know that compliance is rather good. However, whatever the reason is, as the Government intends to amend the law to put this under regulation, I personally would not oppose the Bill as a whole. However, from the perspective of business operation, I am always of the view that any additional ordinance formulated by the Government will put additional restrictions on the sector. In particular, if the Government cannot clearly explain how it is going to clarify the grey area in the law and how the law will be enforced, many people may violate the law inadvertently.

Just now I said that I will talk about the details. For example, the Bill seeks to prohibit the sale of alcoholic beverages to minors and this will create pressure on frontline workers; and remote distribution on the Internet has its contradictions and difficulties. Besides, how big the enforcement power of inspectors is? What are the conditions under which a search warrant is issued to an inspector in case of a need to search a domestic premise? I will go into the details of these problems in the next section later. Thank you, Deputy Chairman.

MS ALICE MAK (in Cantonese): Deputy Chairman, I support clauses 1 to 6 to stand part of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"). The clauses mainly seek to empower the Chief Executive in Council to regulate and prohibit the sale or supply of liquor to minors.

The amendments of the Bill seek to prohibit business operators from selling or supplying intoxicating liquor to minors. In fact, the present liquor licensing regime has been implemented since 2000. According to the regime, no licensee shall permit any person under the age of 18 to drink any intoxicating liquor on licensed premises. However, there is yet any regulations in Hong Kong that prohibits the sale of intoxicating liquor to minors on licensed premises. In other words, minors are not permitted to drink intoxicating liquor there, but liquor can be sold to them. Intoxicating liquor is also available for sale to minors on non-licensed premises, including retail stores such as liquor stores, convenience stores and supermarkets.
As a matter of fact, the per capita liquor consumption in Hong Kong is lower than in other developed economies, but the situation of liquor consumption by Hong Kong adults is worrying. The Department of Health entrusted the University of Hong Kong to conduct a study on alcohol drinking by children and adolescents in 2013. The results of the study find that primary and secondary students in Hong Kong drinking alcohol is common. The study points out that 43.5% of Primary Four to Primary Six students have drunk liquor; and the percentage of secondary students who have drunk liquor is even higher, accounting for over 60%, 62.4% to be exact. We should pay particular attention that 4.7% of the Primary Four to Primary Six students drank liquor at least once a month.

Primary Four to Primary Six students, who are about 9 to 11 years old, normally do not know what they prefer to drink. They usually would just follow school routines and participate in extra-curricular activities. How come they would think of drinking liquor and even drink liquor at least once a month? Is it that they need liquor to de-stress from their many tutorial classes and interests classes? I guess this is not the case. The situation is undesirable; and this is also the reason we support clauses 1 to 6 to stand part of the Bill, in order to prohibit the sale and supply of intoxicating liquor to minors. In fact, I also support the proposal to align the minimum age of 18 to the legal age in other cases.

According to the Global Status Report on Alcohol and Health 2014, of the 166 reporting economies to the World Health Organization ("WHO"), almost 145 economies have imposed a minimum age for purchasing intoxicating liquors at non-liquor drinking venues, with the minimum age ranging from 10 to 25 and the most common minimum age at 18. Hong Kong has yet to impose any corresponding provisions in this regard. This shows that our policy lags behind our international counterparts.

In fact, alcoholic beverages are classified as a Group 1 carcinogen by the International Agency for Research on Cancer of WHO, meaning that there is sufficient evidence to show that alcohol is carcinogenic to humans, and is in the same grouping as tobacco smoke, asbestos and ionizing radiation. This shows that drinking alcohol, especially long-term and over consumption, will create a negative impact on the human body which is no less harmful than smoking. Hence, we support this amendment to let clauses 1 to 6 stand part of the Bill. The amendment will allow regulation through the ordinance, and more importantly, it can deliver the message to society that alcohol is harmful to our health.
We know that there is a voluntary code of practice issued by the sector, requiring merchants to avoid selling alcoholic beverages to minors. This shows that the sector and society in general are aware of the policy direction of protecting minors from the harmful effects of alcohol on their body. We thus hold that this proposal is in the right direction and the amendment provides an opportunity for the market to lawfully turn down the sale of liquor to minors.

Since there has been no provision expressly prohibits the sale of liquor to minors, frontline employees are sometimes having a hard time. Some salespersons or cashiers at convenience stores or supermarkets told us that some children, who look underage, came to their stores to buy liquor, but there was no express regulation prohibiting liquor sale to them. If the child said that he bought the liquor on behalf of his father, they were unsure whether they could sell it to him. So, if we can amend the Bill to make it better, frontline employees will not have such a hard time, and this can also send a clear message to society. We thus support clauses 1 to 6 to stand part of the Bill.

As a matter of fact, WHO already identifies alcohol consumption as the third largest risk factor for ill health in developed countries after tobacco consumption and hypertension. Alcohol consumption has been linked to more than 60 types of diseases, including cirrhosis, hepatitis, pancreatitis, cancer, cardiovascular disease, diabetes and a weakened immune system. Given that alcohol consumption is so dangerous, should we not impose a total ban of it? Certainly not. But we hope that people can come to know the harm of alcohol. We cannot say that it is definitely a poison, but long-term and over consumption will definitely have a negative impact on health.

Hence, I hope people know its importance, and more importantly, avoid our next generation to get into the habit of drinking at an early stage. Chinese people are sometimes very interesting. They often prefer their children to have more resilience, resilience of anything. I wonder if Deputy Chairman has the same experience as I did when we were small. My family told me that girls should learn to drink a little wine; otherwise, I will be at risk when I grow up. I was thus trained to drink wine when I was small. We hope that clauses 1 to 6, after becoming part of the Bill, can deliver the message to society that liquor is harmful to health. Hence, I support clauses 1 to 6 to stand part of the Bill.

I so submit.
DR KWOK KA-KI (in Cantonese): Deputy Chairman, I rise to speak in support of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") and the question that clauses 1 to 6 stand part of the Bill.

The main spirit of the Bill is to prohibit or prevent the consumption of alcohol by youngsters aged below 18. I do not intend to repeat the relevant figures. But as a doctor, I have come across in hospital many cases of drinking-induced chronic illnesses and even deaths. Drinking causes many health hazards, notably liver failure and cirrhosis. Whenever I see how such patients suffer in hospital in the terminal stage of their lives, I will think that the Government should actively warn people about the harms of drinking by showing pictures similar to those used to warn people that smoking is hazardous to health.

Patients suffering from drinking-induced liver failure or cirrhosis will show the symptom of hepatic ascites at the terminal stage of their illnesses. Their limbs are reduced to a bag of bones. They also suffer icterus, and they can no longer walk. Even though they are still very young, they have already entered the final stage of life and are dying. As Members know, drinking-induced cirrhosis and liver failure are incurable. The "treatment" administered is just supportive care. Doctors can only prescribe medicines such as diuretics or other drugs to relieve patients' pain. But their livers can never be restored to the predrinking state, and their families can never be as happy as before.

What we see in hospital are probably just the physical harms of drinking. If we care to talk with patients' families, we will realize that alcoholics themselves are not the only ones who suffer. In most cases, the families of alcoholics are also caught in great misery because first, many patients have already been suffering from chronic illnesses like liver failure or cirrhosis since their youth. Second, many patients have already lost their working ability and are unable to support their families. Third, alcoholism is often associated with violence and alcoholics may physically abuse their wives and children when they are drunk. This is one direct and major cause of many family tragedies.

I believe that the occurrence of many such tragedies has already made the community and the Legislative Council realize and agree that the Government should introduce the Bill to prohibit alcohol purchase by minors aged below 18 and the sale of alcohol to them. The relevant figures are alarming. I simply find it beyond any imagination that at present, as many as 3.4% of our Primary Four students admit to binge drinking, and 1.2% of them even do so once a month. This means that the habit of binge drinking once a month is found even...
among children aged below 10. This is inconceivable. In the case of Secondary Six students—meaning that after children have grown up—12.1% admit to binge drinking, and 2% of those who admit to this even do so once a month. I am not talking about wine tasting. Just now, some Members talked about asking a daughter to have a sip or two as a kind of experience. But what I am talking about is that over 10% of our Secondary Six students admit to binge drinking, and 2% of them even do so every month.

Another figure is likewise very alarming. One in every five children aged below 10 has consumed alcohol. I think this is very undesirable. The Government should really take some blame here, even though it was the Government before last, not the present Government, that introduced the duty exemption for red wine. Apparently, this initiative can promote the red wine business in Hong Kong. But actually, it delivers a very bad message to the community. I say so because instead of discouraging Hong Kong people from consuming alcohol and introducing preventive measures, the Government even introduced a positive policy to encourage more Hong Kong people to consume alcohol.

I agree that clauses 1 to 6 should stand part of the Bill, but I still think the Government has not done enough all along. I seldom see any government Announcements of Public Interest (television or other media publicity) which explicitly mention the health hazards of drinking, and this is in marked contrast to its publicity efforts advising people against smoking. Some people think that only those aged below 18 should be the target. But we should not think so, and I must also say this is a very wrong conception. Yes, we should not sell alcohol to people aged below 18, but we should not encourage adults aged over 18 to consume alcohol either. The reason is that drinking causes huge damage to health. Anyway, Deputy Chairman, we must note that people aged below 18 are not yet mentally mature enough to determine what they should or should not do. And, this is particularly the case with children aged below 10.

I have just talked about the direct physical harms or consequences of drinking. But many pediatricians have mentioned one point, the point that alcohol will adversely affect children's health development. Apart from causing direct damage to the liver, alcohol will even jeopardize the development of the brain or the central nervous system. Many studies show that alcoholism will cause irreversible effects on the health development of children (especially youngsters with the habit of binge drinking).
Clauses 1 to 6 are uncontroversial, but at the meetings of the Bills Committee, I still took the opportunity to ask the Government to use the Bill as a means of stepping up its efforts of offering greater protection to youngsters aged below 18. I once asked the Government and the Bills Committee to put forth an amendment to require that health warnings must be displayed at all premises selling alcohol, so as to alert minors to the permanent impacts of drinking on their physical development. Regrettably, the Government disagreed I am saddened by this, because we have spent so much time and efforts, urging the Government to introduce legislative amendments on prohibiting consumption of alcohol by minors. We even agreed to allocate a huge amount of time for different people to express their views on the Bill at meetings of the Bills Committee. Obviously, many people (especially those from the medical sector) have huge reservation about the Government's inadequate efforts. Why does the Government refuse to put forth an amendment? Why is the original scope of the Bill so narrow?

Deputy Chairman, I agree to the proposed amendments under clauses 1 to 6. But their contents are not my greatest concerns. Rather, I am very concerned about how the Government is going to enforce the relevant provisions after their inclusion in the Bill.

Last week, the Office of The Ombudsman in Hong Kong published a direct investigation report. This report points out that the problem of indoor smoking is very serious in Hong Kong. At night, in various private entertainment establishments, such as restaurants and bars, and even in government venues, such as those under the Leisure and Cultural Services Department or the Food and Environmental Hygiene Department, smokers do not face any intervention at all. Why do I draw tobacco control in? Deputy Chairman, you may wonder why I suddenly draw tobacco control in. Actually, some members asked the Government about enforcement at the Bills Committee meetings. We expected a lot from the Bill, so we wanted to know how the Government would enforce the provisions of the Bill after its commencement. The Government told members that it would entrust the task with an existing unit in the Department of Health ("DH"). It must be referring to the Tobacco Control Office ("TCO"), because apart from TCO, there is no unit dedicated to law enforcement under DH. To put it bluntly, TCO is itself unable to cope with its own business. This can be shown by the low prosecution rate. You know, after 6:30 pm—the peak of unlawful indoor smoking—they will not enforce the law. During weekends and public holidays, they will not enforce the law either. They will not enforce the
law during various periods. The Government must be joking when it says that it will require TCO to also take up this task! Deputy Chairman, TCO is unable to cope with its own task, even. But the Government still says, "This does not matter. Please pass the Bill first! Afterwards, we will ask TCO to also take up this task." How can it possibly do so? They cannot even combat indoor smoking. There are cigarette butts all around.

Deputy Chairman, what I have said is true. So, even if we approve the inclusion of the relevant clauses or even pass the Bill, I am still concerned about its enforcement. I fear that Hong Kong may take more and more after its adjacent Motherland, where the laws enacted are not enforced. I fear that the Government may equate the inclusion of these provisions with actual enforcement, thinking that no enforcement is necessary. I fear that when the Government is questioned about this, it may just say, "The Bill has already been passed, and we have enforced the relevant provisions." The Government definitely should not think this way. It must instead do something concrete. How? Who should be entrusted with the enforcement of the relevant provisions?

We are not tight-fisted towards the Government, especially DH, which is tasked to enforce the requirements under various regulatory laws. Every time … In fact, very soon, at the meetings of the Finance Committee, we will ask the Government to increase resources for enforcing the Bill. The enforcement work against the sale of alcohol to minors in various premises, indoor smoking and law-breaking drug stores all falls within the duty of DH. How can it possibly cope? The Government has failed to deliver, and its track record is very poor. Deputy Chairman, I think the Government must answer us one question. How can it convince us that after the passage of the Bill, it can effectively regulate the many establishments operated by different people (I will of course support the clauses concerned, especially those without amendment)?

Deputy Chairman, the Government's proposals aim to regulate not only convenience stores and supermarkets, but also the far more terrible problem of selling alcohol to people aged below 18 through remote distribution or online sale. We have said and requested over and over again that the Government should tighten the regulation of remote distribution. We want to know if the Government can impose more restrictions on the online sale of alcohol, so as to avoid doing harms to minors. We want to know, for instance, whether the Government can require customers to produce identity proofs at the time of
purchase. We also want to know if the Government can require customers to produce more proofs to shops, so that they can make sure that they will not violate the law. Sadly, the Government has rejected all these ideas. But at the same time, it does not explain what the sellers should do in order to avoid contravening the law. It also says that identity cards or credits cards cannot be required as proof. It has also refused to take any steps at the early stage as guarantee.

Deputy Chairman, the arrangement proposed by the Government now is very simple. Purchasers are only required to click a box in an online declaration. If this arrangement had been able to achieve any regulatory effect, there would not have been so many problems on the Internet, including pornography and the sale of illicit cigarettes. The Government only requires a click as confirmation without asking for any other proof. So, we ask the Government how it is going to enforce the law. The Government says that it will not take any active enforcement actions. So, we ask the Government, "Will you take any active enforcement actions at all?" The Government replies, "No. We will only act in response to complaints." What is the Government's line of reasoning? Who will lodge a complaint? If I were a minor hoping to buy alcohol, I of course would not lodge a complaint. The reason is that it is a convenient arrangement, and I can purchase alcohol whenever I want. If I were a person selling alcohol to people aged below 18, I would more obviously refrain from lodging a complaint. It is because I as a seller have no reason to complain against myself. So, who will lodge a complaint to inform the future enforcement department under DH that someone has broken the law? This is very unlikely to happen, meaning to say that they will be utterly unable to enforce the law. Even though we support the inclusion of clauses 1 to 6 this time around, the Government will be unable to enforce the law in the end. This is a big problem, because we will set a precedent of passing a law without considering the feasibility of subsequent enforcement.

I honestly do not want to see the SAR Government degenerate into such a miserable state of treating words as actual actions and equating the enactment of legislation with actual enforcement.

With these remarks, I support the inclusion of clauses 1 to 6.
MR KWONG CHUN-YU (in Cantonese): Deputy Chairman, Dr KWOK Ka-ki has asked some good questions. Is the Government paying lip service? How will it enforce the law? This is a big blank area. People in general calls on adolescents not to drink liquor because drinking liquor will do harm to them. Hence, in this debate on the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") so far, I believe we generally support the Government to let clauses 1 to 6 stand part of the Bill. But what will the Government do afterwards?

Deputy Chairman, we have heard many Members say that online liquor purchasers only need to click the age declaration to proceed with their purchase. The Government later must answer us what it will do to fill this blank if the Bill is passed today. The main purpose of the Bill is to prohibit the sale and supply of intoxicating liquor to minors, including face-to-face and remote distribution. Remote distribution is a critical point in this discussion, but it falls outside the scope of this debate which is about the first group of amendments. I will focus on this when we come to the next group of amendments.

However, what we need to tackle now is how to regulate liquor selling activities, including the sale and supply of liquor through mail order, digital channels and the Internet. Against this backdrop, what specific guidelines will the Government formulate to prohibit the sale and supply of liquor to minors? Some Members said just now that the Government suffered setbacks when it implemented the indoor smoking ban. So far, the Government has been unable to relieve the concerns of the Members here or those listening to the broadcast of the meeting elsewhere. We all support the Government, support passing the Bill, but what actions will the Government take after this? How is it going to enforce the law? How to achieve the goal? Or, is it going to put all the details in the Bill just to make us feel better?

Alcohol is classified a Group 1 carcinogen by the World Health Organization. How can we encourage youngsters who are immature in mind and heart to stay away from liquor? As some Members pointed out just now, even primary students have a drinking problem, which is very worrying. A liquor licensing regime was laid down in 2000 under the Dutiable Commodities (Liquor) Regulations (Cap. 109B). It provides that no licensee shall permit any person under the age of 18 to drink any intoxicating liquor on any licensed premises (such as bars, restaurants and clubhouses). And the Code of Practice issued by the Hong Kong Retail Management Association requires its members not to sell alcoholic beverages to minors. So, generally speaking, convenience stores and supermarkets will not sell liquor to youngsters as far as feasible.
Although the Bill has provided against this in greater detail, we are concerned that the sale of liquor may spread to the Internet, or as mentioned in the next group of amendments, to domestic premises. Actually, I do not think Members will encourage minors to drink liquor. We generally think that youngsters should best stay away from liquor. We all support the Bill. But we remain very doubtful as to whether the Bill can make minors stay away from alcohol after it is implemented. We should bring this up for discussion. We are not convinced that the Government has done a lot of work on promotion, whether in terms of civic education, social education or policy support. Perhaps the Government can later provide us with some actual examples.

Regarding whether we should block the channels that enable adolescents and children to obtain alcoholic beverages, we are now looking at the possibility of regulating face-to-face distribution of liquor. It depends very much on the willingness and ability of the staff of a convenience store, for example, to assess whether a customer has reached the age of 18, and the staff may especially ask the customer of his age or ask him to indicate whether he is an adult. The sale of cigarettes is banned in shops since 1994 in Hong Kong. If we refer to studies on the cigarette ban, 73% of retail shops in 2008 still sold tobacco products to minors, particularly in newspaper stalls, provision stores, grocer's stores and restaurants.

This takes us back to the main question just now, that is, how can we be sure that the Government has the ability to enforce the law after the Bill takes effect? The example on selling cigarettes just now is a clear and similar example. One thing we need to consider when dealing with the sale of liquor is that the alcoholic beverages that minors buy are often not purchased by them. Studies find that children as young as three years old have already had their first taste of liquor. The alcoholic beverages they tasted certainly are not purchased by them. This proves that even if we block the channels where minors purchase liquor, we cannot stop adults or friends from buying liquor for others or small children to drink.

Hence, at the end of the day, I hope that the Government can put forth in this debate a series of education and promotion programmes to call on young people to be mindful of their health and refrain from liquor drinking when they are still immature in mind; or the Government can directly introduce a bill to prohibit minors from buying liquor. So, we should look at how the Government is going to consider a policy from a macroscopic perspective, including the end result and the origin of the policy.
A local study conducted in 2012 finds that parents who are fond of drinking liquor may have a potential impact on the drinking behaviour of their young children. The logic is simple. If parents drink liquor, their children naturally think that they can also do so; if they have permitted by their parents to drink liquor, they can come into contact with alcohol at an early age. This study interviewed a total of 1,738 students from four secondary schools to find out, among others, the number of students who drinks liquor at least once a month, whether they are a frequent liquor drinker and whether they have contact with alcohol. The study finds that parents have a critical impact on small children. If parents say that a certain bottle of wine tastes good and ask their children to try, or simply praising the bottle of wine without asking them to try, or ask their children to buy liquor on their behalf, or ask them to pour wine or open a bottle of wine, these actions will implant in their children the idea that they should try drinking liquor and liquor is something tasty and interesting. Hence, at the end of the day, education is very important, and how to get the message truly into people's heart is also very important.

We know that in the United Kingdom, there are stringent requirements for conducting searches. What about Hong Kong? The Government has only laid down the law. It has yet to enter the operation stage. However, we hope that apart from laying this down in the law, the Government can also bring this message into the household and the market, and at least get the recognition of the people that we should safeguard and protect our next generation and prevent them from getting in touch with alcohol as far as possible.

I support clauses 1 to 6 to stand part of the Bill, but we need to consider whether the authorities will commit themselves on filling this blank, especially considering the fact that there is yet to be a "liquor control office", but only a Tobacco Control Office. I am worried that after this debate today, we are only able to get everyone agreed on this value … In fact, we always agree that minors buying liquor is a problem and we have been discussing this problem.

We are not against this value at the Bills Committee, just that we also need to consider whether this is necessary; and if it is necessary, what should be done; and if some actions have to be taken, whether the one being authorized to take those actions would become too powerful. This is a concern to us in the next group of amendments, that is, whether this authorization would give someone infinite power. We will discuss that in the next group of amendments.
But at the end of the day, if the Government is so determined to educate people under 18 that they should not purchase liquor or get in touch with liquor that early, it should do more. Not only should the Government approach this problem from the legislative and policy perspectives, it should also approach it from the origin and see how it can truly get this message across to society. Just now Dr KWOK said some hospital patients developed health issues due to drinking. These examples can immediately convince people of the need to take care of their health and their liver. The Government should at least foster such an awareness in people by education, apart from legislative means.

Besides, I have to say again the issue of law enforcement, that is, how do we prove that the age declaration made by online liquor purchasers is true? If the purchaser is a minor, what should be done? How can liquor sellers determine that the purchaser has truly reached the age of 18? Should the sellers rely solely on the age declaration made on the Internet? A 10-year-old kid who wants to purchase liquor on the Internet can make false declaration and claim that he is already 18 years old. If the online sale of liquor involves premises A and B, how should the authorities conduct the search? These questions are probably the focus of our next debate, but I wish to make a note here first. That is, general opinions in society are that minors should stay away from alcohol. This is probably a message that more people agree with.

I will say more in the next section. I so submit.

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

MR CHAN HAN-PAN (in Cantonese): Deputy Chairman, the very essence of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") is good indeed because underage drinking is detrimental to both the health and growth of people under the age of 18, in particular the young children. Therefore, I am basically supportive of the Bill, but I also have concerns over the enforcement of the Bill. Just as the in case of the Tobacco Control Office ("TCO") which is tasked to enforce the Smoking (Public Health) Ordinance ("the No-smoking Ordinance"), it is no easy task to enforce an ordinance similar to this one.

The Office of The Ombudsman conducted a direct investigation earlier on in respect of matters relating to the smoking ban. Findings of the investigation revealed certain problems in the Government's work on tobacco control, and I
believe the liquor control enforcement team will also come across the same problems in future. Thus, I hope the Bureau will shed light on how the ordinance will be enforced in future so as to prevent the Bill from, even after it has been passed and enacted, being rendered powerless.

Illegal smoking in bars and food premises was most prevalent during the night peak hours, but the Office of the Ombudsman pointed out the problem of inadequate enforcement actions carried out at night by the TCO. Similarly, the peak hours of liquor consumption is usually at night. I trust that students will not drink liquor in class—Mr Holden CHOW had never brought along any beer to school, I suppose—but young people may drink liquor after class or after work. About one fourth to one third of the prosecutions instituted by the TCO took place during night time. Besides, no officers had been deployed to perform night shift duty on all public holidays in the past, meaning that they were off during the busiest hours on holidays. In this regard, what arrangements will be made by the liquor control enforcement team in future then? Will they carry out enforcement actions at night during holidays? If not, then they will miss the opportune time for enforcement. Therefore, the liquor control enforcement team will also have to deal with this issue in the future.

In addition, it is of vital importance to recruit sufficient enforcement officers. Enforcement of relevant legislation will be impossible without adequate manpower. Take for instance the TCO: In spite of the enormous number of statutory no-smoking areas in the territory, only 79 persons are recruited under its establishment of 89 enforcement officers. Worse still, its turnover rate is persistently high because its officers have to handle difficult and thankless tasks and may be scolded more often than not. Sometimes, they may even be caught in a situation where the offender denies having committed illegal smoking.

Tools for assisting with law enforcement are also essential, such as view cameras. Yet, are the enforcement officers of the enforcement team allowed by law to record the entire process of a transaction with a view camera where the video clip will be given in evidence in court? If so, the view camera is useful in assisting effective law enforcement by the enforcement officers. Currently, in instituting prosecutions against people who discard cigarette ends or spit everywhere, the Government usually has difficulty proving that the offenders have breached the law. Suppose I am a person under the age of 18 years (i.e. a minor) and have bought a can of beer from Mr Holden CHOW. If, without any
video-recording conducted, an enforcement comes up at this moment to accuse Mr CHOW of selling alcohol to a minor, Mr CHOW can certainly deny having done so, while I can also deny having bought any alcohol from him since there was no one else except Mr CHOW and myself when the transaction took place. How are the enforcement officers supposed to institute prosecution in the absence of both evidence and witness then? Hence, I opine that it is very important that the enforcement officers are provided with assistive tools to facilitate their enforcement actions. It is even more ideal if appropriate technology products will be introduced to assist with law enforcement.

Yet, having consulted the Food and Environmental Hygiene Department, I learned that law enforcement officers are not permitted to record with a video-recorder the course of enforcement action while the video clip will not be admitted in evidence in court proceedings—I hope Mr Holden CHOW will correct me if I am wrong. However, will the liquor control enforcement team be given permission to do so the future in order to avoid arguments between the enforcement officers and the offenders?

I have witnessed the enforcement actions carried out by TCO officers. Those officers are indeed assigned uneasy tasks where they have to argue with people all the time and may even get scolded in some cases. Given the oppressive work nature and undesirable working environments, retention of TCO staff is exceptionally hard. Therefore, I do hope that the liquor control enforcement team will be able to properly deploy manpower in drawing up its duty lists and offer night-shift allowance for its staff in future.

Next, I want to talk about the aspect of testifying. The authorities may launch covert operations in which plain-clothed operation officers proceed to purchase alcoholic beverages and institute prosecutions immediately after relevant evidence is collected. However, can the authorities institute prosecution against the seller concerned for selling alcohol to a minor if, in the course of evidence collection, the purchaser is not willing to testify in court? I believe it will be quite difficult to do so. The TCO also has the same problem. The Tobacco Control Inspectors ("TCIs") are usually wearing uniforms when carrying out operations. If they are seen appearing in uniforms, the scenario will be like that in which people inside a restaurant will react by rushing to the outside and drive away their cars illegally parked on the streets upon hearing someone shout: "Police coming!" By the same token, when someone shouts "TCIs coming!" on seeing uniformed TCIs approaching, those who are smoking right at
the scene will stub out the burning cigarettes by stomping on them. As to the operation officers of the future liquor control enforcement team, the salesperson may temporarily stop the act of selling alcohol on catching sight of them from a distance when they are launching enforcement operations. Well, what then after they have left? And there will still be instances of impersonation by criminals even if all operation officers of the liquor control enforcement team wear plain clothes when launching enforcement operations. I thus think that, as far as plainclothes inspections or covert operations are concerned, there must be sufficient manpower for deployment so as to enforce the law effectively. Although comprehensive laws are made sometimes, what really matters still lies in whether those laws can be effectively enforced.

There are still many other challenges in store for the TCO, including that of resolving conflicts, but they may not necessarily seek help from the police on every occasion. For example, we can see on YouTube some video clips featuring cases of vehicle owners being issued fixed penalty tickets of $320 for road traffic offences. Despite the small sum of fine, they still dressed down the police officers concerned all the same, not to mention the fine of $5,000. What will it be like when officers of the liquor control enforcement team carry out enforcement actions? Will they have to seek help from the police for every case? Thus, I am very concerned about the personal safety of the officers of the enforcement team. Regarding all such issues, I have not yet come up with ways of handling them so far. Of course, I did have read the contents of the Bill just now, but since I am not among the members of the Bills Committee, I have no idea about the establishment of the liquor control enforcement team. Will this be dealt with separately by the Establishment Committee of the Legislative Council?

Lastly, Deputy Chairman, I would like to discuss whether the authorities will, for regulatory purposes, consider introducing a demerit points system against shops having been investigated or found non-compliant. Given that a food premise should apply for a liquor licence for sale of alcoholic beverages, for example, will certain demerit points be registered against a food premise found to have sold alcoholic beverages to minors to the effect that it will not be granted licence renewal so easily in future? I consider this a crucial subject. At present, alcoholic beverages are available at grocery stores at any time as these stores need not apply for any liquor licence, whereas a bar or a food premise is basically required to apply for a liquor licence for the sale of alcoholic beverages. It is for this reason that there is usually a "grocery store" ("store") next to a food
premise because the staff of the food premise will ask their patrons to purchase alcohol from the "store" on the other side if they want to drink alcohol. Actually, the "store" is also run by the same operator of the food premise. Such a practice aims to obviate the need to apply for a liquor licence.

Recently, I have patronized a hot pot restaurant. My friend asked me to fetch two bottles of beer from a cabinet by our side. Since I was aware that the Bill is under scrutiny by the Council, I proceeded to the counter to ask the staff if we needed only to fetch ourselves the beer there from the cabinet. Here is what I was told: "Yes, there you will find the wording 'grocery store' above the cabinet". Our patrons need only proceed to fetch themselves beer from the 'grocery store'." After the Bill is enacted in future, will such food premises be required to deploy staff to watch over their beverage cabinets or to display a notice prohibiting any person under the age of 18 years to fetch alcoholic beverages from the cabinet? Many problems may emerge in the operation of the relevant legislation and we may even expect that people will inadvertently breach the law.

In the course of fetching beer from the "grocery store" that evening, I saw some young people hanging out with their schoolmates probably after the exam who dined at the hot pot restaurant. They had also fetched beverages from the cabinet, but I did not see clearly if they had taken any beer because both the beer and the soft drinks were put together inside the cabinet. How will the legislation be applied under such a scenario then? Indeed, I do not wish to see anyone inadvertently breach the law. I know that a six-month adaptation period will be given for the public to adapt to the new legislation, but will it be really possible that the relevant message reaches every single food premise within this six-month transition period? Will food premises have enough time to make adaptations in order to meet the requirements set out in the ordinance?

All such details are related to the enforcement of the law which I trust the relevant government departments can manage. It is hoped that upon completion of scrutiny of the Bill, the Food and Health Bureau will be able to come up with a better way and can pay attention the implementation details for safeguarding the personal safety of the enforcement officers as far as possible.

Deputy Chairman, I so submit.
MR YIU SI-WING (in Cantonese): Deputy Chairman, under my chairmanship, the Bills Committee on Dutiable Commodities (Amendment) Bill 2017 ("the Bills Committee") has held five meetings with the Administration. Matters discussed by members of the Bills Committee include the scope of application of the new regulatory regime, the requirements relating to age declaration and inspection, the requirements relating to the display of the prescribed notice, the circumstances under which defences can be invoked, and the enforcement power of inspectors of the Department of Health. Members in general are supportive of the proposed prohibition against the sale and supply of intoxicating liquor to minors, but had different views in respect of some of the amendments proposed by the Government.

I myself support the inclusion of clauses 1 to 6 in the Bills Committee on Dutiable Commodities (Amendment) Bill 2017. Thank you, Deputy Chairman.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): If not, I now call upon the Secretary for Food and Health to reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy Chairman, I wish to thank the Chairman of the Bills Committee as well as Members who have delivered their speeches just now for giving us their invaluable views on the Bill, especially views on clauses 1 to 6. I also wish to thank Mr YIU Si-wing for giving us his invaluable views in his capacity as the Chairman of the Bills Committee during the deliberations of the Bills Committee.

I am going to give a simple reply to views raised by Members just now. I also wish to thank Mr Holden CHOW for his views on the entire Bill. We are concerned about the present problem of liquors consumption among minors, especially minors who purchase alcoholic beverages by themselves. A recent survey finds that about 10% of primary students and almost 30% secondary students would purchase alcoholic beverages by themselves. For that reason,
regarding the issue of the purchase of alcoholic beverages by minors, we are aiming at plugging the legal loophole in the existing Ordinance with the amendments this time around.

A number of Members are concerned about the education efforts and they hope that we can enhance the efforts in this area. Of course, as far as public education is concerned, Members have recommended different ways, some suggest that we should print health education warnings on liquor bottles, others have raised various suggestions. I also wish to mention that the Department of Health ("DH") published the Action Plan to Reduce Alcohol-related Harm in Hong Kong ("Action Plan") in 2011, in which 17 actions have been implemented one after another. There are 5 priority areas, 10 recommendations and 17 specific actions as I have mentioned just now. One of the actions, that is, action 17, is to recommend the authorities to study and consider the feasibility of imposing an age restriction on off-premise sales. The amendments this time around are responses to the Action plan. Recommendations are made in the Action Plan as to conducting surveillance and research, or even monitoring the pattern of alcohol consumption among youth and so on. DH has all along been enhancing the cooperation with stakeholders in society and further strengthening public awareness of the harmful effects of alcohol. DH has actually launched the "Young and Alcohol Free" health campaign in 2016-2017 which aims at young people as its target audiences. We wish to work with young people, parent groups, the academic circle, health care profession and relevant Policy Bureaux for creating a "Young and Alcohol Free" vision. This is also like what I have mentioned earlier, we wish to create an alcohol-free atmosphere in a concerted effort with all stakeholders through a diversity of activities.

In future, we will enhance the publicity and education efforts on the new regulations, such as broadcasting Announcements in Public Interest ("APIs"), or conducting routine inspection on online liquor shops and websites besides regular publicity efforts, sending letters and emails to traders to remind them of the issues that everybody concerns, as well as the fact that they should observe the relevant laws and regulations. We will definitely enhance our efforts in these areas.

Members also concern about self-service alcohol vending machines. I wish to clarify one thing, that is, there are differences in the operation between vending machines installed in bars and those vending machines in public places. As to the transaction mode of the former, the consumer has to pay the bartender before he can get the alcoholic beverage from the self-service vending machine;
while in the latter case, the entire transaction is conducted in a fully automated mode. Therefore, we consider that if the operator of a restaurant or a beverage shop has face-to-face contact with the purchaser during the transaction, for example, the operator sells the alcoholic beverages to the purchaser in a face-to-face mode or the alcoholic beverages are distributed via the vending machine or prepayment is made during the transaction, they are all considered face-to-face distribution. They are different from the sale of alcoholic beverages directly from vending machines. This is the point I wish to clarify.

A number of Members are concerned about whether the manpower of law enforcement agencies is adequate, as well as how the remote-distribution can be overseen in a more desirable way. DH will set up an Alcohol Enforcement and Publicity Unit after the enactment of the Dutiable Commodities (Amendment) Bill 2017. We will allocate resources to set up an enforcement team to monitor the situation and ensure compliance during their regular check on selected retail outlets, such as retail stores and licensed premises that sell intoxicating liquor, to handle complaints, monitor and conduct surveillance concerning remote distribution. We will have the manpower to handle different matters of concern.

A number of Members mention alcohol control and the recent circumstances of the Tobacco Control Office of DH. I wish to point out that the ban on indoor smoking is a more substantial issue because it does not limit to people under the age of 18 years, but a rather broader population. Therefore it needs more manpower in view of the complexity. As to alcohol enforcement, our inspection will target on certain strategic outlets. We hope our enforcement efforts will be effective. Besides, we will establish a team for providing back-end support. As Mr CHAN Han-pan has mentioned just now, we will carry out prosecution and administrative services at night time or other time, and we will conduct public education and publicity.

As to remote distribution, Members have provided invaluable views and such views have also been raised in the Bills Committee. We understand that it is difficult to regulate the sale or supply of alcoholic beverages by way of remote distribution. But we will try our best to do it. We also have to strike a balance, in order to avoid causing too much burden to the industry. Moreover, this will also arouse public concerns about the protection of privacy and the monitor of online shopping activities. At the present stage, we hope that we can plug the loophole in the sale or supply of intoxicating liquor to minors on licensed premises and non-licensed premises as soon as possible. For the sake of the
overall well-being of minors, we hope that we could plug the loophole as soon as possible. We will keep a close watch on the development of the remote distribution of alcoholic beverages and review the existing regime, and will further tighten the regulation on remote distribution where necessary.

In a nutshell, the Amendment Bill seeks to plug the present loophole as soon as possible. Some Members mention that at present, people under the age of 18 years are already prohibited to consume alcoholic beverages on licensed premises. But if it is only involved in the sale of the alcoholic beverages, then there is a loophole in the present law. For that reason, we hope that we can do something to curb the sale at retail outlets. The legislation is only one of the means of DH or the Government in the control of liquor consumption. As I said just now, DH has implemented an Action Plan in 2001 and there are many measures. We will adopt the building block approach to let parents or young people know the harmful effects of alcohol by way of public education. Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 6 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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


DEPUTY CHAIRMAN (in Cantonese): Secretary for Food and Health, you may move your amendments.
SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy Chairman, I move the amendments to amend Clause 7 of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"). The relevant amendments are considered and proposed for future enforcement needs, having regard to the recommendations of the Bills Committee. There are four proposals in the amendments.

Firstly, we propose to delete the definition of "agent", and to add an exception in the provision pertaining to selling or supplying intoxicating liquor to minors prohibited, so as to exclude the person who is only engaged in delivering the liquor in the course of business and is not otherwise involved in the sale or supply of the liquor, such as the Post Office, delivery and courier companies and their staff.

Secondly, in order to effectively enforce the proposed amendments under the Dutiable Commodities (Liquor) Regulations ("the Regulations"), including routine inspection of premises and to collect evidence if there is any reasonable doubt that someone has committed an offence, we propose the amendment to substitute "public place" with "distribution point". An inspector may enter and inspect any "distribution point" at any reasonable time to ensure the compliance of the new provisions under the Regulations.

The original version of the Bill has not clearly defined the term "public place". The definition of "public place" under the Interpretation and General Clauses Ordinance (Cap. 1 of the Laws of Hong Kong) means—any public street or pier, or any public garden; and any theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment or to which the public have or are permitted to have access. The definition does not necessary cover all the places where liquor is sold, thereby restricting the future enforcement work. For that reason, we proposed to substitute it with "distribution point" and to define it as "a place (other than domestic premises) where intoxicating liquor is or has been sold or supplied in the course of business", so as to specify the scope of enforcement of inspectors.

(THE CHAIRMAN resumed the Chair)
Thirdly, as "domestic premises" is deleted from the definition of "distribution point", in case illicit dealers sell or supply alcoholic beverages to minors on domestic premises, or hide evidence of an offence on such domestic premises, such as computer systems for online sale of alcoholic beverages to minors, we propose that a magistrate may issue a search warrant if the magistrate is satisfied by information on oath by an inspector that there are reasonable grounds for suspecting that there is on the premises anything that is, or is likely to be, evidence of an offence under new Part 5, the inspector may enter and search the premises and exercise all the powers under the Bill to seize, remove or detain any evidence. At present, various laws have stipulated provisions for law enforcement agents to enter and search domestic premises. If there is no express provision, an inspector may not be authorized to apply for a search warrant to enter and search any domestic premises, which will create a loophole in the legislation.

The above amendments reflect the outcome of the discussions of the Bills Committee and the support of members of the Bills Committee. Nevertheless, after the Bills Committee has given its support to the resumption of the Second Reading debate, we learn recently that Members have different opinions as to whether inspectors should be authorized to apply for a search warrant from the Court in order to enter and search a domestic premises. For that reason, we propose the amendments be divided into two groups, so as to enable Members to cast their votes and express their views clearly once again on the amendments pertaining to authorizing inspectors to apply for a search warrant to enter and search any domestic premises.

I wish to reiterate that if an inspector, who has reasonable grounds for suspecting that an offence has taken place in a domestic premises, is not authorized to apply for a search warrant to enter and search the domestic premises, will virtually make domestic premises the breeding ground for illicit sale or supply of alcoholic beverages to minors and affect enforcement work. I beg Members to support all the amendments proposed by the Government.

Thank you, Chairman.

Proposed amendments

Clause 7 (See Annex I)
MR HOLDEN CHOW (in Cantonese): Chairman, the last debate session mainly focuses on the discussion of the main body of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"), which seeks to ban the selling of liquor to minors under the age of 18. It seems that Honourable colleagues are unanimous in their approval of the main body of the Bill. However, I call for an in-depth discussion in this debate session on the amendments regarding clause 7 of the Bill. It requires more detailed discussion also because there will be two separate groups of amendments. I would like to take this opportunity to clearly explain to Members the differences between the two groups of amendments, and hope that Members will think carefully how they will vote on the amendments after listening to my speech.

Chairman, first, in respect of the first group of amendments, as the Secretary has said and as I have mentioned in the last debate session, Bills Committee members have raised in the meetings that for deliverers solely responsible for the delivering or mailing of liquor who are neither engaged in the liquor business nor employed by liquor sellers, they should be clearly excluded from the Bill. Actually, we all know that this piece of legislation seeks to regulate sellers and suppliers of liquor rather than liquor deliverers. As far as the first group of amendments is concerned, the Government has indeed heeded the views of Bill Committee members, including my opinions, and proposed such amendments.

I think the second group of amendment introduce the most significant changes to the Bill, which I have strong views. The amendment empowers an inspector or a law enforcement officer to enter and search domestic premises for evidence. To do so, the amendment also specifies the need for the inspector to obtain a search warrant from a court. Chairman, someone may be surprised by my disapproval and ask: "Holden CHOW, the domestic premises search can only be conducted with a search warrant issued by a court, so there is no point in feeling worry. Just let them do the search. Why do you oppose this arrangement?"

Chairman, please allow me to give some more background information. In the operation of the legal system, we often refer to the principle of proportionality. Quite a number of Members speak on this topic today as they see the need to regulate the sale of liquor to minors under the age of 18. We definitely do not wish to encourage underage drinking, and we are also worried that minors may develop a habit of drinking if they are allowed to buy liquor. We well understand the justifications of the prohibition. But at the same time,
we also know that the offence of selling liquor to minors under the age of 18 is not at all serious. Chairman, I want to explain what actually constitutes a serious offence. For offences as serious as drug trafficking or in the anti-terrorist measures, it is reasonable and also necessary to allow law enforcement agencies to enter and search the premises for evidence, of course also subject to the availability of the court's search warrant. The Bill under discussion today, however, only concerns the offence of selling liquor to minors under the age of 18. Is it proportionate and necessary to empower law enforcement officers to enter and search domestic premise for evidence? Chairman, I highly suspect the proportionality and also doubt the necessity. Besides, I also want to touch on the likely scenarios arising from enforcement of the law. Many colleagues have raised this question: "How do law enforcement officers carry out and deal with this domestic premises search? How can they enforce the law after the passage of the Bill?"

Actually, what we have to do is to concentrate our efforts in examining how we can effectively monitor liquor stores in the streets, and how we can catch stores selling liquor to minors under the age of 18 through appropriate inspections or decoy operations. Today, I hear many colleagues questioning the adequacy of manpower for street inspection or for appropriate decoy operations. Some even question the appropriate timing of the inspections. These are practical problems which we may encounter in law enforcement. The Bureau is of course fully committed to taking forward the Bill. No one will question its good intention and motive. However, when it comes to the details of the enforcement work, my colleagues will rather wish to know how the Bureau targets liquor stores in the streets in its actions. I think it is advisable for the Bureau to take the opportunity of this debate session to explain its work to Members. We do absolutely not want to pass a Bill which exists only in name. No one will wish to do so. Instead of focusing the efforts on extending the coverage of the Bill to the search of domestic premises, we should target stores in the streets to tackle the problem that many people including those under the age of 18 can easily buy liquor from such stores.

Chairman, why do I have great reservation and worries about the domestic premises search? Chairman, as a legal practitioner and a practising solicitor, I value greatly the principle of proportionality which I strive to uphold. For me, it is a matter of principle. It will be unacceptable for me to simply ignore the obvious disproportionality of the domestic premises search rule and say it is okay for the authorities to do so. If we compromise the principle of proportionality today, will we also include the similar search rule into other not-serious offences,
making the premises search a routine practice? I have to reiterate here that I am fully confident the court will act strictly in accordance with the law in the issuance of search warrants. However, may I ask why we have to causally empower law enforcement officers to enter domestic premises to search and collect evidence of offences which seriousness do not proportionate to such a search?

As a legal practitioner, I consider the principle of proportionality very important. I am worried that the disregard for proportionality will make it easier for law enforcement officers to enter domestic premises to search and collect evidence of offences which seriousness do not proportionate to the search. In the course of discussion of the Bill, we learn that domestic premises search is permissible under some existing laws, such as those on privacy or noise pollution, for the purpose of evidence collection. However, Chairman, I would say such permissions are justifiable. In respect of the ordinance on noise pollution, it is necessary to arrange for the domestic premises search because the offence mostly involves the continuous making of noise inside the premises. The home search is the only way to collect evidence. However, the original intent of the Bill is to deal with stores in the streets and public place, or what the Bureau now calls the distribution point, not the search of domestic premises.

Actually, my colleagues once told me that when the authorities put forward the Bill, they were also doubtful about the evidence to be collected in the domestic premises search and whether the evidence so seized were useful in the final adducing of evidence. Indeed, the conduct of decoy operations will be more effective than the domestic premises search. To be frank, law enforcement officers can look for a lot of things in the search exercise. However, as a lawyer, I well understand that they have to act in accordance with the law and to do the search according to the scope specified in the search warrant. The search is regulated under the ordinance and there is no question of an arbitrary search. But if there is reasonable suspicion that you are doing liquor selling transactions in your laptop, the machine will definitely be detained.

Chairman, I would like to use these examples to tell Members that in the law enactment exercise, we will need to strike a balance among various factors. We hope that the law so enacted can enable effective law enforcement, but at the same time, we do not wish it to cause serious side effects. Nor do we intend to suddenly miss some necessary basis principles in the law enactment process.
Chairman, I know Members will have different views and opinions in the course of discussion. I welcome Members to take opportunity of this debate session to conduct more in-depth discussion about the two groups of amendments. Should I have said something wrong, please point them out. This Chamber is indeed a venue for us to express our different views in the hope that the debate helps further improve the Bill.

Chairman, before I stop, I would like to talk about an unlikely scenario where the domestic selling of liquor becomes a trend following the passage of the Bill. Even if such a circumstance arises, the authorities can still conduct a review and come back to the Legislative Council to request us to extend the power to cover domestic premises search. This will be justifiable and I will simply withdraw my opposition that time. However, I really find it inappropriate to include in the Bill the power to enter and search the domestic premise for evidence when it is first submitted to the Legislative Council for enactment. I think this will need to undergo a process, and cannot be done right now. I have to let Members know the principle of proportionality.

Chairman, let me repeat once again. I have to remind Members that the amendments are divided into two groups. The first group of amendments mainly seeks to exempt persons responsible for delivery from liability. This is to prevent any wrong prosecution of the innocent people as the Bill does not intend to regulate people responsible for delivery. This is the first group of amendments. It is the second group of amendment which permits law enforcement officers with the search warrant issued by court to enter and search domestic premises for evidence. Chairman, for this amendment, I call on Members not to causally forget the legislative principle of proportionality, and to refrain from causally opening the door for law enforcement officers to enter and search domestic premises for evidence.

I will stop here. I can further explain my points if necessary. Chairman, I so submit.

MR YIU SI-WING (in Cantonese): Chairman, the main purpose of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") is to prohibit the sale of liquor to minors. But apart from fulfilling the above objective of the Bill, the authorities must also consider the issue of actual enforcement. The growing popularity of online shopping has led to increasing retail sale of liquor through
channels other than physical shops. This group of amendments mainly concerns the question of whether third-party deliverymen need to bear the responsibility of checking the identity proofs of product recipients.

At present, online shopping has shown two major trends. First, physical shops directly open online stores and provide product delivery services themselves. Second, mega-sized e-commerce platforms have been set up to induce medium, small and tiny enterprises to open stores on such platforms, such as Tmall and HKTV Mall. The feature of e-commerce platforms is that they provide shopping interfaces, payment systems and delivery services. But actual product storage and delivery preparation are rested with various small shops. They resemble massive electronic shopping malls, and customers may purchase many different products on such websites. But actually, they are purchasing from various shops.

E-commerce platforms specialize in the sale of daily necessities, and it can be said that they are e-supermarkets. Liquor is precisely one of their major products for sale. For example, if you click on the category "Alcoholic Beverages" on HKTV Mall, you can find some 1700 liquor products. This shows that online shopping offers a great variety of liquor options. Hong Kong people are getting more and more inclined to buy daily items and foodstuffs online because first, they can enjoy the benefit of free delivery; and second, they can spare the need of fetching the items from supermarkets themselves. In particular, they have gradually become accustomed to buying some heavier beverage products through online shopping. This is a trend.

As online shopping has turned increasingly popular and standardized, various links such as product storage, retailing, promotion and delivery have become more and more refined. The phenomenon that online shops outsource the task of product delivery to professional logistic companies and couriers has become more and more noticeable. If deliverymen are required to check the identity of parcel recipients, many problems will arise. Members can come to imagine this. Perhaps some of us may have used consolidated delivery services to consolidate products purchased from different shops into one single parcel before delivery, so as to save delivery costs. So, it is impossible for a deliveryman to know if a parcel contains any liquor. Those with experience in online shopping will know that deliverymen are very efficient. After delivering a parcel to the destination, they will leave at once. If they fail to get in touch with the recipient, sometimes they may even leave the parcel with the caretaker of
the building and ask him to acknowledge receipt of the parcel. This situation does exist. So, with the increasingly popular use of courier services, it will be difficult to require deliverymen to take up the responsibility of checking any identification documents.

The original legislative intent of the authorities was to categorize people responsible for distributing liquor into those directly employed by sellers and those by suppliers. In the particular case of deliverymen employed by sellers, I think they should bear the responsibility of checking the identity of parcel recipients because they as direct employees of sellers should be able to understand their companies' requirements through training. But speaking of those deliverymen who are not employed by sellers, I think the authorities should pay attention. For example, it is now difficult to exercise control on, for example, online shopping I mentioned just now. So, I also agree that these people should be exempted.

Third-party deliverymen, meaning those who are not directly engaged by sellers as we mentioned just now, will be exempted according to the original legislative intent. But the Bill's wording is not stringent enough, so people may be easily misled into thinking that third-party deliverymen will also become an agent of buyers or suppliers and have to bear certain responsibilities. This time around, the Government puts forth amendments to proposed regulations 35, 37, 44(1)(a) and 44(2) to specify that a person delivering intoxicating liquor in the course of business for another person who sells or supplies the liquor will not be regarded as selling or supplying the liquor, thus not subject to the new regulatory regime, provided that such person is not employed by the seller or supplier nor involved in the sale or supply of the liquor. As we said just now, deliverymen who are not directly employed by a seller will be exempted. Besides, a corresponding amendment will also be made to regulation 35 to delete the definition of "agent", so as to increase the clarity of the Bill's wording and in turn achieve the original legislative intent. For these reasons, I support this group of amendments.

Speaking of the second group of amendment, I will likewise render my support. This group of amendment seeks to specify that a magistrate may allow an inspector to collect evidence in domestic premises by issuing a search warrant, provided that the magistrate meets the specified conditions. This is targeted at the unlawful sale of liquor to minors in private domestic premises. To ensure smooth enforcement of the law, law enforcement officers must be vested with
corresponding power. The Bill initially specified that an inspector might enforce the law in any public place. However, as the coverage of "public place" is too extensive, the Bureau concerned has proposed an amendment to replace "public place" with "distribution point". "Distribution point" means a place where liquor is sold or supplied (other than domestic premises).

While the Bill has empowered inspectors to conduct inspections and enforce the law at distribution points (meaning retail shops), and ordinary customers may purchase liquor at retail points, the prevalence of online shopping has presented more and more opportunities for distributing liquor in private domestic premises. This is prone to manipulation as a grey area. Some may make use of the grey area in law and distribute or sell alcoholic drinks in domestic premises, in total disregard for the physical health of youngsters.

Since the law has yet to be enacted, Members may think that the current situation is not that serious, and not many people will distribute liquor in domestic premises. The reason is that they can already buy liquor in retail stores. But the situation in the future will not be like this. If this provision is enacted and domestic premises are exempted, some may manipulate this grey area and sell or distribute liquor in domestic premises. This will hinder the Government's efforts of adopting the Bill as a means to prevent anyone from selling liquor to underage youngsters through this channel. Therefore, I personally think that inspectors should be empowered to conduct investigation in domestic premises, so as to ensure that the Bill can achieve its desired effects.

At present, police officers may conduct investigation in domestic premises as long as they have obtained a search warrant. So, some have proposed, "In that case, is it possible to entrust the police with law enforcement instead of incorporating the relevant arrangement into the Bill?" In my view, this is not quite so effective in normal circumstances. If this had been effective … Our observation is that the Buildings Department ("BD") initially conferred this power on the police. But later, they changed their mind and raised the need to enact legislation. Therefore, an amendment exercise was conducted in 2012 to enable BD's law enforcement personnel to collect evidence in the premises upon direct application to the court for a search warrant, so as to ban unauthorized building works. Why did BD find it necessary to do so? It is because the police did not understand the spirit of the law when collecting evidence.
In the case of the tourism industry, for example, suppose a complaint is lodged against someone about operating an unlicensed travel agency—I have also encountered such complaints—the complaint will be referred to the Travel Agents Registry ("TAR"). But TAR is not vested with any investigative power, so they can only refer the complaint to the police. In a case I handled, police officers found that tourism-related products were offered for sale at a shop after inspection at the scene. But the shop was actually a money changer. After inspecting the shop, police officers thought that there was no problem as they noticed that a business licence was displayed inside the shop. Therefore, they informed TAR that there was nothing wrong with the shop. This was what TAR told me in its reply, and I also informed the complainant that there was nothing wrong with the shop. Nevertheless, the complainant told me that the shop was a money changer, but it offered tourism-related products for sale. Therefore, I asked TAR again if they had enquired of the police about the type of licence displayed in the shop. Later on, it was found that the shop did not possess any Travel Agent's Licence and only had a business licence. We can see from this example that the authorities will be unable to achieve the desired law enforcement effect if they rely on the police to handle a case after receiving a complaint. Therefore, I think that giving inspectors of the relevant law enforcement department with investigative power and entrusting them to apply for a search warrant from the court and conduct inspection after obtaining a search warrant can achieve better effects than counting on the police to enforce the law or collect evidence on their behalf.

As other law enforcement departments (such as BD I mentioned a moment ago) have already changed their practices, and the Travel Industry Bill also intends to confer law enforcement power on a Travel Industry Authority to be set up in the future, I think Members should endorse the amendments to the Bill to grant certain power to inspectors, so that they may apply for a search warrant directly and conduct investigation according to the law into the actual environment of the scene after obtaining the warrant.

As for some Members' concern about the excessiveness of this power and the resultant abuse of power, I think they need not worry too much. The reason is that as I said just now, this arrangement has already been adopted by various government departments. Besides, magistrates also have a certain level of wisdom to consider and decide on the justifiability of the grounds put forth by law enforcement officers before granting a search warrant. Certainly, some Members may ask if this arrangement is overly lenient. But police officers
likewise apply for a search warrant in the same way. If we accept what they have said, what should we do with other departments? So, I do not think Members should vote down this amendment due to their concern about abuse of power on the part of inspectors.

I support the second group of amendment. Thank you, Chairman.

MR TOMMY CHEUNG (in Cantonese): Chairman, I support the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"), but I have some objections against one part of the amendments proposed by the Government. That is, under the proposed new regulation 44A, a magistrate may issue a search warrant in respect of any domestic premises to authorize an inspector to seize anything that is the evidence of an offence under New Part 5.

It is obvious that the offence of not displaying a prescribed sign or notice at any "liquor vending machines", at the place of sale, phone or computer; or the offence of not asking for a declaration of age are not offences that occur on domestic premises. They have nothing to do with searching for evidence in domestic premises.

In other words, the major purpose for the Administration to propose the new regulation 44A is to curb the offence of the possession and sale of liquor to person under the age of 18 years, regardless in a "face-to-face distribution" or in a "remote distribution".

The question is, many people will store liquors or wines at home. Chairman, you and I have stored certain liquors or wines at home, and perhaps in large quantity. However, if an inspector considers subjectively that those are evidence of an offence, it will easily become an excuse for him to get a search warrant. Therefore, it is difficult to protect the privacy of the general public.

Besides, if someone—just now a colleague says that other laws may also achieve the same objective—regardless whether the liquor is sold without a license on domestic premises or commercial premises, or the liquor is sold to an adult or juvenile (any person under or over the age of 18 years), Government staff or the police may carry out the inspection. Besides, that will involve certain types of crime.
My view is that, the Ordinance as amended will give people an impression that since the Government prohibits the sale of liquor to a person under the age of 18 years on a commercial premises, it would be more desirable to sell liquor stealthily at home. I am concerned that a loophole will emerge as some of my colleagues have said just now that some people may use domestic premises as an interchange point for the sale of liquor to minors. However, why should we focus on domestic premises but not making it a criminal offence?

Furthermore, the wording is almost the same as the relevant laws which empower the police to apply for a search warrant. Given that the existing laws have authorized the police that they may apply for a search warrant if they suspect that there are evidences of substantial value to an investigation within a certain structure or premises, I doubt if it is necessary to add the amendment of some non-criminal offences to the Bill.

I agree with the speech delivered by Mr Holden CHOW just now. However, as I see the Secretary in the Chamber now, he reminds me of the predecessor of the former Secretary—Dr York CHOW. At that time, he tabled in the Legislative Council a Bill to ban smoking at workplace. The wordings were roughly that if a police officer suspected you were in possession of a pack of cigarettes, he might conduct a body search. I jumped to my feet upon hearing that. Possessing a pack of cigarettes was not an offence. They needed not to cast doubt on that. Even if I had displayed that pack of cigarettes, I was not committing an offence. I would only commit an offence if I smoked at the workplace. Of course, smoking at beaches or bus stops is an offence now. However, how could you be empowered to conduct a body search simply because I have a pack of cigarettes in my possession? I am not sure if a verbatim record was made at that time. At that time, some Members from the pro-democracy camp were standing on the moral high ground and they considered it was okay to do so. I said, how could it be alright as you people all supported human rights? Were you crazy? As a result, I said I would propose an amendment. Anyone who had the guts could oppose my amendment. Later on, the then Secretary noted that and swiftly deleted the body search part from the Bill.

Chairman, we have been colleagues in this Chamber for many years. I have always been saying that what I concern most is the devil emerges in the detail when the Government has counted adequate votes. The proposed new regulation 44A is the devil. For that reason, I consider that the Government has not mentioned the proposals in the proposed new regulation 44A when the Bill was drafted, and it has not explained to society the problem that it has to deal
with. Now the Government proposes that at this Committee Stage and only asks for more power without explaining the concept. It just says that the court will play the role as the gatekeeper. This approach is very undesirable.

If the amendment is passed, I hope the Administration will set out some clear and definitive rules to ensure that the search warrant will not be issued and used arbitrarily. It should also ensure that the police will not be granted excessive powers so that they can conduct house search without good reasons. For example, they may suspect me for selling liquor to a minor, boy or girl, thereby undermining the privacy and rights of members the public.

Chairman, I so submit.

MR CHAN CHI-CHUEN (in Cantonese): We are really having a very wonderful debate today, and I think this can be used as teaching materials on the history of Legislative Council debate. I will also try to produce edited clips of the speeches delivered just now by Mr Tommy CHEUNG and Mr Holden CHOW. Mr Tommy CHEUNG pointed out that the Government should not think that it can succeed so long as it has secured enough votes, and the devil is actually in the details. Mr Holden CHOW opined that the proportionality and necessity of the proposed legislation are also very important. Given that a simple and not very controversial livelihood issue is involved, we can put aside our political stance, consider the matter on its own merits, assess whether the proposed requirements are necessary and reasonable, and decide if we should give them our support.

Chairman, the amendments proposed to clause 7 of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") contain two very important themes. The first theme is whether persons responsible for delivering wine products to purchasers under the age of 18 should be held criminally liable. According to the Government, if persons responsible for delivering wine products are not employees of persons selling the wine products, for example, if they are only couriers of express delivery companies, they will not be held criminally liable. Therefore, a subregulation (1A) will be added to the proposed regulation 37 on "Selling or supplying intoxicating liquor to minors prohibited" to specify that if the person delivers the liquor in the course of business for another person is not otherwise involved in the sale or supply of the liquor, the person shall not be held liable simply because he is responsible for delivering the liquor.
However, by the same token, if persons responsible for delivering wine products are conversely employees of persons selling the wine products, or if persons selling wine products choose to deliver the products themselves, they may commit an offence under the proposed legislation if a person receiving the wine products is under the age of 18. Such requirements are in fact rather dangerous and relatively difficult to enforce.

I have pointed out in the last debate session that for an order placed beforehand, if the ordered goods are delivered to the purchaser or the purchaser's residence by a courier, the courier will not be held liable. However, if they are not delivered by a courier, but a deliverer directly employed by the supermarket receiving the order, or a staff member of the website providing the related online shopping services, does it mean that the person delivering the wine products has to inspect the identity card of the person receiving them before handing over the products or the package? There are now many options available for receiving goods, and goods may be handed over to caretakers if they are willing to receive them, or even left in the doorway of the receiver's residence if he/she is a regular customer. It has come to my attention only yesterday that a pet supplies company accepts payment after delivery if a purchaser is considered trustworthy.

After the passage of the Bill, would it imply that during law enforcement, persons responsible for delivering packages or goods with wine products inside shall be exempted from criminal liability only after they have inspected the identity card of purchasers or receivers, and confirmed that they are over the age of 18? When it comes to online shopping, I have pointed out that it actually involves an honest declaration system. If a clause is included in the relevant web page for purchasers to declare that they have already reached the age of 18, and so long as purchasers have so declared, online shopping companies shall be exempted from liability, regardless of whether a false declaration has been made. Similar requirements have also been previously specified in other legislation. Therefore, if persons who sell or supply liquor have no responsibility to inspect purchasers’ identity card when receiving their orders even though purchasers may cheat deliberately, how come they shall be held liable for this when the goods ordered are delivered, even in person by those who sell the liquor?

Delivery of goods by supermarkets is another example. If a consumer buys a lot of things, asks somebody else to pay for him/her and receives the goods delivered personally, will the person delivering the goods be held responsible if there are wine products among such goods? Will the Government undertake
such covert operations? I think you should really check their web pages, and they should of course be held liable if a clause is not included in these web pages for purchasers to declare that they have already reached the age of 18, thus rendering it possible for persons under the age of 18 to place an order. They also deserve the punishment if they knowingly receive an order from a purchaser under the age of 18. Yet, in my opinion, if purchasers have already declared that they are over the age of 18, and the Government has never required an inspection of identity card, it may then not be appropriate to impose legal responsibility on persons who sell or supply liquor only in the subsequent logistic procedures. I am not sure whether delivery staff of supermarkets will be exposed to a certain degree of risks in the law enforcement process of the authorities concerned.

I can find no reason not to support the proposed amendments, because those who are not involved and are purely responsible for delivering the goods ordered will be practically exempted from criminal liability under the amendments, and I must give them my support. However, for persons who are to a certain extent related to another person who sells wine products, how should they fulfil their responsibility? How should we educate delivery staff of the relevant stores or supermarkets to carry out their gate-keeping duties properly in the next step? I think the Government should elaborate clearly, and just as I said earlier, would they be exempted from legal responsibility so long as the first step has been completed to make a declaration?

The second important theme lies in the proposed regulation 44A, and I do not know if the Government will have enough votes this time. Judging from the number of Members in the Chamber now, the Government will not have enough votes to get the proposed amendment passed. Under the proposed regulation 44A, a magistrate may issue a search warrant in respect of any domestic premises if the magistrate is satisfied by information on oath by an inspector that there are reasonable grounds for suspecting that there is in the premises anything that is, or is likely to be, evidence of an offence under the proposed Part 5 of the Dutiable Commodities (Liquor) Regulations. I am very happy to hear that even Mr Holden CHOW has reservation about the proposed amendment. This is not sarcasm and I really mean it.

There is a saying which goes, "With the unlimited powers of the Police, human rights have been compromised", and by referring to the powers of the Police, we are not merely targeting at police officers, but also at law enforcement officers. The requirements under the proposed regulation will be enforced by an
inspector, and how great are the powers given to him? Let us not talk about whether he will abuse his powers, but is it really necessary for us to grant him such powers? Should we offer him the tool, weapon or channel to do the job? Proportionality is a very important factor that we should consider. Hence, I agree very much with this viewpoint shared by Mr Holden CHOW today.

When we were arguing over some political issues in the past, people from the pro-establishment camp have sometimes alleged that there should be no cause for concern if nothing has been done to violate the law. By the same token, if nothing has been done to sell liquor to minors, there is no cause for alarm when law enforcement officers take actions to enter and search domestic premises, is it not? It may be argued that although there is a basement and a wine cellar in a luxury flat, there should be no cause for worry because an inspector has to first obtain approval from a magistrate, but is this really the case? Yet, this is not what I am talking about, and I also believe that an inspector would not take actions simply because someone has an extensive collection of wine, just like Henry TANG who has accumulated a large quantity of wine that he can hardly exhaust in his lifetime.

Although it is stipulated in the proposed regulation that law enforcement officers should first obtain approval from a magistrate before entering domestic premises to collect evidence, but as we all know, is it very difficult for law enforcement officers to obtain a search warrant? What they should do is to convince a magistrate that there may be evidence of an offence in the domestic premises concerned, and as stipulated in the proposed regulation, if an inspector believes in good faith that there are reasonable grounds for suspecting that there is evidence of an offence in the domestic premises concerned, a search warrant may be issued for entering the premises to collect evidence. I believe that the success rate of obtaining a search warrant should be very high, otherwise the inspector applying for a search warrant from a magistrate may be criticized for filing an application indiscreetly.

Nevertheless, as the Bill also covers the sale of liquor to minors through the Internet, law enforcement officers may undertake covert operations as I mentioned earlier, and then take actions when they note from information on the Internet that someone has sold liquor or is suspected of selling liquor to minors. I think they will mainly rely on covert operations in law enforcement, because no wine merchant will be bold enough to blatantly violate the law. Therefore, to put it more precisely, it may be possible for any domestic premises to become
targets of searching operations conducted by law enforcement officers as long as there is a large quantity of wine products in the premises. From my perspective or that of the pro-democracy camp and human rights advocates, if the proposed amendment is unnecessary and not proportionate, we should not take the trouble of including it into the law, because in order not to create a point of contention, we should try not to provide law enforcement officers with one more type of weapon.

It is well said by Mr Tommy CHEUNG just now that it is actually wrong for anyone to sell liquor at home, even though the liquor is not sold to persons under the age of 18. When such cases can be handled under the existing legislation, why is it necessary to add the proposed regulation 44A under the Bill? I guess this should be the thinking process that the Government has gone through: As the term "public place" has to be replaced by "distribution point", and the definition of "distribution point" does not include domestic premises, a loophole will arise if anything goes wrong in domestic premises. In order to plug this loophole, the Government has to propose the amendment under discussion.

As a matter of fact, I do not quite understand the voting arrangements for the proposed amendments. I believe Members would all accept the first group of amendments, because under which persons purely responsible for delivering intoxicating liquor would be exempted from legal responsibility, and a definition of "domestic premises" would be provided. The second group of amendment is about the requirements on searching domestic premises, but according to the paper provided by the Legislative Council Secretariat, we have to first vote on the first group of amendments, and irrespective of whether the first group of amendments are passed or not, the Secretary may move the second group of amendment. However, if the first group of amendments are negatived, a definition of "domestic premises" would not be provided, and how can it be possible then to search domestic premises and support the second group of amendment? Of course, I believe the first group of amendments will surely be passed, because there are good intentions behind, and persons purely responsible for delivering intoxicating liquor will not be caught unnecessarily and made to assume legal responsibility, lest express delivery companies will hesitate to take up these jobs. Without the first group of amendments, persons responsible for delivering intoxicating liquor will have to do a lot of work to ensure that the goods are received by their receivers in person, inspect their identity card, cross-check the name on purchase orders, make sure that the receivers have already reached the age of 18, and the whole thing will constitute an annoyance to the people.
Nevertheless, as for the second group of amendment, I think there is no need for fellow colleagues, be they Members from the pro-democracy camp or the pro-establishment camp, to listen to what I say. They can actually come to realize from the remarks made by Mr Holden CHOW and Mr Tommy CHEUNG that the proposed requirements are unnecessary under both principles of proportionality and necessity. Some Members from the pro-establishment camp have indicated privately to me just now that the possibility of obtaining evidence successfully in these searching operations is indeed very low, unless account books, computer records and full customers' records are maintained as in the case of soccer bookmaking. If I were a supplier of liquor, I would keep my account books, computer records and wine products somewhere else, and offer other means of payment. Although the Police can enter the place where I live and find over 10 boxes of wine there, what cases of irregularity can this suggest?

Moreover, with regard to the issue of proportionality, I wish to point out that what we are talking about now is by no means a serious offence. Drug trafficking and selling drugs or prohibited substances are serious offences, but why is it necessary to adopt the measure of searching domestic premises to combat the sale of liquor? Since we can invoke other legislation to deal with such acts, I hope further consideration would be given by the Government to excluding the second group of amendment from the Bill. It is also my hope that Members would not support the second group of amendment proposed by the Government.

MR SHIU KA-FAI (in Cantonese): Chairman, in my last speech, I said that many people in Hong Kong just claim the moral high ground and point out the health risks of drinking and smoking. Obviously we know this well. Yet, in a free society like Hong Kong, the public can still choose to consume these two products before the sale of them are banned. I will never agree to any tough regulation or substantial increases in duties on wine and tobacco by the Government.

The Dutiable Commodities (Amendment) Bill 2017 ("the Bill") aims to prohibit the sale of intoxicating liquor to minors under 18 years of age. Of the numerous liquor sellers surveyed by me in this respect, no one expressed any objection to the Bill. Selling liquor to people under 18 years of age may cause excessive drinking among them, which is hazardous to their health. They may also not be able to maintain self-control after getting drunk. Therefore, despite being the representative of the wholesale and retail sector, I and the sector do support the Bill to a certain extent.
However, I hope the authorities can notice the pressure created by certain provisions on sellers' frontline staff as they are the people who will implement the restriction under the regulation which bar them from selling any liquor to anyone under 18 years of age. During the scrutiny of the Bill, I expressed this view to the Bureau, and the authorities said that the Bill is similar to legislation that bans smoking. But I would like to say that they are in fact different. Though the process of selling cigarettes and liquor is more or less the same, when selling cigarettes, frontline staff merely have to check the customer's identity card and refuse the sale if the buyer has not reached the age of 18. The customer may just go away then. On the contrary, the sale of liquor is probably more complicated. There is no worry if the customer is only a short person around 9 to 10 years old, but if he is a strong adolescent who is almost 18 years old wanting to buy more liquor after drinking some, the frontline staff will be exposed to higher risk as, under the influence of alcohol, the customer may create trouble when he is required to present an identity card. Nevertheless, I still agree that liquor should not be sold to people under 18 years of age.

However, apart from putting up posters, the Government should enhance publicity by means of various media, especially when the Government has such an enormous amount of fiscal surplus. It should spend more on publicity, right? In a word, the Government should deploy more resources on publicity, including publicizing on newspapers, the Internet, television or the radio, so as to educate the public about the Bill to prevent disputes.

By the way, frontline staff will be prosecuted if they forget to or do not seriously implement the rules to stop selling liquor to people under 18 years of age. However, should the customer be held responsible too? Hong Kong Retail Management Association ("HKRMA") raised this question before. I also pointed out this issue at a meeting of the Bills Committee. In overseas cases, customers will also be subject to punishment. Why does someone who is 15 or 16 years old have to buy liquor, knowing well that one has not yet reached 18 years of age? Why does the Government not punish them? Can they be spared simply because they are not adults? While the Bill does not cover this, the Government should earnestly consider the possibility that, understandably, staff may make mistakes after being confused by customers' physical appearance, and they can never be sure about the authenticity of the identity cards. The Government will create a deterrent effect by stipulating that those, despite not reaching 18 years old, knowingly seek to buy liquor shall be penalized. The Government should take this into account.
Furthermore, I wish to remind Members that apart from alcoholic beverages, say, rice wine for cooking sold in grocery stores is also covered by the Bill. But most of the people do not know this, right? When the Government publicizes the amended legislation in future, on top of displaying posters at convenience stores and bars, perhaps it also needs to put up posters in grocery stores where rice wine is sold. Otherwise, the following situation may happen: a mother asks her son who is around 10 years old to buy rice wine for her use while she is preparing fried rice noodles, and her son is subsequently arrested for buying liquor as a person under 18 years of age. As rice wine is also put under the scope of the Ordinance, I urge the Government to publicize this point extensively to clearly educate the public about the Ordinance's ambit.

As regards remote distribution (that is, online purchase), Members have provided a lot of opinions during the scrutiny of the Bill. I thank the Government for responding to them. We have been paying attention to the handling of online purchase of liquor, and the Government has now heeded our suggestions so that purchasers online simply have to tick the right boxes on the online order form. Concerning the delivery of liquor, the authorities at first required the deliveryman to inspect if the purchaser has reached the age of 18. We disagreed. Why? The staff of the sellers are of course responsible for this if they are the one who directly deliver the liquor. But if the delivery is done by a courier, he will surely be scolded severely if he requests to check the purchaser's identity card. Fortunately, the Government has introduced an amendment to delete the word "agent", thereby only the staff directly under the shops or companies selling the liquor are subject to this regulation, while staff of couriers or delivery companies are not put under the scope. We welcome this amendment.

Nevertheless, I also wish to point out that even if only the staff of the sellers who deliver the liquor are subject to regulation, the authorities should be reminded about the possibility of frequent disputes between staff and purchasers after the commencement of the legislative amendment. It is because purchasers buying liquor at shops will understand the requirement when they notice the labels, but purchasers at home waiting for the delivery will not necessarily understand that, and disputes may occur when they doubt the staff. Therefore, the Government should pay attention to this aspect next time when they introduce any changes in the law.

As Dr KWOK Ka-ki is present now, I would like to talk about Dr KWOK Ka-ki's suggestion. Dr KWOK are always concerned about children's health, suggesting that one has to use an identity card and a credit card of an adult before
one can purchase liquor online. I do not agree to this suggestion. First, even if one only provides a copy of an identity card, there is already an issue of personal privacy. Sharing the same worry, HKRMA has consulted the sector on this issue. Likewise, I also believe that the need to present an identity card will discourage liquor purchase.

Second, we must not automatically believe that the production of credit card information can help confirm the age of the purchaser. Many supplementary cards do not require the holder to reach the age of 18, rendering it impossible to ensure whether the holder is an adult. So, the suggestion is perhaps not entirely enforceable.

Regarding inspectors' power to collect evidence, I hope they will refrain from constantly entering shops or business premises without good reasons to avoid affecting their business operation. I am not referring to the convenience stores as they are always open for the public. As for the premises selling luxury liquor where notice about relevant legislation is displayed at the door, I believe inspectors should not disturb them unnecessarily.

Finally, I will talk about search warrants. In fact, a Member called me this morning to solicit my support. Reasonable his words are, yet the Chairman's speech about search warrants just now is also justifiable. Suppose a domestic premise has constantly been used for selling liquor, inspectors can arrest the illegal sellers if they can enter the premise anytime. After amending the regulations, inspectors can apply for search warrants and collect evidence in the premises, but is this truly necessary? Will this intrude personal privacy? I have reservations about this. I will see if the Secretary can offer us a credible explanation to convince me. Otherwise, I will likely cast my vote following the Chairman's stance. Thank you, Chairman.

**SUSPENSION OF MEETING**

**CHAIRMAN** (in Cantonese): It is now almost 7:30 pm. As the Council is unlikely to complete the debate before 8:00 pm, I now suspend the meeting until 9:00 am tomorrow.

*Suspended accordingly at 7:29 pm.*
Annex I

Dutiable Commodities (Amendment) Bill 2017

Committee Stage

Amendments moved by the Secretary for Food and Health

<table>
<thead>
<tr>
<th>Clause</th>
<th>Amendment Proposed</th>
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<tr>
<td>7</td>
<td>In the proposed regulation 35, by deleting the definition of <em>agent</em>.</td>
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<td>7</td>
<td>In the proposed regulation 35, by adding in alphabetical order—</td>
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<td>“<em>domestic premises</em> (住宅) means any premises that have been constructed to be used, and are used, as a private dwelling;”.</td>
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<td>7</td>
<td>In the proposed regulation 37, by adding—</td>
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<td>“(1A) For the purpose of paragraph (1), a person is not regarded as selling or supplying intoxicating liquor only by delivering the liquor if the person—</td>
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<td>(a) delivers the liquor in the course of business for another person who—</td>
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<td></td>
<td>(i) sells or supplies the liquor; and</td>
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<td></td>
<td>(ii) is not the employer of the first-mentioned person; and</td>
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<td>(b) is not otherwise involved in the sale or supply of the liquor.”.</td>
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<td>7</td>
<td>In the proposed regulation 44(1)(a), by deleting “public place” and substituting “distribution point”.</td>
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<td>7</td>
<td>In the proposed regulation 44(2), by adding in alphabetical order—</td>
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<td>“<em>distribution point</em> (分發地點) means a place (other than domestic premises) where intoxicating liquor is or has been sold or supplied in the course of business;”.</td>
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By adding—

“44A. **Warrant to search domestic premises etc.**
(1) A magistrate may issue a search warrant in respect of any domestic premises if the magistrate is satisfied by information on oath by an inspector that there are reasonable grounds for suspecting that there is in the premises anything that is, or is likely to be, evidence of an offence under this Part.

(2) The search warrant may authorize the inspector to—

(a) enter and search the premises at any reasonable time; and

(b) exercise all or any of the powers under regulation 44(1)(b) to (i).

(3) If the inspector seizes anything as authorized by the search warrant, the inspector must—

(a) if there is in the premises an adult who appears to the inspector to be a resident of the premises—leave a notice of the seizure with the adult, or

(b) if there is no such adult in the premises—leave in a prominent position at the premises a notice of the seizure.

(4) A notice mentioned in paragraph (3) must contain sufficient particulars so as to identify the thing seized.”.