OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 21 November 2018

The Council met at Eleven o'clock

MEMBERS PRESENT:

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE CLAUDIA MO

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

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

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

THE HONOURABLE WU CHI-WAI, M.H.

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

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

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

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

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

THE HONOURABLE KENNETH LEUNG

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

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG, J.P.

THE HONOURABLE DENNIS KWOK WING-HANG

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

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG
DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, B.B.S., J.P.

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

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

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

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG, J.P.

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

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE AU NOK-HIN

THE HONOURABLE VINCENT CHENG WING-SHUN, M.H.

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

MEMBER ABSENT:

THE HONOURABLE JAMES TO KUN-SUN
PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.M., G.B.S., J.P.
CHIEF SECRETARY FOR ADMINISTRATION

MR SONNY AU CHI-KWONG, P.D.S.M., J.P.
UNDER SECRETARY FOR SECURITY, AND
SECRETARY FOR SECURITY

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

THE HONOURABLE EDWARD YAU TANG-WAH, G.B.S., J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE PATRICK NIP TAK-KUEN, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

CLERKS IN ATTENDANCE:

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL

MR MATTHEW LOO, ASSISTANT SECRETARY GENERAL
PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber.

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

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments

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Other Papers

No. 27 — Fire Services Department Welfare Fund
Report on the Administration of the Fund, Financial statements and Report of the Director of Audit for the year ended 31 March 2018

No. 28 — Prisoners' Education Trust Fund
Report by the Trustee, Financial statements and Report of the Director of Audit for the period from 1 April 2017 to 31 March 2018

No. 29 — Secretary for Home Affairs Incorporated
Financial statements and Report of the Director of Audit for the year ended 31 March 2018

No. 30 — Sir Edward Youde Memorial Fund
Report of the Board of Trustees, Financial statements and Report of the Director of Audit for the Period 1 April 2017 to 31 March 2018

No. 31 — Director of Social Welfare Incorporated
Financial statements and Report of the Director of Audit for the year ended 31 March 2018

No. 32 — Immigration Service Welfare Fund
Report on the administration of the Fund, Financial statements and Report of the Director of Audit for the year ended 31 March 2018

Report No. 4/18-19 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

Adjustment of the demand-side management measures for the property market

1. MR JEFFREY LAM (in Cantonese): President, some members of the public have relayed that with the interest rates rising gradually and the Sino-United States trade conflicts intensifying, the local property market may have entered a downward cycle in recent months, and the various demand-side management measures (commonly known as "harsh measures") implemented by the Government to address the overheated property market have become outdated. In this connection, will the Government inform this Council:

   (1) whether it will examine relaxing the loan-to-value ratios for mortgage loans to make it easier for members of the public to acquire their first property or replace their existing property, and enable small and medium enterprises to get more operating capital through securing loans by collateralizing their properties;

   (2) whether it has assessed if the harsh measures will exacerbate the fall in property prices when the property market is in a downtrend; if it has assessed, whether it can submit the relevant report to this Council; and

   (3) given that a Hong Kong permanent resident who disposes of his or her only original residential property within 12 months from the date of acquisition of a new residential property may apply for a partial refund of the ad valorem stamp duty payable at the time of acquisition of the property which is equivalent to 15% of the property price, whether the Government will change such a taxation arrangement so that persons who acquire a new residential property as replacement are required to pay additional stamp duty only if they fail to dispose of their original residential property within 12 months, so as to alleviate their burden when acquiring properties; if so, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, maintaining the steady development of the private residential property market is one of the important objectives of the Government's housing policies. In the past few years, due to tight housing demand-supply balance and the
continued ultra-low interest rates environment, local property prices have been on the rise, with heightened risk of a bubble. The Government has adopted a two-pronged approach by striving to increase land and housing supply to meet demand, and introducing several rounds of demand-side management measures as and when necessary to suppress external demand, short-term speculative demand and investment demand, with a view to stabilizing the property market and preventing adverse consequences arising from an exuberant market. The Hong Kong Monetary Authority ("HKMA") has also introduced several rounds of counter-cyclical macro-prudential measures to strengthen risk management of banks and resilience of the banking sector to cope with any possible impact in the event of a fall in property prices.

Having consulted the Financial Services and the Treasury Bureau, the Inland Revenue Department ("IRD") and HKMA, I set out my consolidated reply to various parts of the question raised by Mr Jeffrey LAM as follows:

(1) The intent of HKMA’s counter-cyclical macro-prudential measures is to ensure stability of the banking system through implementation of appropriate measures according to the development of the property cycle, taking into consideration key factors such as the trend of property prices, property transaction volume, economic fundamentals and the external environment. HKMA will consider appropriate relaxation of the counter-cyclical measures if a downward cycle in the property market is confirmed. However, as property prices had risen by more than two times since 2008 and decreased by only about 1.5% in aggregate in the past two months, HKMA has not yet determined that the property market has entered into a downward cycle, and therefore does not consider it appropriate to relax the counter-cyclical measures at this juncture.

(2) The Government has introduced several rounds of demand-side management measures to suppress short-term speculations, investment demand, and external demand through increasing transaction costs, with a view to reducing exuberance of the property market, preventing adverse consequences arising from an overheated property market, and ensuring healthy development of property market in the long run. Property prices are affected by various factors, including global and local economic environment,
interest rates trend, market atmosphere, housing demand-supply situation, etc. It is not possible to weigh the impact of individual factors or measures on property prices.

Although prices and transaction volume of private flats have subsided in recent months,\(^{(1)}\) local housing is still in the state of demand-supply imbalance and the current property price level remains out of line with economic fundamentals and the general public's affordability. The home purchase affordability ratio\(^{(2)}\) in the third quarter of 2018 stayed high at 74%, well above the 20-year long-term average of 44% from 1998 to 2017. The Government has no intention to relax or withdraw any demand-side management measures at the moment, lest this would send a wrong message to the market and make the property market more exuberant.

The Government will remain vigilant and make reference to a series of indicators, including property prices, home purchase affordability ratio, transaction volume, housing supply, local and global economic changes, etc., and closely monitor the developments of the property market and the evolving external environment. The Government will take appropriate actions as and when necessary with a view to ensuring a steady development of the property market.

\(^{(3)}\) According to the Stamp Duty (Amendment) Ordinance 2018 as passed by the Legislative Council in early 2018, a Hong Kong permanent resident ("HKPR") who replaces his only residential property in Hong Kong by acquiring a new property before

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\(^{(1)}\) According to information of the Rating and Valuation Department, the overall price index of private flat has subsided since August 2018, registering a cumulative drop of 1.5% in August and September. Property transactions have also declined in recent months. The monthly average number of sale and purchase agreements for residential property received by the Land Registry from August to October 2018 was about 4 200, below the monthly average of about 5 700 in the first seven months this year.

\(^{(2)}\) Home purchase affordability ratio refers to the ratio of mortgage payment for a 45-square metre flat to median income of households (excluding those living in public housing), at the prevailing mortgage rate for a tenure of 20 years.
disposing of the original property can apply to IRD for partial refund of ad valorem stamp duty if the original property is sold within 12 months after acquiring the new property.

The Government considers that the prevailing refund arrangement has struck a right balance between taking care of the needs of HKPRs in replacing their properties and safeguarding the effectiveness of the demand-side management measures. We have no intention to relax the refund mechanism, lest this may be speculated by the market as a signal from the Government to "water down" the demand-side management measures, thereby resulting in a more exuberant market.

MR JEFFREY LAM (in Cantonese): President, there is one point I do not quite understand. The Secretary said just now that it is necessary to "determine that the property market has entered into a downward cycle". How can it be determined then? He said: "decreased by only about 1.5% in aggregate in the past two months". Then, is it necessary to see a full three-month or six-month decrease, or a return to the property prices of 10 years ago, before we consider it "determined"? I think the Government should plan ahead and act in response to the current economic environment of Hong Kong. Members of the public hope for a steady development of the Hong Kong property market. The last thing they want is a sharp fall in property prices like 10 years ago or in 1997. Therefore, although there is no plan to withdraw all the harsh measures at the moment, as the Secretary has also mentioned just now, I think the Bureau may consider making some changes, for example extension of the property replacement period from 18 months to 24 months under the Double Stamp Duty ("DSD"), or cancellation of the 36-month restriction under the Special Stamp Duty ("SSD"). I heard members of the public say that, regarding the steady development …

PRESIDENT (in Cantonese): Mr LAM, please state your supplementary question directly.
MR JEFFREY LAM (in Cantonese): … The views I raised just now will help with the steady development of the property market. Will the Government consider so doing?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr LAM for his supplementary question. In fact, regarding how to determine that the property market has entered into a downward cycle, I believe none of us have a crystal ball. There is, in fact, a monitoring mechanism within the Government to keep a watch on the changes in the property market. In addition, when appropriate, HKMA and the Financial Secretary will decide how to deal with the situation.

Mr LAM mentioned just now the New Residential Stamp Duty ("NRSD") as well. According to the current mechanism under the relevant ordinance, a Hong Kong resident who has acquired a new residential property may apply to IRD for a refund if he disposes of his only original residential property within 12 months. When the Stamp Duty (Amendment) Ordinance 2018 was enacted earlier on, we had considered whether the time frame for disposing of the original residential property is appropriate. The Government proposed six months at the time. It was extended to 12 months after discussion in the Council. If—I hope the Honourable Members remember the word "if"—revision is necessary in future because of changes in the property market, the Government will deal with it properly. Besides, we will make an overall judgment based on various factors, such as the property market situation (including the property prices mentioned earlier), the external and domestic economic conditions, and the people's ability to afford home ownership, before making decisions in response to market conditions.

MR TONY TSE (in Cantonese): President, of course, given that the property market has boomed for a long time, and property prices have reached a certain level, which, as the Secretary mentioned in the main reply, is out of line with the general public's affordability and economic fundamentals, some adjustment is a good thing indeed. However, many people worry that an adjustment too fast or too large might give rise to other problems, including threats to the financial stability of the Hong Kong. The Secretary has mentioned as well in the main reply that watering down the measures will send a signal that may push up the property prices again in contrast to the ongoing minor correction and bring about speculations. However, President, some people say that if the
Government begins to water down the measures, in a way it amounts to confirming a downturn of the property market. Some people may think that since the Government has confirmed a downturn of the property market, properties may get cheaper and cheaper. Then they will not be eager to enter the market. I wish to ask the Secretary if he has considered the risk of widespread negative equity under such circumstances, i.e. when the measures are watered down, the property market falls sharply instead of rising. Has the Bureau considered the issues in this respect?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr TSE for his views and supplementary question. Regarding the property market, the reason why government officials' speeches are generally rather cautious is that they may be interpreted by the market in a very liberal manner. As Mr TSE just mentioned, if—I hope the Honourable Members remember the word "if"—the Government takes any action or makes any change, the market may have a very different interpretation. This is a situation that the Government does not want to see. Fairly speaking, the demand-side management measures introduced by the Government in the past few years are, in fact, mainly targeted at purchases and sales of local residential properties by non-locals, and short-term speculations, and moreover aimed at letting those Hong Kong people who have no residential property of their own enjoy more tax relief as much as possible on their purchase of a residential property. Therefore, basically the Government's intervention in the property market is minimal. We just work on the demand-side management.

Mr TSE has just raised the critical question of how to deal with the problem of negative equity if the property market takes a downturn in future. This has happened in the history of Hong Kong, but as long as Hong Kong's financial system is sound and society as a whole can withstand it, full recovery is expected over time. Regarding the changes in the property market, I will not make any speculation, and I seek Members' understanding in this regard.

MR ABRAHAM SHEK (in Cantonese): President, the Secretary is the killer of secondary residential property market. Does he know how much impact the harsh measures have on the secondary residential property market? I can tell him. In the whole year of 2010, there were in total 120,000 to 130,000 transactions of secondary residential property. Does he know how far the figure
dropped to last year? Last year it dropped to just shy of 50,000. No sooner had he indicated the need to carry out demand-side management than the secondary residential property market fell into a dead silence. The four harsh measures eventually let the Government benefit from land sales, with the price setting a new high every time. They give a free ride to real estate developers as well, because every time primary residential properties are launched, those who have genuine need to purchase a property are unable to fulfil their wishes, and only the rich can do so. In the past eight years, the market has lost at least 800,000 secondary home owners. The authorities may say that these serve to stabilize the market, but is it the market or the Government's revenue that has been stabilized?

PRESIDENT (in Cantonese): Mr SHEK, please state your supplementary question directly.

MR ABRAHAM SHEK (in Cantonese): President, I would like to ask the Secretary if he knows the meaning of "harsh measures". Does he know what the four harsh measures are? I give him time to explain the four harsh measures and the impact they have. I request him not to just read from the speaking note. These measures have far-reaching impact on the market. I request him to tell me how great the impact of the four harsh measures is.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr SHEK for his views. We respect Members' views, but we have our own. The supply in the secondary residential property market is affected by many factors, including property prices, market sentiment, the regulatory measures of HKMA for residential property mortgages, sales tactics of developers of primary residential property, and price negotiation strategies of buyers and sellers, etc. It is difficult for us to simplistically talk about the impact of the so-called "harsh measures" on the secondary market, but we are very clear that demand-side management measures introduced in the past actually came with different taxation arrangements to deal with different situations. Among them, NRSD, the Buyer's Stamp Duty ("BSD") and SSD seek mainly to reduce investment demand, curb external demand and combat speculative
activities respectively. The various arrangements are not targeted at primary or secondary residential properties, but rather at the sources of speculative demand and speculative activities.

Therefore, I hope Members will understand that the Government will consider the interests of society as a whole when implementing any policy. We will not pick on individual trades or persons. We just wish to serve society. We enable members of the public to face less competition from buyers from other places, investment buyers and speculative buyers, thereby having more choices, when they buy local residential properties, especially amid tight housing supply in Hong Kong.

PRESIDENT (in Cantonese): Mr Abraham SHEK, which part of your supplementary question has not been answered? Your supplementary question is very broad in scope.

MR ABRAHAM SHEK (in Cantonese): He has not explained why the secondary residential property market will be affected by these harsh measures.

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the decline in secondary residential property transactions reflects, to a certain extent, the effectiveness of Government's demand-side management measures in successfully reducing speculative activities, investment demands and external demands.

We may have a better understanding by reading the statistics, with focus on NRSD and the previous DSD. In January to November 2016, home purchases subject to DSD accounted for 26% of all transactions of residential property, in January to October 2018, home purchases subject to NRSD accounted for only 11% of all transactions of residential property. In other words, NRSD is effective in reducing investment demands. As for BSD, in January to October 2012, i.e. before its introduction, 4.5% of the transactions of residential property
belonged to the categories it targeted. In January to October 2018, the percentage fell to 1.2%. In the case of SSD, which sought to combat speculative activities, 20% of the residential property transactions in January to November 2010 were short-term resale cases targeted by SSD. The relevant percentage fell to 1.1% in January to October 2018. Regarding the effectiveness of the measures against acquisition of multiple residential properties under a single instrument, as we all know, in March 2017 before the introduction of the measures, 2.5% of the residential property transactions fell into the targeted category and today the figure has dropped to zero. Therefore, these figures reflect that the Government's demand-side management measures seek to implement demand-side management on specific targets, rather than imposing restrictions on the market, developers, primary or even secondary residential properties. I would appreciate Members' understanding in this regard.

MR CHUNG KWOK-PAN (in Cantonese): President, the Secretary said just now that the reduction in transaction volume of secondary residential properties was tantamount to a crackdown on speculative activities. This is a wrong concept. Before we had any harsh measures, the transaction volume of secondary residential properties accounted for 90% of the overall property transactions, compared to only 60% today.

In addition to the harsh measures, there are restrictions on the loan-to-value ratios for mortgage loans offered by banks. This is the second major problem, and the Government's wrong policy as well. Why are the ordinary public unable to secure loans to purchase secondary homes while there are so many primary home transactions? Ordinary people can get a mortgage of 40% or 50% maximum, sometimes even less from banks. But if you buy a primary residential property, the developer will even rebate the 15% stamp duty and offer you an 85% loan-to-value mortgage. That is why the public buy primary homes from developers, leaving no market for secondary homes. These are precisely the Government's flawed gambits …

PRESIDENT (in Cantonese): Mr CHUNG, please state your supplementary question directly.
MR CHUNG KWOK PAN (in Cantonese): My supplementary question is: In the Government's view, to what extent should the property prices fall before these harsh measures or maximum permissible loan-to-value ratios for mortgage loans should be revised? That said, according to past experience, the lower the property prices are, the fewer people will buy properties.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr CHUNG for his views and supplementary question. The Government's view on the property market should fundamentally be very prudent and not be arbitrarily disclosed because it may have a great impact on the market. Mr CHUNG's supplementary question is: Under exactly what circumstances of the property market will the Government take measures, and what are they? I hope Mr CHUNG understands that we have a mechanism to monitor the changes in the property market and have plans to do appropriate work at appropriate times. However, in order not to affect the market, the Government should refrain from making a public announcement before taking any action under the current circumstances.

MR KWOK WAI-KEUNG (in Cantonese): President, according to the Secretary, the harsh measures were originally intended to crack down on speculators, namely by increasing the cost for speculators and non-Hong Kong people to buy properties, but the objective fact is that due to the long-term shortage of public and private housing, the costs arising from these harsh measures have been passed on to users. This is a fact before our eyes. The users have become the ultimate victims. The only monetary beneficiary is the government treasury.

President, I wish to ask the Secretary if there are ways to subsidize the users in addressing the huge burden of high property prices. In particular, will the stamp duty at Scale 2 be waived or the maximum permissible loan-to-value ratios for mortgage loans be relaxed for some users with rigid demand, such as married prospective first-time home buyers, so that they can get on the housing ladder in the true sense?
SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr KWOK for his views and supplementary question. First of all, I would like to clarify the demand-side management measures introduced by the Government. If Hong Kong permanent residents meet the requirements under the ordinance, they are not required to pay any relevant duties for their property purchase. Therefore, the costs arising from the harsh measures will not be passed on to the buyers, provided that they meet the requirements of the ordinance (one of which is that they are first-time home buyers).

Of course, regarding how to deal with the issues of housing and property prices for the people of Hong Kong, the Government's concept is very clear. We wish to tackle the fundamentals, namely by identifying more sites and building more homes, including public and private housing. However, today, I believe all the Honourable Members present know that there is a significant shortage of land supply in Hong Kong. We have encountered a bottleneck. The supply of private and public housing has been quite scarce in the past, but a look ahead to the next four to five years shows that the volume of housing supply, regardless private or public, will exceed the actual supply volume of the past five years. Therefore, we hope that, through the efforts of the Government and society as a whole in searching for land and building public and private housing, it is possible to alleviate the stressful situation for members of the public to purchase homes for self-occupation.


East Rail Line

2. MR CHAN CHUN-YING (in Cantonese): President, it has been over a century since the Hong Kong section of the Kowloon-Canton Railway, the predecessor of the East Rail Line (“ERL”), came into existence. In recent years, incidents of disruptions of train service of ERL have happened from time to time. Earlier on, an overhead power line of ERL was damaged during the onslaught of super typhoon Mangkhut in Hong Kong causing a train service disruption lasting nearly one day. Some members of the public have pointed out that ERL, which is a major means of transport to and from New Territories East, Kowloon and the Mainland, has become outdated, and its train compartments are also very crowded during peak hours. In this connection, will the Government inform this Council:
(1) whether it knows the number of incidents of delay of train service of ERL lasting over one hour in the last decade and their causes and, among such incidents, the percentage of those caused by equipment failure;

(2) whether it knows how the current passenger throughput of ERL during peak hours compares with the design capacity; if ERL is overloaded, of the authorities' proposals to divert the passengers; and

(3) whether it will consider expeditiously embarking on a study on the feasibility to construct, as a replacement of ERL, an entirely new express rail which is covered or underground; if so, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the MTR Corporation Limited ("MTRCL") is committed to providing safe, reliable and smooth railway services for its passengers amounting to over 5.3 million daily. To ensure that the railway system and equipment are kept in good working order, MTRCL has put in place a comprehensive and stringent asset management and maintenance mechanism. For example, trains, signalling system, power supply system and railway tracks are regularly maintained and renewed to internationally recognized high standard. Moreover, MTRCL invests substantial resources annually in enhancing, revitalizing and maintaining its railway assets and infrastructural facilities to maintain high quality of railway service. In 2017, MTRCL has invested over $8 billion in upgrading and maintaining its railway assets, which is around 44% of the total revenue of around $18 billion of Hong Kong transport operations. Relevant investment in the previous three years (2014 to 2016) also amounted to around $6 billion to 8 billion each year.

As Mr CHAN Chun-ying mentioned, the East Rail Line ("ERL"), formerly known as the Kowloon-Canton Railway, has served Hong Kong people for over a century. To keep up with the times, ERL has been improving its railway system. The stations along the line had undergone redevelopment or relocation, and the trains and infrastructural facilities including signalling and track equipment had also been renewed to tie in with the modernization programme.
For example, MTRCL integrated the Train Operations Center in Fo Tan which managed train operations of ERL and Ma On Shan Line to the Operations Control Center in Tsing Yi in 2013, in order to enhance the efficiency of the overall railway network. Since 2014, MTRCL has implemented station improvement work in various ERL stations, including adding entrances and exits, integrating station lobby, installing traction lifts etc., to create a more convenient and comfortable environment for passengers. As of today, ERL is about 42 km in length with 14 stations, carrying around 1 million passenger trips daily on average. Indeed, ERL bore witness to the rapid development of Hong Kong, and in particular, the new towns in North and East New Territories. In view of the construction of the Shatin to Central Link ("SCL"), a major enhancement project are being undertaken for the signalling system, trains and platform facilities of ERL with the objective of providing safe, reliable and comfortable services to the public.

My reply to Mr CHAN Chun-ying's question is as follows:

(1) On the whole, ERL has been operating smoothly. In the past decade, there were 11 cases of suspension of train service for over one hour due to incidents on ERL. Among these, four cases were caused by factors within MTRCL's control (viz. equipment failure or human factors), and seven cases were due to causes outside MTRCL's control (viz. passengers' behaviours or external factors such as bad weather). Even in case of bad weather (e.g. when tropical cyclone signal number 9 or above is in force) necessitating the suspension of train service, MTRCL will immediately check the condition when the weather has changed and clear obstructions and repair damaged equipment where necessary. All these efforts are made with the aim of restoring train services as soon as practicable when weather permits. After each of such incident caused by equipment failure, the monitoring department would ask MTRCL to look into the cause of the incident and review the contingency plan in the light of the experience gained and introduce measures to avoid recurrence.

(2) As regards the current passenger throughput of ERL, the patronage per hour per direction during the morning peak hours for the critical link (i.e. Tai Wai to Kowloon Tong) in 2017 was 57 800 passenger
trips, and the loading was 67% or 94% on the basis of a density of six or four persons (standing) per square metre ("ppsm")\(^{(1)}\) respectively. Train service has been able to meet passenger needs.

ERL is now replacing the signalling system which will enable it to increase the frequency of its service from a maximum average of one train every three minutes at present to every two minutes. MTRCL will closely monitor the loading of ERL, including the loading upon the commissioning of SCL, which will form the North South Corridor with ERL. The Corporation will review and study proposals in this regard in a timely manner. Specifically, to cope with demand generated by future patronage, the Corporation may consider feasible measures such as increasing train frequency as far as possible under the new signalling system, arranging short-haul trips to run between busy stations, easing passenger flow through station management measures, and offering fare concessions to alleviate the heavy loading of trains during the peak periods.

\(^{(3)}\) The Transport and Housing Bureau plans to take forward the Strategic Studies on Railways and Major Roads beyond 2030 ("RMR2030+ Studies") on the conceptual spatial requirements to be firmed up under the Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030 ("Hong Kong 2030+ Study"), which is being conducted by the Development Bureau and the Planning Department. Based on the latest planning information, including cross-boundary transport data, RMR2030+ Studies will examine the demand and supply of the transport infrastructure, including railways and major roads, in Hong Kong between 2031 and 2041, and study the loading of the heavy rails in the Northwest New Territories beyond 2030. We will consider the planning studies and the recommended strategic transport corridors in relation to the Lantau

\(^{(1)}\) All train compartments of the existing MTR railway lines are designed based on the industry standard design adopted at the time of the construction of railway lines, and the maximum carrying capacity of train compartments is calculated based on the accommodation of up to six ppsm on average. However, it has been observed that over the years, passenger riding habits have changed. Nowadays, passengers are less willing to board a train that looks crowded even when there is still room available. They prefer waiting for the next train. This in effect reduces the carrying capacity of the trains and the railway line as a whole. In actual operation, trains running during the busiest hours on the busiest corridors achieve a passenger density of only around four ppsm.
Tomorrow Vision, as well as look into the layout of the proposed railway and major road infrastructure with regard to the transport infrastructure required for the longer-term strategic growth areas of Hong Kong 2030+ Study (such as the New Territories North), to ensure that the planning of large scale transport infrastructure can meet the needs of the overall long-term land use developments of Hong Kong. RMR2030+ Studies will also examine the impact of the proposed transport infrastructure on the existing transport network (including ERL) and formulate corresponding strategies. The Legislative Council Panel on Transport expressed support for the above studies in June 2017. Since Hong Kong 2030+ Study has not yet been completed, we will seek funding approval in due course for implementing RMR2030+ Studies.

MR CHAN CHUN-YING (in Cantonese): President, from the main reply, we learn that the proportion of cases of suspension of train service for over one hour due to external factors (such as weather) is relatively high. Although the number of such incidents seems to be small, considering the nuisance caused to the public, one incident is actually too many.

In part (3) of the main question, I ask whether the Government will consider embarking on a study on the feasibility to construct, as a replacement of ERL, an underground express rail, because this can alleviate the impact of bad weather and can even release the land along ERL. May I ask whether the Transport and Housing Bureau will incorporate this proposal under the scope of Hong Kong 2030+ Study?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, RMR2030+ Studies under Hong Kong 2030+ Study are holistic studies on the transport facilities in Hong Kong. As Mr CHAN said, since a large proportion of ERL is in the open area, the service will be suspended due to bad weather, fallen trees or damaged overhead power lines. In regard to whether another transport facility can be constructed under a railway line, we need to conduct a detailed study. At the moment, in RMR2030+ Studies under Hong Kong 2030+ Study, we will continue to listen to voices and views from the community. And we will also put Mr CHAN's views on record.
MR CHAN HAK-KAN (in Cantonese): President, in the main reply, the Secretary says that the new signalling system can address the present congestion problem during peak hours between Tai Wai and Kowloon Tong in future. I would like to do some calculations with the Secretary. Under the new signalling system, there will be 27 trains per hour, whereas under the old signalling system, there are 20 trains per hour. With the increase of seven trains, it seems that the carrying capacity will also increase substantially. However, when we do the calculations in terms of train compartments, under the old signalling system, 12 train compartments multiplied by 20 trains is equal to 240 train compartments per hour, while under the new signalling system, 9 train compartments multiplied by 27 trains is equal to 243 train compartments per hour. With only an increase of carrying capacity of three train compartments, why can it address the congestion problem during peak hours between Kowloon Tong and Tai Wai? Can the Secretary put on record that your proposal can surely resolve the present congestion problem?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr CHAN for his question. I have mentioned a few arrangements in the main reply. Firstly, the frequency of ERL trains will be increased for certain busy rail sections. This is one way of improvement because the trains can return more quickly due to the short distances of the sections, and when passenger demands for each rail section of the whole ERL are not the same. Secondly, the commissioning of the East West line of SCL can also help divert passenger flow, and according to our initial estimation, the effect will be about 20%. The figures mentioned by Mr CHAN earlier are very accurate. Regarding the number of train compartments, there is not much difference between the two systems. But I believe that in future, the residents along ERL will somewhat benefit from the train frequency arrangement and the diversion effect that I just mentioned. We will also pay attention to the future social development, including population growth, traffic flow and the degree of congestion, and will follow up the situation in due course.

I just responded to Members' concern about ERL, and their views will be relayed to and studied by the consultant. We will report to Members once there is any conclusion from the study.
MR POON SIU-PING (in Cantonese): President, ERL serves 1 million passengers per day on average. In the past decade, there were 11 cases of suspension of train service for over one hour due to incidents, and the public do not want any further incidents happening on ERL.

Of course, we are very grateful to the railway staff for their efforts in railway repairs, with a view to avoiding any railway incident. As mentioned earlier, the patronage per hour per direction during the morning peak hours for ERL has already reached 57,800 passenger trips, and it is very crowded. According to the Government, ERL is now upgrading its signalling system, and in view of the retrofitting of platform screen doors at SCL, the current 12-car trains will be replaced by 9-car trains.

I would like to ask the Government what impact the present delay of the SCL project will have on the enhancement project for the various facilities of ERL, and whether the authorities have any counter-measures.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr POON for his supplementary question.

At present, SCL is encountering a huge challenge, but the works concerned are still going on, and of course, the investigation work on Hung Hom Station is also underway. As I understand, the SCL related works mainly affect the retrofitting of platform screen doors on ERL. In this connection, we will study how to speed up the works concerned with MTRCL. However, as I said earlier, in the process of replacing the old ERL trains, since the number of train compartments will be different, the project of retrofitting platform screen doors can only be fully conducted after the signalling system has been upgraded and the train compartments have been gradually replaced. I hope that Members can understand the situation.

MR LAM CHEUK-TING (in Cantonese): President, one point was overlooked by the Secretary in his calculations earlier on. Under the existing ERL arrangement, there is a First Class compartment in each train, or a First Class compartment among the 12 train compartments. If there is still a First Class compartment among the nine train compartments in future, the carrying capacity of each train will be further reduced.
In the coming decade, the development of North East New Territories and Queen's Hill will bring an additional population of 300,000 to North District. At present, ERL already operates to its full capacity and is even overloaded. As more Mainland people are coming to Hong Kong for shopping or working purpose, there are a large number of passengers in both directions and the passenger demand for ERL is getting greater. May I ask the Secretary whether he will, under the circumstances, speed up the study on the feasibility of arranging a trunk road going directly from North District to the urban areas? It is because an overwhelming majority of residents in North District travel from north to south to work in the urban areas. I hope that the authorities can speed up the study so that the transport problem in North District can be alleviated without delay.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr Lam Cheuk-ting for his views and his supplementary question.

We understand the problems concerning ERL and the First Class compartment. As the seats and layout of the First Class compartment are wider, the carrying capacity of this compartment is thus relatively low. However, we also understand that the public have different views towards the First Class compartment, and not a few among them want it to be retained. In due course, we will discuss the arrangement on First Class compartment with MTRCL.

I thank Members for their concern over the population growth in North District of the New Territories. We know that the Hong Kong Housing Authority is now constructing not a few public housing units in Queen's Hill. In response to the needs of the additional population, we surely have to provide a trunk road to the residents of that district, and no matter what kind of trunk road it is, we still need to consider. Nevertheless, taking this opportunity, I would like to point out to Members that the public transport in Hong Kong is second to none in the world. Among the commuting public, about 90% of the passenger trips are made on public transport every day, and the daily patronage of the railway system is over 5 million passenger trips. In regard to other means of public transport, the patronage of buses is over 4 million passenger trips while that of minibuses is nearly 2 million passenger trips, and the total patronage per day, with the addition of other means of transport, can reach 7 million passenger trips.
Our transport policy is underpinned by public transport with railway as the backbone, but also with the support of other public transport arrangements. It is our hope that different means of transport can have different specific roles and functions and they can, together with various ancillary facilities, provide Hong Kong people with a quality and smoothly operated public transport system.

Concerning the population growth issue just mentioned by Mr LAM, I believe it will surely be considered in RMR2030+ Studies under Hong Kong 2030+ Study.

MR KENNETH LAU (in Cantonese): President, ERL is the main means of public transport of the residents in New Territories East for going to and from the urban areas. Many residents living in areas along Ma On Shan Line go to Kowloon East to work by train every day. If Diamond Hill Station and Kai Tak Station of SCL can be commissioned earlier. The pressure on ERL can be mitigated. Has the Government assessed the technical feasibility of partial commissioning of SCL? If it is feasible, when can that section be commissioned at the earliest to the convenience of the residents in New Territories East?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr LAU for his supplementary question. As Members can understand, we are currently doing a lot of work related to SCL and its commissioning will possibly be delayed. As regards the views of Members, especially the view on partial commissioning of SCL to alleviate the traffic demand from the residents along that railway line, they are now being studied by MTRCL. The main issues of our consideration are whether the overall arrangement of partial commissioning of SCL can enhance the carrying capacity, whether the related road transport facilities can provide the necessary support, as well as whether large-scale alterations, including the alteration of the signalling system, are warranted for partial commissioning of SCL, and whether the alterations need to be restored after the full commissioning in future. All these issues need to be considered. Nonetheless, concerning the proposal of partial commissioning of SCL, it is now being studied by MTRCL.
MS YUNG HOI-YAN (in Cantonese): After listening to the Secretary's reply on the proposal of partial commissioning of SCL, I think it has been the expectation of residents in New Territories East to have train service running from Tai Wai Station to Hin Keng Station, Diamond Hill Station or Kai Tak Station, and the residents also expect that the whole railway line from Tai Wai Station to Hung Hom Station can be commissioned by mid-2019.

I would like to ask the authorities whether they have set a timetable for MTRCL, so that the public know when it will finish its study on the present proposal of partial commissioning of SCL. Besides, what is the possibility of implementing this proposal?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Ms YUNG for her supplementary question. Basically, concerning the concept of partial commissioning of SCL, after the problem at Hung Hom Station has been discovered, MTRCL already started studying the proposal. As I said earlier, we hope that MTRCL can conduct the study in a careful and detailed manner. As regards the proposal of partial commissioning of SCL, firstly, as mentioned by Members, the public have their expectations; and secondly, we hope that after that section is commissioned, the service can be smooth, reliable and meet the expectations of the public. Therefore, in terms of the timetable, we only hope that MTRCL can finish the study as soon as possible. There is not a so-called "deadline", as the target is to get the job done properly and study in detail the related factors of consideration, with a view to providing quality service to the public regardless of partial or full commissioning of SCL in future.

PRESIDENT (in Cantonese): Third question.

Support for tenants in inadequate housing

3. MR VINCENT CHENG (in Cantonese): President, according to the 2016 Population By-census, the number of people residing in inadequate housing was as high as 210,000. The findings of a recent survey with households in inadequate housing as targets revealed that 80% of the respondents were waiting for public housing, and one-third of them had been waiting for over five years. The support measures that the respondents most hoped the Government to
provide were (in descending order): building more public housing, disbursing a rent subsidy and increasing supply of transitional housing. Regarding the provision of support for tenants in inadequate housing, will the Government inform this Council:

(1) how the Government supports community organizations in taking forward transitional housing projects; whether it will make public a list of government lands suitable for building transitional housing, and establish a dedicated fund to support the building of transitional housing;

(2) given that the Hong Kong Housing Authority has planned, by making reference to the relevant practice of the Hong Kong Housing Society, to allow owners of its subsidized sale flats with premium unpaid to sublet their flats, of the details of the plan, including whether the owners may let the entire flats; and

(3) given that at present, the Community Care Fund grants a rent subsidy only to CSSA recipients living in rented private housing, whether the Government will provide a rent subsidy or similar type of support to those tenants in inadequate housing who are not receiving CSSA?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, in the face of the current demand-supply imbalance in housing and high property prices and rents, some low-income households may have to rent inadequate accommodation. The Government is greatly concerned about the housing difficulties faced by the public and has been actively increasing housing land supply in the short, medium and long term through a multi-pronged approach, so as to fundamentally solve the housing problems in the long run.

As pointed out by the Chief Executive in the 2018 Policy Address, the Government would allocate more land for public housing development, and has committed that 70% of the housing units on Government's newly developed land would be for public housing. The Transport and Housing Bureau will take into account the views of the community on the ratio of public and private housing in updating the housing supply target for the next 10-year period (i.e. 2019-2020 to 2028-2029) under the Long Term Housing Strategy.
As mentioned in Mr Vincent CHENG's question, public rental housing ("PRH") is the fundamental solution to addressing the housing needs of many households living in inadequate housing. Based on the estimate as at September 2018, the total public housing production in the five-year period from 2018-2019 to 2022-2023 is about 100 800 units, comprising some 74 600 units of PRH/Green Form Subsidised Home Ownership Scheme ("GHOS"). This five-year housing production forecast represents a steady increase as compared with the previous four five-year periods.

Apart from striving to increase housing supply, the Government has adopted various measures to alleviate the housing difficulties faced by the grass-roots households. After consulting the Development Bureau and the Labour and Welfare Bureau, I now reply to Mr CHENG's question as follows:

(1) The 2017 Policy Address stated that the current-term Government would think out of the box to facilitate the implementation of various short-term community initiatives to increase the supply of transitional housing, with a view to alleviating the hardship faced by families on the PRH waiting list and the inadequately housed. A Task Force under the Transport and Housing Bureau will provide coordinated support and, upon consulting relevant bureaux and departments, provide appropriate assistance and facilitation according to the needs of the proposed items. These include offering advice on administrative or statutory procedures and assisting application for funding support. For example, the Community Housing Movement ("CHM") operated by the Hong Kong Council of Social Service has introduced multiple projects. CHM has been receiving subsidies from the Community Chest of Hong Kong and the Social Innovation and Entrepreneurship Development Fund to support its operation expenses. The Modular Social Housing Scheme on a private site on Nam Cheong Street in Sham Shui Po has also obtained funding support from the Community Care Fund.

The "GeoInfo Map" website of the Lands Department provides by district the basic information of a total of 850 vacant government sites which are available for short-term tenancy application by non-government organizations ("the NGOs") for community purposes, including transitional housing. Whether an individual
site is suitable for transitional housing depends on its land use zoning and actual site conditions including its topography, technical constraints or infrastructural facilities required.

The Development Bureau plans to consult the Legislative Council's Panel on Development by the end of this month and then seek the approval of the Finance Committee for the allocation of $1 billion funding to provide subsidies to NGOs in relation to works costs incurred by them in making effective use of vacant government sites for various short-term non-profit making community purposes. Projects with policy support given by the Task Force under the Transport and Housing Bureau and that make use of vacant government sites to provide transitional housing are also eligible to apply.

(2) The Hong Kong Housing Society ("HKHS") launched the Letting Scheme for Subsidised Sale Developments with Premium Unpaid ("the Scheme") in September 2018. The Scheme allows eligible owners to sublet bedrooms in their flats with premium unpaid to specific tenants (i.e. family and elderly applicants who have been waiting for PRH for three years or more, and non-elderly one-person applicants who have been waiting for PRH for six years or more), with a view to improving the latter's housing situation before PRH allocation. Participating owners must have owned their flats for at least 10 years. Also, each flat must have at least two bedrooms, one of which the owner must keep for their own residence. HKHS is reviewing the Scheme and collecting views from the public, and will fine-tune the operational details as and when necessary.

The 2018 Policy Address has suggested that, in the light of the operational experience of the Scheme, the Hong Kong Housing Authority ("HKHA") may consider joining the Scheme. HKHA will work closely with HKHS with a view to deliberating and considering the timing and specific arrangements for joining the Scheme.

(3) Different government departments have all along been providing appropriate assistance to grass-roots households from different perspectives including housing, social welfare, community support, etc. through different policies and measures. For example, eligible
persons may apply for early allocation of PRH units through Compassionate Rehousing or Express Flat Allocation Scheme. The Comprehensive Social Security Assistance Scheme provides a safety net for those who are unable to support themselves financially to meet their basic needs. Other recurrent cash schemes, such as the Working Family Allowance Scheme and the Work Incentive Transport Subsidy Scheme, also provide financial support to low-income households.

We are concerned that in the midst of the present tight housing supply, rent subsidy may prompt the landlords to increase rent, thereby indirectly turning the rent subsidy into additional rent, leaving the tenants with no effective assistance. Furthermore, providing recurrent rent subsidy to a selected group of tenants may increase the demand for rented accommodation, thereby triggering a rise in rental level and increasing the burden of households who are unable to receive the subsidy due to various reasons.

The continued increase in housing supply remains the fundamental solution to the problems of surging housing price and rent caused by insufficient supply. The Government will continue to work closely with the community to expedite the construction of public housing, so as to effectively address the housing needs of the society.

MR VINCENT CHENG (in Cantonese): Secretary, I would like to follow up on my enquiry about the vacant government sites available for transitional housing purposes. Secretary, the current size of poor population has already reached 1.38 million and identifying suitable land for housing production is indeed of great urgency. As it is mentioned in the Secretary's main reply that the NGOs may identify sites from the "GeoInfo Map" website of the Lands Department and submit tenancy applications for transitional housing purposes, I thus proceed to randomly pick a site with an area of 296 m² (i.e. smaller than a basketball court) which is located at Lai Hong Street, Sham Shui Po. In fact, the majority of such sites are of similar size and are also in irregular shapes. Will the Secretary provide a list that sets out sites whose tenancies will expire in the coming year so that those interested persons/organizations in the 18 districts throughout the territory can identify from the list suitable sites for transitional housing purposes?
SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr CHENG for his views and the supplementary question. As regards the construction of transitional housing, the Task Force is engaged in various tasks at present, including the conduct of land use review to verify if any idle sites for short-term tenancy are available for transitional housing purposes. Upon completion of the land use review (i.e. to examine if the idle sites are suitable for short-term tenancy) and when the list of available sites is ready, those interested persons/organizations may contact the Task Force. We will provide the information to them.

MS ALICE MAK (in Cantonese): President, the Secretary pointed out in particular, in Part (3) of his main reply, that rent subsidy provided by the Government may prompt the landlords to increase rent. Actually, this is only the excuse that the Government has been using in delaying the provision of rent subsidy to the grass roots. All along, the FTU (The Hong Kong Federation of Trade Unions) has been suggesting that the Government should put in place tenancy control over sub-divided flats or premises used for inadequate housing purposes if it worries that the provision of rent subsidy may prompt the landlords to increase rent. Besides, we frequently recommend to the Government a three-pronged approach for housing management, namely provision of rent subsidy, implementation of tenancy control and introducing vacant property tax. This can help resolve the housing problem faced by the grass roots and so the Secretary does not have to worry any more then.

The Secretary frequently mentioned that increasing housing supply is the ultimate solution, and this is something understood by everyone. Yet, we want to know what sort of short-term measures will be put in place by the Government to get those people residing in inadequate housing out of their present miserable predicament. Will the Secretary consider adopting the three-pronged approach (i.e. provision of rent subsidy, implementation of tenancy control and introduction of vacant property tax) which I have proposed just now to resolve the pressing housing problem faced by the grass roots?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Ms Alice MAK for her views and supplementary question. I understand that Members are very concerned about the provision of assistance to people residing in inadequate housing and know that Members present here have
been making much effort in handling this issue. However, regarding this issue, while the Government respects Members' views, it expects them to take account of its stance in turn. We have discussed the issue of tenancy control on many occasions and we agreed that it is a very controversial one on which consensus has yet to be reached by society. We had also conducted relevant studies in the past. Of course, the measure will be of some help to those residing in inadequate housing, but it will also bring about quiet a lot of adverse impacts on society as a whole. That explains why the Government still has reservations about implementing tenancy control so far. In addition, the measure may give rise to many unexpected side effects according to overseas experience. Therefore, speaking from the Government's perspective, we hope that we will provide those needy people with relevant subsidy and living accommodations through the implementation of financial and other relief measures by the Labour and Welfare Bureau.

As to the three-in-one option proposed by Ms MAK which comprises the provision of rent subsidy, implementation of tenancy control and introduction of vacant property tax, we do respect her proposal, but as I have pointed out just now, there will be practical difficulties and side-effects in launching measures to provide rent subsidy and exercise tenancy control. We will continue to keep an eye on the rent levels of local rental housing and try as far as practicable to alleviate the housing difficulties faced by local people by means of construction of permanent public housing as well as transitional housing. We consider such efforts to be more pragmatic which can effectively and directly resolve the problem without bringing any side effects.

**DR FERNANDO CHEUNG (in Cantonese):** President, the Secretary repeatedly said that he respected our views in replying to our questions, but still, he has his own views. Hundreds of thousands of local people are in a miserable state and many of them are living in inadequate housing, such as sub-divided flats and narrow premises of poor hygiene standards which are not suitable for children to live in. The Chief Executive often makes use of the scenes in which children do their homework in beds inside sub-divided flats for her own good, but what on earth has she ever done for them? She is unwilling to provide rent subsidy or implement tenancy control and relies on supply as the solution to the housing problem but the Government's housing production always falls way behind the demand and even fails to achieve the target set by herself. Nevertheless, quite a large number of public housing units are offered for sale instead of rent.
I want to ask the Secretary if he has understood his work priority after working in his position for years. Are public housing units built with public resources aimed at helping people acquire homes, or offering assistance to families living in inadequate housing so that they can move into PRH units at affordable rents?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Dr CHEUNG for his views. The Government's housing policy is very clear, which aims to provide a safety net to those who are in need of housing accommodations but have financial difficulties. We are fully committed without hesitation in this respect. As for those living in the PRH with grass-roots income levels who want to acquire their own homes, the Government also wish to provide them with a housing ladder so that they can climb up the ladder to acquire their homes. The policy is very clear.

On work priority, we will build PRH and GHOS units for those who are in need of housing accommodations but cannot afford the rents of private housing units, and this is our priority work. As to private properties, we have also talked about this issue on other occasions. Since it is not the subject matter of Dr CHEUNG's question, I will not go into detail about it. Simply put, identifying suitable land for housing construction (both public and private housing units) to cater for people's housing needs is the top priority of the current-term Government's work.

PRESIDENT (in Cantonese): Dr Fernando CHEUNG, which part of your supplementary question has not been answered?

DR FERNANDO CHEUNG (in Cantonese): President, I asked the Secretary which one is accorded higher priority: accommodating the poor with PRH or enabling PRH tenants to acquire their own homes?

PRESIDENT (in Cantonese): Mr CHEUNG, you have already pointed out the part of your supplementary question that is not answered. Secretary, do you have anything to add?
MR CHU HOI-DICK (in Cantonese): President, the Secretary mentioned in Part (1) of his main reply that the Government would think out of the box to facilitate supply of transitional housing by the NGOs. From this I realized that the Government has not made any commitment in reality. He should have frankly admitted that he is reluctant to be committed to carrying out this task instead of talking about something like thinking out of the box. The Secretary cited the project in Nam Cheong Street as an example and I have done some calculations on it. The cost of the 90 units built under the project amounts to $10 million, meaning that each unit approximately costs $120,000. Based on this formula, with the $1 billion to be allocated to the Development Bureau, only some 8,000 units can be constructed to the most. Are these 8,000 units the Government's target of transitional housing supply? In case the NGOs concerned fail to achieve this target within 5 years, will the Government commit itself to this target?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr CHU for his supplementary question. The $1 billion mentioned by Mr CHU just now is the amount of funding which the Development Bureau will seek from the Legislative Council later. The $1 billion is only a start as we will take follow-up actions subject to the actual needs.

PRESIDENT (in Cantonese): Mr CHU Hoi-dick, which part of your supplementary question has not been answered?

MR CHU HOI-DICK (in Cantonese): My question is: Has he set any target? How many transitional housing units does the Government actually plan to provide given its funding proposal of $1 billion? Can the Government tell the public its specific target?

PRESIDENT (in Cantonese): Secretary, do you have anything to add?
SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, Members must understand that only when idle sites not intended for development shortly are identified can we proceed with the construction of transitional housing. Some Members have enquired about how many such housing units can be built just now. Well, we have to consider in the first place how many sites are available for transitional housing purposes and how long they can be used for such purpose. Besides, we have to consider if the sites are suitable for construction of transitional housing units in which people can live without any worries. Hence, the greater the target number the better, but the actual number of units to be built is subject to the number of sites available and then we need to consider whether the sites identified are suitable before making the decision.

MR LEUNG YIU-CHUNG (in Cantonese): President, in his reply to Members’ questions just now, the Secretary remarked that the provision of rent subsidy was infeasible because this might prompt the landlords to increase rent, while implementing tenancy control would give rise to a lot of adverse impacts. In short, the Secretary has chosen to ignore completely Members’ proposals or dismiss them as infeasible. And he only gave an ambiguous answer to Dr Fernando CHEUNG’s question about work priority instead of answering in clear terms. Mr CHU Hoi-dick has asked the Secretary just now why the Government, instead of taking up its own responsibility, shifted the task of building transitional housing to voluntary organizations. President, I really do want to further ask the Secretary: Given that the Government was responsible for undertaking tasks related to temporary housing areas in the past, why does it now make no commitment at all in this respect and let voluntary organizations take up the task instead? If voluntary organizations can do it, why can the Government not? Why would it rather provide financial support instead of undertaking the task itself?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr LEUNG for his supplementary question. I trust that Members will understand that to address the housing problem, we must start with the construction of public housing. The HKHA will spare no effort in this respect and will also, as appropriate, conduct consultations in respect of different projects. It will focus its efforts on not only accelerating the implementation of housing construction projects but also building more housing units. Thus, we
hope that there will be injection of resources and engagement by other social forces for the construction of transitional housing with a view to soliciting more support and power in addition to the existing resources. And this is an arrangement for the enhancement of energy. At present, some professional bodies, members from the business sectors and well-intentioned people have offered their properties for launching transitional housing projects, which has proved more effective in comparison with efforts by the Government alone. I hope Members will understand that the Government is not shirking its responsibility in this regard, but it also needs to take into account its work priorities. In the meantime, we also have to draw up plans on how to mobilize social forces to join in and complete the task.

PRESIDENT (in Cantonese): Fourth question.

Arrangements for Legislative Council Members to visit persons in custody to perform official duties

4. MR LEUNG YIU-CHUNG (in Cantonese): President, I notice that in recent years, the Correctional Services Department ("CSD") has changed the arrangements for Members of this Council to visit persons in custody to perform official duties. In the past, a Member, irrespective of whether in the company of other persons (such as the Member's assistant or a legal adviser of the person in custody), may visit a person in custody not in the hearing of CSD officers. At present, if a Member is accompanied by other persons in a visit to a person in custody, CSD officers will keep the door of the visit room open and even sit in on the visit and record the conversation in writing. In the past year or so, I have enquired for a number of times in writing about the reasons for the changes in the arrangements, but CSD has so far not made an official reply on the grounds that it needs to consult the Department of Justice. In this connection, will the Government inform this Council:

(1) since when the arrangements of CSD officers sitting in on official visits and recording the conversation in writing have been implemented; of the uses of such records and their retention period, as well as the rank of the officers responsible for inspecting the contents of the records;
of the justifications and the legal basis for CSD officers to sit in on official visits and the guidelines those officers have to observe; as some Members have relayed that there are differences in the arrangements for handling official visits by various correctional institutions, of the reasons for that and the measures to ensure that the relevant arrangements are consistent; and

whether CSD will review the arrangements for official visits and reinstate the practice whereby Members and accompanying persons may visit persons in custody not in the hearing of CSD officers, so as to protect the privacy of persons in custody and safeguard their right to confidential legal advice?

SECRETARY FOR SECURITY (in Cantonese): President, the Correctional Services Department ("CSD") is committed to providing a secure, safe, humane, decent and healthy custodial environment for persons in custody ("PICs"). In view of security considerations and the need for maintaining discipline and order in the prisons, the Prison Rules (Cap. 234A) contain provisions regulating PICs' communication with parties outside of prisons. CSD is responsible for handling various visits in accordance with the law or relevant principles. No persons, unless specified by the law, shall visit a PIC except by special authority of the Commissioner of Correctional Services.

My replies to various parts of the Member's questions are as follows:

(1) and (2)

For such purposes as assisting the rehabilitation of PICs or facilitating legal proceedings, CSD allows PICs to receive visits by specified categories of persons under suitable restrictions. The Prison Rules stipulate that a PIC may receive visits by relatives and friends, police officers, officers of the Court and his/her legal adviser. Relevant provisions are as follows:

(a) Under Rule 48 of the Prison Rules, relatives and friends may visit a PIC twice a month and no more than three persons shall be allowed at one time. The visits shall be limited to 30 minutes on each occasion and conducted in the presence of a CSD officer;
(b) Under Rule 49 of the Prison Rules, any police officer may visit PICs for the purpose of identification parades or inquiring into reported or reasonably suspected offences;

(c) Under Rule 50 of the Prison Rules, officers of the Court, with competent warrants or orders for serving writs or other legal process on persons within the prison, shall be admitted into the prison for that purpose; and

(d) Under Rule 52(1) of the Prison Rules, reasonable facilities shall be allowed for the legal adviser of a PIC who is party to legal proceedings, civil or criminal, to interview the PIC with reference to those proceedings in the sight but not in the hearing of a CSD officer.

Visits by relatives and friends are video and sound recorded and conducted in the presence of a CSD officer. These arrangements are mainly for prison security and crime prevention, for instance, against self-harm behaviour committed by PICs due to emotional outburst, conversation about unlawful matters like jailbreak or disruption to discipline and order in prisons, etc. CSD officers are duty bound to follow up appropriately where necessary. Visits by police officers, officers of the Court and legal advisers may be conducted in the sight but not in the hearing of a CSD officer and without restrictions on time and frequency.

Regarding visits by legal advisers, CSD and The Law Society of Hong Kong have in place an established mechanism for specific arrangements, where a legal adviser is required to produce valid documents issued by his/her law firm as a proof of his/her representation for the PIC prior to interviewing the person, and that the interview is to discuss the relevant legal proceedings, therefore fulfilling the requirements under section 52(1) of the Prison Rules. Upon ascertaining the purpose of visit, CSD will arrange for the interview to be conducted not in the hearing of a CSD officer.

No special arrangement has been set out in the Prison Rules on visiting PICs by Members of the Legislative Council. However, the Commissioner of Correctional Services may exercise discretion
under the law to permit PICs to receive visits by Members of the Legislative Council. CSD has all along taken into account the provisions in Rule 47C of the Prison Rules which stipulate that CSD officers shall not read letters from PICs to specified persons, i.e. the Chief Executive, Members of the Executive Council, Members of the Legislative Council, District Council members, visiting Justices of the Peace, the Ombudsman and the Commissioner of the Independent Commission Against Corruption, or letters from specified persons to PICs. Thus, CSD has exercised discretion and extended the principle of handling letters of specified persons to the visits to PICs by specified persons, including Members of the Legislative Council, and devised administrative arrangements to facilitate such official visits. No restrictions are imposed on the time and the frequency of such visits. They will be conducted in official visit rooms not in the hearing of a CSD officer. These arrangements for visits by specified persons are less stringent than those for visits by relatives and friends. Any specified person who needs to visit a PIC to perform official duties has to make an application to CSD in advance to confirm that he/she has a genuine need to perform official duties. If approval is given, CSD will notify the specified person in writing, stating that the approval is granted on the basis of his/her capacity as a specified person and that CSD is satisfied that there is a genuine need for him/her to perform official duties.

Nevertheless, where a specified person conducts the visit in the company of one or more persons, the specified person must first confirm that the presence and the company of the accompanying persons is necessary. CSD may exercise discretion when giving approval. If approval is granted, no restrictions are imposed on the time and the frequency of such visits. The visits will be conducted in official visit rooms. Yet, as the accompanying persons are not specified persons, the visit will be conducted in the sight and hearing of a CSD officer. These arrangements for visits by a specified person with accompanying persons are still less stringent than those for visits by relatives and friends.

Having regard to the security and operational needs of prison, where a visit is conducted in the sight and hearing of a CSD officer, the officer may keep a record as appropriate and where necessary.
After the visit, the CSD officer at the scene will report to the institutional management and the record will be destroyed immediately after the reporting.

(3) CSD respects the privacy of PICs, but the operation of prisons is subject to the statutory restrictions stated in parts (1) and (2) above. It is also necessary for CSD to maintain the security, discipline and order of prisons. CSD will continue to protect the privacy and legitimate rights of PICs while ensuring good management and security of the prisons in accordance with the law and relevant rules of Hong Kong and in a professional manner.

MR LEUNG YIU-CHUNG (in Cantonese): President, I would first of all like to express my deep regrets about the fact that I have repeatedly written to the Correctional Services Department ("CSD") in the past year or so, but CSD has made no reply and has shifted its responsibility to the Department of Justice. Besides, the Bureau gave irrelevant reply to the three parts of my question raised today, and did not reply part (2) of the question at all. I have asked about the reasons for making different arrangements for handling official visits, but no explanation has been given for the reasons concerned.

Moreover, President, I wish to point out to the Secretary that as clearly stated in the main reply, official visits by Members of the Legislative Council to persons in custody should be conducted not in the hearing of CSD officers, so as to respect the privacy of conversations made during such visits. However, very regrettably, when Members were accompanied by other persons whose visits were necessary and related to official duties (including legal advisers and Members' assistants), the visits were conducted in the sight and hearing of CSD officers and were recorded. Some fellow Members have even conducted such visits in the hearing of CSD officers sitting right beside them, and how can official visits by Members be respected under such circumstances?

SECRETARY FOR SECURITY (in Cantonese): President, I thank Mr LEUNG for his supplementary question. As I have already pointed out earlier in the main reply, if there is a need for Members to make official visits in the company of other persons to perform their official duties, and the accompanying persons are not specified persons, the visits will be conducted in the sight and hearing of
officers of the Correctional Services Department ("CSD"). CSD has formulated a mechanism for Members of the Legislative Council to visit persons in custody on the basis of this principle and in accordance with the relevant prison regulations.

If the accompanying legal advisers or persons have a genuine need to conduct visits not in the hearing of CSD officers, such as visits by legal advisers as mentioned by Mr LEUNG, CSD and The Law Society of Hong Kong have also put in place an established mechanism under which legal advisers performing visits to persons in custody are required to produce to CSD valid documents issued by their law firms to prove that the discussion between the legal representative and the person in custody concerned is related to the latter's legal proceedings.

The Law Society of Hong Kong has also indicated in a circular that the law firm represented by the lawyer or other authorized legal personnel concerned must issue valid documents. The circular also reminds responsible persons of law firms that they must assess whether the right or fair performance of professional duties will be affected by their staff or lawyer who has a family or personal relationship with the persons in custody concerned.

It can thus be seen that when lawyers and legal personnel of all law firms conduct visits to persons in custody, they are required to inform their law firms and CSD whether they are relatives or friends of the persons in custody concerned. Therefore, law firms should also exercise extra care in handling issues in this respect. This can reflect the fact that The Law Society of Hong Kong and all law firms have also striven to avoid all possible conflicts of interest as far as possible. In this connection, we will continue to maintain communication with The Law Society of Hong Kong.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, which part of your supplementary question has not been answered?

MR LEUNG YIU-CHUNG (in Cantonese): President, the Secretary has not answered my supplementary question, and he simply gave irrelevant reply. I have already put it very clearly and asked him why visits by Members in the company of legal advisers need to be conducted in the hearing of CSD officers
and even recorded by them. Such visits by legal advisers are definitely related to the relevant legal proceedings, and why does CSD not respect the privacy of the?

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

SECRETARY FOR SECURITY (in Cantonese): President, I thank Mr LEUNG for his question. I have actually answered in the main reply that Rules 48, 49, 50 and 52 of the Prison Rules have provided for the arrangements under which visits to persons in custody may be conducted by their relatives and friends, police officers, officers of the Court and their legal adviser concerning civil or criminal legal proceedings, while Rule 47C has also provided for visits made by specified persons. Relevant stipulations can therefore already be found in the laws of Hong Kong.

Although visits by accompanying persons are not legally provided for, the Commissioner of Correctional Services has exercised discretion to allow accompanying persons to visit persons in custody under less stringent arrangements. As for visits by legal advisers as mentioned by Mr LEUNG, I think arrangements should be made in accordance with the established mechanism put in place by CSD and The Law Society of Hong Kong.

MR CHAN HAK-KAN (in Cantonese): President, let me first declare that at the request of some persons in custody, I have paid official visits to correctional institutions previously, and certify that as I made such visits alone and I am a specified person, the visits were conducted not in the hearing of officers of CSD.

It has come to my attention that as pointed out in some news reports, some fellow Members were suspected of abusing the arrangements for official visits, because they were not making such official visits alone but in the company of the boyfriend or girlfriend of some persons in custody. I would therefore like to ask the Secretary whether CSD has kept relevant figures so that he can inform Members of the total number of applications received for making official visits in,
for example, the past two or three years?  Has the number of such applications fluctuated during certain specific periods?  How many applications for conducting official visits have been rejected?  Will excessive official visits affect the daily operation of CSD?

SECRETARY FOR SECURITY (in Cantonese): President, I thank Mr CHAN for his supplementary question.  As far as relevant figures are concerned, I can provide Members with the figures we have kept since 2012.  The respective numbers of official visits by Members in 2012 and 2013 were 70 odd and 50 odd, but the number started to rise since 2014.  In 2017, the number of such visits has already reached 342.  In other words, the number of official visits has increased from 78 in 2012 to 342 in 2017, and 144 of which were made with accompanying persons, accounting for over 40% of such visits.

Applications made by Members for conducting official visits alone or with accompanying persons are rarely rejected, because we believe that such visits by Members are needed for performing their official duties.  As the frequency of official visits has increased rather markedly, CSD has to make extra arrangements for operation or manpower deployment.  As such official visits are not subject to restrictions on length of time and frequency, this may also affect the daily schedule of the persons in custody concerned under the Prison Rules, including the requirement for them to work at least six hours per day.  This may even affect the holding of certain rehabilitative programmes or seminars.  Hence, such visits may affect both the work of CSD and the daily schedule of persons in custody.

The figures this year have shown a trend of slight decline.  The number of official visits conducted in the first 10 months of this year is 214, and 92 of them were made with accompanying persons.  We will pay close attention to the development of the situation.

MS ALICE MAK (in Cantonese): President, I have noted from the Secretary's reply that the Prison Rules have actually not provided for specific arrangements concerning official visits by Members of the Legislative Council.  The Commissioner of Correctional Services seems to regard Members of the Legislative Council as specified persons under 47C of the Prison Rules and allow the making of certain discretionary arrangements.
Since the Secretary has told us just now that official visits could number up to several hundred each year, in order to save officers of CSD the trouble of not knowing what to do because they do not know which persons in custody whom Honourable Members like to visit and when the visit will be conducted with which accompanying persons, why the authority not amend the Prison Rules to specify the requirements for official visits conducted by Members of the Legislative Council? By doing so, CSD officers will be saved from the trouble of having to make discretionary arrangement for a visit by a particular Member of the Legislative Council in the company of a particular person, as such arrangement will affect the daily work of CSD. Secretary, will the Government amend the Prison Rules?

SECRETARY FOR SECURITY (in Cantonese): President, I thank Ms MAK for her supplementary question. As evidenced by the figures I provided earlier, the number of official visits started to rise in 2012 and reached a quite serious level in 2017, and then showed a trend of decline in 2018, but is still on the high side. We will continue to pay close attention to the development of the situation, in a bid to prevent abuse of the relevant arrangements. Arrangements will be made as far as possible for official visits, but visits with accompanying persons must be conducted in the presence of CSD officers, we will closely monitor the situation to avoid abuse of such arrangements. CSD is currently reviewing the arrangements for official visits, and other progress may be made in the future.

PRESIDENT (in Cantonese): Fifth question.

Education on and promotion of the country's Constitution and the Basic Law

5. DR PRISCILLA LEUNG (in Cantonese): President, in recent years, some young people have blatantly publicized in a high profile manner political advocacy contravening the country's Constitution and the Basic Law, such as "independence of Hong Kong". Also, quite a number of members of the public do not understand these two constitutional documents. Regarding the education on and promotion of the Constitution and the Basic Law, will the Government inform this Council:
(1) of the details of the work done by the Education Bureau, the Home Affairs Bureau and the Basic Law Promotion Steering Committee to promote the Constitution and the Basic Law among students, young people and teachers in the past three years, and the respective expenditures involved; the criteria adopted when the authorities carry out regular reviews of the effectiveness of such work and the findings of the latest review;

(2) of the measures taken to ensure that teachers teach their students correct knowledge about the Constitution and the Basic Law; and

(3) whether it will consider stepping up its efforts to promote the relationship between the Constitution and the Basic Law; if so, of the details; if not, the reasons for that?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, having consulted the Education Bureau and the Home Affairs Bureau, our consolidated reply to Dr LEUNG's question is as follows:

The Constitution of the People's Republic of China ("the Constitution") and the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China ("the Basic Law") together form the constitutional basis of the Hong Kong Special Administrative Region ("HKSAR"). They form the foundation of "one country, two systems" and provide a strong safeguard for the long-term prosperity and stability of Hong Kong. The HKSAR Government has the responsibility to encourage the general public to have a comprehensive understanding of the Constitution and the Basic Law.

In January 1998, during the early days of the establishment of the HKSAR, the Government set up the Basic Law Promotion Steering Committee ("BLPSC") led by the Chief Secretary for Administration to coordinate the work of various bureaux in promoting the Constitution and the Basic Law. During the early period after Hong Kong's return to the Motherland, the promotion work focused more on introducing the articles in the Basic Law. Gradually, the content of the promotion work has become more in-depth and covered topics such as the origin and design of "one country, two systems" and the relationship between the Constitution and the Basic Law. The means of promotion have also become more diverse to meet the needs of different target groups.
Through the Constitutional and Mainland Affairs Bureau, the BLPSC organizes large-scale thematic seminars, makes use of electronic media for promotion, organizes regular roving exhibitions, arranges mobile resource centres to pay visits to different districts and schools, and subsidizes community organizations to organize activities, including talks and quizzes, to enable the public to have a comprehensive and thorough understanding of the Constitution and the Basic Law. Since September this year, we have been distributing the newly printed Constitution and Basic Law booklet to the public to facilitate them to learn the articles of the Constitution and the Basic Law.

For the three financial years from 2015-2016 to 2017-2018, the Constitutional and Mainland Affairs Bureau spent about $16 million, $16 million and $17 million respectively for promoting the Constitution and the Basic Law. In 2018-2019, the Constitutional and Mainland Affairs Bureau has set aside about $17 million for organizing relevant promotion activities.

For school education, the Government has all along been helping students develop a correct understanding of the Constitution and the Basic Law, the origin of the principle of "one country, two systems" and their relevance to the daily lives of the people of Hong Kong through relevant curricula, learning and teaching resources and various learning activities.

In addition to including concepts of the Basic Law and "one country, two systems" in the curricula of related subjects, such as General Studies at the primary level and Chinese History, History, Life and Society, and Liberal Studies at the secondary level, the Education Bureau has also developed learning and teaching resources, such as Basic Law online courses. The Education Bureau has also developed a "Constitution and the Basic Law" module, which has been uploaded onto the Education Bureau's website for use by schools since June last year. The topics covered include the constitutional status of the Basic Law, relationship between the Central Authorities and the HKSAR, rights and duties of Hong Kong residents and basic characteristics of the political structure, etc. The Education Bureau has developed the Planning and Self-evaluation Tool for Basic Law Education for schools' reference in evaluating the implementation of Basic Law education in schools.

The Education Bureau has introduced into professional training programmes for principals, middle managers and teachers elements of the Constitution and the Basic Law to elaborate on the constitutional status of the Basic Law.
The school sector generally understands that it is their responsibility to promote the Constitution and Basic Law education. The participation rates of various learning activities and teacher training on Basic Law education are also continuously increasing. The Education Bureau will continue to maintain close communication with schools and other stakeholders to further refine the relevant support measures, thereby enhancing the effectiveness of learning and teaching.

As promotion of the Constitution and the Basic Law to students and teachers is within the purview of the Education Bureau's day-to-day curriculum development, the expenditure involved is subsumed under the recurrent expenditure of the Education Bureau.

As regards young people, the Working Group on Local Community under the BLPSC has been working closely with the Home Affairs Bureau and Committee on the Promotion of Civic Education ("CPCE") to promote the Constitution and the Basic Law at the community level, including the organization of quiz competitions, seminars, publications for young people, thematic exhibitions and interactive games in the Civic Education Resource Centre, etc.

The Home Affairs Bureau and CPCE grant sponsorship every year through the Community Participation Scheme and the Cooperation Scheme with District Councils to support promotional activities targeting at young people related to the Constitution and the Basic Law.

In each of the financial years of 2015-2016 to 2017-2018, the Home Affairs Bureau has incurred $6.3 million, $3.5 million and $3.5 million respectively for the above mentioned promotion. In 2018-2019, the Home Affairs Bureau has set aside about $6.0 million in this respect.

Looking forward, we will provide opportunities for more young people to experience and live out "one country, two systems" first-hand, and to comprehensively and concretely understand the Constitution, the Basic Law and the People's Republic of China's implementation of the basic policy of "one country, two systems" in Hong Kong. In particular, I would encourage our young people to learn more about our country's plans for further reform and opening up, including the two important national strategies, namely the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Greater Bay Area
Development, to broaden their horizons and to explore more possibilities and room for development for Hong Kong and for themselves through upholding the principle of "one country" and leveraging the advantages of "two systems".

We will continue to listen to and take into account views from the public to further enhance the promotion of the Constitution and the Basic Law. I welcome suggestions from Members and from the public so that the Government can take forward the promotion work more effectively.

DR PRISCILLA LEUNG (in Cantonese): President, the Secretary's reply is familiar to my ears. I am afraid I have to say that the promotion work done by the Government in the past on Basic Law is rather superficial.

Talking about the Constitution and the Basic Law, I wonder if the Administration has ever done any publicity and education on the HKSAR passport of the People's Republic of China that most Hong Kong people hold. I notice that many people write or say that "Hong Kong" is their nationality, and some people even say that Article 1 of the Basic Law can be amended. How absurd!

In my opinion, the Administration should first ask "how" before asking "how much" when it promotes the Basic Law. Have the authorities faced squarely the issue of national identity of Hong Kong people, so as to make them realize that being a citizen of the HKSAR of the People's Republic of China, they are actually a citizen of the People's Republic of China, and that their duties are prescribed under the constitutional system and the Constitution? This will be able to address many mistaken areas now.

May I ask the Secretary whether the Administration has ever used this approach to educate teachers, young people or even Hong Kong citizens?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Dr LEUNG for her supplementary question.

I think the key to the promotion of the Constitution and the Basic Law is to let people understand the origin of "one country, two systems" of the HKSAR, as well as its design and root; and understand the fundamental concept and
framework that Hong Kong is a part of our country, but it has a system different from the one in the Mainland. This is also the correct concept we must hold when promoting the Constitution and the Basic Law.

Hence, regarding the need to let people understand their national identity, something that the Member just mentioned, I believe the Government can disseminate the messages by comprehensively explaining and elaborating on the contents of the Constitution and the Basic Law, and the relationship between the two, our constitutional status, as well as our rights, duties and obligations at the same time, as provided in the Basic Law.

Next is the means of promotion. We use different channels and examples for our publicity and promotion work. For example, we did use the HKSAR passport that Member just mentioned for illustration. I remember we have used a similar example in an Announcement of Public Interest on TV. We can use a diverse means of promotion to suit different target groups.

However, as we may have noticed, during the early days of reunification, the promotion activities focused more on introducing the articles of the Basic Law, and also our rights and obligations and the different forms of freedom that are protected under the Basic Law. Later, on top of these two aspects, the promotion also focused on Hong Kong being an inalienable part of our country under the concept of "one country".

Hence, in my opinion, the key of the promotion is to uphold the principle of "one country" while pointing out the differences of the "two systems"; we also need to explain our duties and obligations under "one country, two systems", as well as our edges. I believe it is important to make a comprehensive introduction and promotion. Regarding the means of promotion and usable channels, we are glad to explain further with different stakeholders, including Members.

MS CLAUDIA MO (in Cantonese): Feelings and sensibility are two-way. Recently, I received a group of university students. All of them say they are Hong Kong people.
Article 1 of the Basic Law stipulates that Hong Kong is an inalienable part of China. We all understand what it means. But Carrie LAM uses anti-Hong Kong independence as an excuse and creates a moveable red line. No one knows what specific actions are regarded as acts of pro-Hong Kong independence. Are guerrilla activities on Kowloon Peak such acts?

Our worry is that today this red line is against Hong Kong independence, and the next day it will be against self-autonomy and self-determination, and the day after next it will become anti-democracy. The entire Basic Law is interpreted at will. She does not even need to seek an interpretation from the Standing Committee of the National People's Congress. So, how are teachers teaching General Studies going to explain to their students that there is an invisible red line in the Basic Law?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the issue or opinion expressed by Ms MO, I hold that the objective facts about the topic of Hong Kong independence are more than clear. The Basic Law clearly provides that the HKSAR is an inalienable part of the People's Republic of China. We all agree that any advocacy of Hong Kong independence violates the Basic Law and directly undermines the sovereignty, national security and territorial integrity of our country. Apparently, this is inconsistent with "one country, two systems" and also incompatible with the Constitution and the constitutional status of the Basic Law. It is clear that Hong Kong independence is untenable no matter whether we base our consideration on the facts, history or law. There is no room for ambiguity on this issue.

Regarding Ms MO's point on national identity or feelings towards our country, I agree that feelings should be two-way. If young people today have such a feeling, we will try to understand why they feel so, and how to use a more objective and rational means to interactively discuss with them the constitutional status and the full content of the Constitution and the Basic Law. To me, this is our common goal and responsibility.

PRESIDENT (in Cantonese): Ms Claudia MO, which part of your supplementary question has not been answered?
MS CLAUDIA MO (in Cantonese): If the Chief Executive advocates against self-determination or anti-democracy any time she likes, she is manipulating with this red line at will. But the Basic Law does not provide for this red line. It is created by her.

PRESIDENT (in Cantonese): Ms MO, you have already pointed out the part of your supplementary question that has not been answered. Please sit down. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, what Ms MO just said is something about the future. First, things about the future are yet to happen; and second, what she just said is not something that is happening now. Things about the present are clear. Anything about the independence of Hong Kong, or anything about self-determination which includes Hong Kong independence or the independence of Hong Kong as an option is clearly inconsistent with the Constitution, the Basic Law and its constitutional status and "one country, two systems".

(Ms Claudia MO stood up and intended to further ask a question)

PRESIDENT (in Cantonese): Ms Claudia MO, the Secretary already answered your supplementary question. Please sit down.

MR HUI CHI-FUNG (in Cantonese): Teaching the Basic Law and the Constitution in schools is supposed to be good, but what teaching materials the Government has provided for schools? In the "Constitution and the Basic Law" module developed by the Education Bureau on the freedom of demonstration of Hong Kong people, the teaching material contains the following viewpoint: making street protests show the rough and shallow understanding of democracy of some Hong Kong people. Is the teaching material on the Basic Law provided by the Government impartial or biased? Which Basic Law expert or scholar has it consulted? Has it consulted the views of the education sector and the parents? How can the public ensure that these teaching materials provided by the Government on Basic Law will not brainwash students or be biased?
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr HUI for his supplementary question. First of all, the Education Bureau has an existing mechanism on the design and the content of the curriculum concerned; second, in developing the learning and teaching resources, the Bureau will adopt a professional management approach and consider inputs from the relevant experts; and third, in developing the "Constitution and the Basic Law" module, it has sought legal advice to ensure that the concepts and the content are comprehensive and accurate.

For instance, the "Constitution and the Basic Law" module is a 15-school hour independent module. It is divided into different chapters, including the historical background, the content of the Basic Law, the protection of the different aspects of development of Hong Kong, the relationship between the Basic Law and our daily life, etc. The Education Bureau has consulted professional opinions and legal advice in preparing these chapters, so as to make them in line with the Constitution and the Basic Law.

PRESIDENT (in Cantonese): Mr HUI Chi-fung, which part of your supplementary question has not been answered?

MR HUI CHI-FUNG (in Cantonese): The Secretary said professional opinions have been consulted. Exactly which scholars and experts has the Government consulted for the teaching materials on the Basic Law? Can he disclose the names? Also, the Secretary has not answered why he did not consult the education sector and the parents.

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I just said, the Education Bureau has an established mechanism for developing the curriculum concerned and the learning and teaching resources. If Mr HUI wishes to know the details of the mechanism, he may do so through the established channels.
MR CHU HOI-DICK (in Cantonese): The Constitution I know is used for defining the powers of the Government and protecting the people from the infringement of the Government. But the Chinese Communist Party does not use the Constitution this way. It uses the Constitution to kill people and implement its dictatorship.

The Basic Law booklet placed in the drawers of Legislative Council Members has suddenly been enlarged to include the Constitution. I am unsure when this enlarged edition is produced. I believe the Secretary wants us to read the Constitution more. Article 1 of the Constitution prohibits disruption of the socialist system by any organization and individual. I invite the Secretary to teach Hong Kong people how to interpret this article. According to their standard, we should never violate the Constitution and should only comply with it. In this context, how should Hong Kong people comply with this provision which prohibits any organization or individual to disrupt the socialist system?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I thank Mr CHU Hoi-dick for his supplementary question. First, regarding the Constitution and the Basic Law, the booklet is a printed edition which we recently produced. When I answered Dr Priscilla LEUNG's supplementary question just now, I mentioned that this was one of the measures we took to step up promotion of the Constitution and the Basic Law, so as to enhance people's understanding of the relationship between the Constitution and the Basic Law. When we read the Basic Law, we must read it together with the Constitution. The HKSAR is originated from a provision in the Constitution which provides for the establishment of the HKSAR. This is the first point.

Second, Mr CHU Hoi-dick mentioned just now the relationship between the Constitution and the Basic Law. It is because the Constitution is the constitution of the whole country, while the Basic Law sets out the establishment of the HKSAR and its systems. Article 31 of the Constitution provides for the establishment of special administrative regions and their systems and policies; and the Basic Law, which sets out the specific systems and policies of the HKSAR, has a priority in application in this regard, and that is why the socialist systems and the policies set out in the Constitution will not be implemented in the HKSAR.
I believe if we understand the relationship between the Constitution and the Basic Law, it will be easier for us to understand when we read the Constitution and the Basic Law.

PRESIDENT (in Cantonese): Mr CHU Hoi-dick, which part of your supplementary question has not been answered?

MR CHU HOI-DICK (in Cantonese): The Secretary did not say whether Hong Kong people need to comply with Article 1 of the Constitution.

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Member just mentioned that the Basic Law sets out the freedom, rights, duties and obligations of the HKSAR. These are listed in the Basic Law. So, according to the principle of "one country, two systems", the systems and policies set out in the Basic Law should have a priority to be adopted in the HKSAR, and the socialist systems and policies of our country will not be implemented in the HKSAR.

MR GARY FAN (in Cantonese): The Secretary mentioned in his reply just now the need to comprehensively understand and promote the Basic Law. I wish to ask the Secretary the following question. When the Government promoted the relationship between the Constitution and the Basic Law to students, did it also promote Hong Kong people's right to vote and to stand for election, which are set out in article 26 of the Basic Law, and the freedom of speech, of association, of assembly, of demonstration and of the press, which are set out in article 27? If the Government did not do so, then it is being selective in its Basic Law promotion, thus giving the public a biased understanding of the Basic Law.

In 2017, the Government deleted certain content in the teaching material on the Basic Law such as the rights and freedom of the person being the fundamental freedom of an individual, so as to avoid promoting the rights of Hong Kong people that are protected under the Basic Law to Hong Kong
students. The Secretary also said in the reply that during the early days of the reunification, that is, the early period after the handover of sovereignty in 1997, the Government focused its promotion work on the specific articles of the Basic Law. But did it still do so in recent years? If it did not, it was being selective in its promotion work.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr FAN for his supplementary question. First, as I just said, if we are to promote the Basic Law and the Constitution, we have to promote a comprehensive understanding of them, including the constitutional status of Hong Kong under the Basic Law. This is the origin of the establishment of the HKSAR.

Second, the freedom and rights of Hong Kong residents are protected under the Basic Law. But on the other hand, the HKSAR is also an inalienable part of our country, and we have the duty to safeguard the sovereignty, security and development interests of the country. So, when I say our promotion work will be comprehensive, I mean we cannot emphasize only our rights and freedom and ignore our identity, constitutional status and duties; similarly, I cannot only mention "one country" and disregard "two systems". So, the two are equally important and should be given an equal emphasis.

So, regarding Mr FAN's question just now on our recent promotion of the Basic Law and the Constitution, we definitely have to mention both "one country" and "two systems"; and when we mention our freedom and rights, we cannot present them as something without any boundaries and reasonable restrictions. We have to make this point clear. All these are considerations under "one country".

Let me give an example. Be it the 40 years of reform and opening up of our country, the development of the Guangdong-Hong Kong-Macao Greater Bay Area, or the meeting last week in which the State President received the Hong Kong delegation, there is an important message, and that is there are two different systems in one country. We need to make good use of the different systems by giving full play of our unique edges, including our legal system and also our international connections. We need to maintain, strengthen and fortify these edges. Obviously, we cannot just talk about "one country". We must promote the concepts of "one country" and "two systems" together.
I hope that when we discuss "one country, two systems" in the future, Members can hold a more balanced view, despite their differing political views, and organically integrate the two together.

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

**MR GARY FAN** (in Cantonese): President, the Secretary has not practically promoted the provisions of the Basic Law …

**PRESIDENT** (in Cantonese): Mr FAN, this is not the part of your supplementary question that has not been answered. Please sit down.

**MR GARY FAN** (in Cantonese): … Articles 26 and 27 protect the rights of Hong Kong people, but he has not done anything to promote these articles.

**PRESIDENT** (in Cantonese): Mr FAN, please sit down. What you just said is not the part of your supplementary question that has not been answered.

Last oral question.

**Diversion of tourists entering the territory through the Hong Kong-Zhuhai-Macao Bridge**

6. **MR ANDREW WAN** (in Cantonese): President, it has been reported that upon the Hong Kong-Zhuhai-Macao Bridge ("HZMB") opening to traffic on the 24th of last month, a large number of tourists entering the territory via HZMB have flocked to Tung Chung, and the daily lives of the residents there have been greatly affected as a result. For example, daily commodities were snapped up and sold out, restaurants experienced an overflow of customers, and a large number of tourists waiting at Tung Chung Bus Terminus for buses heading for the Hong Kong Port caused obstruction to passageways and noise nuisances. Despite the introduction of a number of tourist diversion measures as announced
by the Government on the 9th of this month, the situation has not been significantly improved. In this connection, will the Government inform this Council:

(1) whether it has conducted an investigation into the number of tour groups entering the territory via HZMB, since HZMB opened to traffic, for which reception by a local travel agent had not been arranged; whether it has taken any law enforcement actions; if so, of the details;

(2) of the new measures to further mitigate the current situation of Tung Chung being flooded with tourists; whether it will discuss with the Mainland authorities the following proposals: (i) introducing tour groups or bus routes destined for the HZMB eastern artificial island, which is located within Mainland waters, so that those Mainland residents who merely want to visit HZMB need not enter Hong Kong, and (ii) tightening the arrangement for issuing exit endorsements for Mainland residents to visit Hong Kong; and

(3) given that the Tuen Mun-Chek Lap Kok Link ("TM-CLKL") is expected to be fully operational in 2020 and by that time, it will take only about 10 minutes per trip for vehicles to commute between the Hong Kong Port and Tuen Mun, whether the authorities will, upon the commissioning of TM-CLKL, put in place appropriate measures to prevent recurrence in Tuen Mun the situation of a place being flooded with tourists; if so, of the details; if not, the reasons for that?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the SAR Government has been monitoring closely the vehicular and visitor flows crossing the border through the Hong Kong-Zhuhai-Macao Bridge ("HZMB") and the operation of the Hong Kong Boundary Crossing Facilities ("BCF") since the commissioning of HZMB. In view of the recent situation in Tung Chung, the Government has rolled out multi-pronged measures within a short time in order to help alleviate the pressure of BCF and its nearby areas, improving the relevant situation.
Having consulted the relevant Policy Bureaux and departments, I will give a consolidated reply to the question raised by Mr Andrew WAN as follows:

(1) According to present laws and regulations, Mainland inbound tour groups without being received by Hong Kong travel agents might not contravene the laws and regulations. Travel agents outside Hong Kong are free to organize group tours to Hong Kong, but the key is that they are not permitted to conduct travel businesses, such as obtaining for others accommodation, transport and sightseeing services, in Hong Kong.

The Travel Industry Council of Hong Kong ("TIC"), which is responsible for regulation of the trade, has clear guidelines and directives requiring that travel agents in Hong Kong should, whenever receiving Mainland inbound tour groups, register with and provide to TIC the relevant information of such tour groups in advance.

Of course, the Government has all along encouraged and facilitated Mainland inbound travel agents to establish collaboration with Hong Kong receiving agents. In the past four weeks, the number of registered tour groups visiting Hong Kong through HZMB increased from around 70 groups in the first week to over 700 groups in the week just passed. TIC also deployed manpower to conduct spot checks last weekend. Survey results show that, amongst all Mainland inbound tour groups visiting Hong Kong through HZMB, around 70% were accompanied by Hong Kong tourist guides, indicating a gradual improvement in the arrangement of receiving agents.

As I said during my media stand-up in Shanghai earlier this month, all inbound tour groups must abide by the Hong Kong law. As regards tour groups suspected of violating relevant laws, the Tourism Commission ("TC") has already reported the incident to the Guangdong Province Culture and Tourism Unit ("the Unit") in early November. The Unit attached great importance to the incident, and has issued notices to various municipal tourism authorities in the province, urging them to strengthen market regulation and request the tourism operators in various cities to strictly abide by the laws
and regulations in Hong Kong and Macao. The Travel Agents Registry under TC has also reported suspected illegal cases to the Police and the Immigration Department ("ImmD") once the Registry is aware of such. The Police and ImmD are now investigating the incident, and no one has been arrested thus far.

In view of the recent situation in Tung Chung, the Government has called various inter-departmental meetings to tackle the matter.

Based on the experience gained from the past few weekends, around one fifth of visitors arriving at Hong Kong through HZMB BCF did not leave BCF to visit other districts in Hong Kong by taking local public transportation. This indicates that many of the visitors arriving at Hong Kong through HZMB BCF mainly intended to visit HZMB itself and might not be keen to enter Hong Kong. The Government is exploring with relevant Mainland authorities the opening of HZMB's East Artificial Island to the aforementioned group tourists, so as to allow such tourists to visit HZMB and return to Zhuhai or Macao from the East Artificial Island without crossing the border of the Hong Kong Special Administrative Region.

In addition, the Government is arranging for the setting up of temporary small-scale shops or booths in HZMB BCF to allow travellers to buy souvenirs therein. We are also exploring the introduction of food trucks to serve travellers near BCF and in Sunny Bay.

On the other hand, the Transport Department ("TD") has implemented new measures concerning the operating arrangements of domestic tour coaches at BCF today (21 November). Under the new measures, registered coach operators could enter BCF pick-up area to pick up passengers on any day provided that they had submitted an application and completed certain simple procedures via TD's online system by 9:00 pm the prior day. This arrangement will help Hong Kong receiving travel agents and Mainland inbound travel agents establish cooperation, so as to reduce the influx of visitors into Tung Chung through the flexible deployment of tour coaches.
Furthermore, shuttle bus operators are working full steam ahead to prepare and test the online pre-booking system in the hope of implementing it from this Friday (23 November), such that travel agents or organizers of tour groups could, through the online system, purchase shuttle bus tickets (including return tickets in one single operation) for designated dates and time slots from the next day (24 November) onwards. The new arrangement will help manage and regulate visitor flows at all time slots, thereby preventing group visitors from entering and leaving Hong Kong at the same time, as well as reducing the waiting time of visitors. The shuttle bus operator will announce relevant details within this week.

TC has assisted in coordinating the local trade to smooth the visitor flow near BCF, including requesting the local trade to arrange travellers to use other means of transport as far as practicable. TC also encourages the trade, including tourist attractions, to launch travel itineraries and products such as half-day tours, so as to help divert travellers.

In addition, the Police will continue to closely monitor the situation of Mainland tour groups visiting Hong Kong, and deploy additional manpower from time to time to maintain public order and public safety on site.

Upon the commissioning of the Tuen Mun-Chek Lap Kok Link ("TM-CLKL"), there will be a new alternative route to divert travellers, alleviating the pressure borne by the Tsing Ma Bridge. TD and relevant public transport operators will devise plans having regard to relevant transport demand and traffic flows, and consult relevant District Councils and stakeholders.

Upon the full commissioning of TM-CLKL, TD will also, depending on the demand, adjust public transport services in a timely manner to accommodate passengers' need.

MR ANDREW WAN (in Cantonese): President, your mind is clear as you called upon the Secretary for Transport and Housing to give a reply at the very beginning just now. And I also wonder why it was the Secretary for Commerce and Economic Development who gave a reply. His main reply, particularly parts (2) and (3), has basically failed to address my question.
Nevertheless, I must also thank the Government for heeding our views. For instance, after analysing some figures, we already proposed on day one to divert those non-entry visitors to Hong Kong who accounted for one fifth of all visitors, to expedite and enhance service provision as much as possible at the shopping centre of BCF's passenger clearance building, and to open up the eastern artificial island to enable the immediate return of visitors and spare them the need to enter Hong Kong's territory. The authorities have already implemented all such initiatives.

But President, this is not enough because everybody knows, and the Government's figures have also indicated, that the number of visitors entering Hong Kong through HZMB will only keep increasing. Even Secretary Frank CHAN has told Members that the number of visitors will increase in the future. Precisely for this reason, we are concerned that the relevant measures can only treat the symptoms without addressing the crux of the matter. With the growing number of visitors, I am concerned that after the commissioning of TM-CLKL, such visitors may go to Tuen Mun and Tsuen Wan as their next destinations. This is likely to happen.

President, my supplementary question is this. In order to truly tackle the problem, the authorities should contain the number of visitors based on Hong Kong's tourist reception capacity. But the Government dares not talk about this in its reply. Part (2) of my main question asks very clearly whether the authorities will expand the exit endorsement restrictions on visitors to Hong Kong to also cover Zhuhai and its nearby regions. Suppose the existing measures can only treat the symptoms without addressing the crux of the matter. Am I right to say that the Government intends to give a response only after Tuen Mun and Tsuen Wan have fallen as a result of the growing number of visitors a few years later?

President, I hope that the Secretary can answer the question of whether the authorities will expand the exit endorsement restrictions and tighten the relevant arrangement from "one trip per week" to "eight trips per year".

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as I pointed out in the main reply, the Government has already adopted various measures under a multi-pronged approach. We understand that the number of inbound visitors will increase after the commissioning of HZMB and the completion of new facilities, and this is only
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natural. The figures over the past few weeks and our statistic-based projection
show that most visitors (around one fifth of all visitors) come here to get a
first-hand experience of HZMB. In this regard, our measures are consistent with
those proposed by Mr Andrew WAN and other Members, in the sense that the
focus is on the possibility to reduce the number of such inbound visitors.
As for other measures involving Hong Kong as a whole, Mr WAN may
also know that the Development Blueprint for Hong Kong's Tourism Industry
issued by us last year puts forth a main point, the point of deepening and
expanding various tourist attractions in Hong Kong as a means of avoiding the
concentration of visitors in individual districts and tourist attractions. Some
examples include the expansion of reception facilities at existing major theme
parks and the development of tourism items in various districts.
I also wish to bring up another point here. When we foresee large
numbers of inbound visitors during the Golden Week or the Chinese Lunar New
Year holiday, we will undertake inter-departmental work, with the aim of
reducing or alleviating the entry of visitors into Hong Kong. Certainly, we will
continue to keep a close watch on the changing situation.

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

MR ANDREW WAN (in Cantonese): President, my supplementary question is
very straightforward: Will the authorities expand the exit endorsement
restrictions? Yes or no?

PRESIDENT (in Cantonese): Mr WAN, please sit down. Secretary, do you
have anything to add?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in
Cantonese): President, in our view, we should adhere to the measures and
direction I mentioned just now. So for the time being, we have no intention to
adopt the measures proposed by Mr WAN.


MR YIU SI-WING (in Cantonese): President, since the commissioning of HZMB less than one month ago on 24 October, we have seen different situations every week. But after the Government has maintained close liaison with the transport and tourism sectors and adopted measures in response to various chaos, we have seen some fruit.

The information provided in the Secretary's earlier reply shows that despite an increase in the number of tour groups from 70 in the first week to 700 last week, the chaos in Tung Chung has not occurred again. Why? The reason is that the industry has joined hands with the Administration in diverting visitors to different tourist attractions. From this, we can see that the effective regulation … that the so-called "mustang tour groups" (meaning "unregistered tour groups") from the Mainland have come under control to some extent. But as the Secretary pointed out just now, 30% of the tour groups are not registered tour groups. In my view, this is undesirable.

Regarding such tour groups commonly known as "mustang tour groups" which are not registered with TIC, may I ask the Secretary whether the authorities have formulated further regulatory measures for including them into the scope of Hong Kong’s regulation which has proven to be effective?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, part (1) of my main reply already provides a comprehensive answer to Mr YIU Si-wing's supplementary question. But I must clarify one point here. Hong Kong is a place where things are done on the basis of the law. Inbound tour groups without any cooperation with local receiving agents do not necessarily contravene the law. And, part (1) of my main reply already points out clearly the essence of the law.

Despite all this, I also agree to Mr YIU Si-wing's assertion that if inbound visitors can travel to Hong Kong in tour groups with the arrangements of local receiving agents and also the company of Hong Kong tourist guides, then first, this is certainly good to inbound Mainland visitors; and second, as rightly asserted by Mr YIU Si-wing, this can likewise enable the authorities to effectively divert such inbound visitors to various districts in different time slots with the industry's coordination and in turn draw up better arrangements. This is also something good to the tourism industry.
We have seen obvious improvement over a short span of the past three or four weeks. Some inbound tour groups might have overlooked the statutory requirements at the very beginning, so we have offered clear explanations to the relevant Mainland authorities and issued directives to avoid their unwitting violation of the law. Besides, we are also aware that the sector represented by Mr YIU has diligently undertaken its reception work. For these reasons, most tour groups have now been received by local receiving agents. We will continue to cooperate with the industry in this direction, in the hope of further ameliorating the relevant situation.

MR HOLDEN CHOW (in Cantonese): President, I notice that visitor flows in Tung Chung honestly saw some alleviation over the previous weekend. I believe the reason is that the Government has responded to our demands by taking some measures, ones which have achieved some preliminary effects by now. But I must emphasize that the Administration must not lose guard and should instead sustain its efforts in dealing the problems in Tung Chung. The authorities should certainly continue to promote tourism on the eastern artificial island. But we hope that the Mainland Government can continue to dovetail with our efforts in this regard, we also hope that the SAR Government can maintain communication with the Mainland Government in this regard.

President, the setting up of auxiliary shopping facilities in BCF is now underway. However, have the authorities drawn up any timetable on the measures for coping with the next peak period of visitor flows during the Chinese Lunar New Year holiday next year, and also on the overall arrangements for setting up temporary booths and auxiliary retail and shopping facilities in BCF? Besides, what are the authorities' assessment and projection on the progress of setting up shops before the Chinese Lunar New Year next year?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as I mentioned in the main reply, many visitors may be transit visitors. Therefore, we may complete some auxiliary facilities in the passenger clearance building by that time. In the short term, we will introduce some temporary pop-up stores which can be set up very conveniently. This is a short-term arrangement.
As far as I know, some space has been reserved in the passenger clearance building for setting up permanent shops and areas for selling or providing food in the future. Before leasing such facilities, we will adopt some short-term measures, such as the setting up of small shops or booths for the provision of necessary services to those visitors who are purely in transit or those who just stay there as a means of reducing their need to buy food or souvenirs in Tung Chung. We will adopt a dual-pronged approach in undertaking the relevant task. I believe the authorities already have the plan of leasing those shops, and the Government Property Agency has done its work in this regard.

Speaking of short-term measures, we will lose no time in doing as much as we can. I know that the first booth may be able to commence service within this week. We will continue with the relevant work. As for other auxiliary facilities, such as food trucks which are geared to visitors' needs as I mentioned just now, we will study their deployment.

DR CHENG CHUNG-TAI (in Cantonese): Only one month has passed since the commissioning of HZMB. But the paradisiacal life of Tung Chung residents has already degenerated into a state of chaos. In my view, alleviating and diverting visitor flows is simply the same as sweeping the problem under the carpet. And, even turning the eastern artificial island into an island where only formula milk is sold can merely treat the symptoms without addressing the problem. Therefore, apart from setting restrictions on the exit endorsement concerned, will the authorities consider the idea of imposing a specific cap on the daily frequency of the relevant shuttle buses, so as to enable people to see the Government's determination to contain the number of inbound visitors at source, especially those who may travel to Tung Chung, Tsuen Wan and Kwai Tsing, and in turn avoid any direct impact on the living environment of local residents?

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Transport and Housing, please.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, speaking of the seating capacity of shuttle buses, the number of shuttle buses commonly known as "Gold Coaches" has been increased from 120 at the outset to 170 over the past few weeks. The operator concerned will procure an
additional 40 coaches. But any mode of transport has its own maximum seating capacity. We have introduced a new arrangement enabling the presale of group tickets by the shuttle bus operator, including return tickets, so that inbound Mainland visitors may get to know the transport condition. To some extent, it can be regarded as an attempt to restrict the number at source.

Certainly, we on the Hong Kong side have undertaken many tasks. We have found that over the previous week, passengers travelling on route number B5 to Sunny Bay have outnumbered those on route number B6 bound for Tung Chung. Therefore, the disturbance sustained by Tung Chung residents has been ameliorated to some extent. We hope to rectify the situation at source through the diversion arrangement and minimize the impacts on local residents' living.

PRESIDENT (in Cantonese): Dr CHENG Chung-tai, which part of your supplementary question has not been answered?

DR CHENG CHUNG-TAI (in Cantonese): Can the Secretary announce to this Council the number of shuttle buses that the authorities negotiate with the Guangdong Provincial Government and the relevant figures?

PRESIDENT (in Cantonese): Secretary, can you add anything?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, speaking of the number of coaches, I said just now that the number of shuttle buses was over 170 at present, and the operator concerned would also procure an additional 40 shuttle buses. Basically, there is a maximum seating capacity and operation duration of each shuttle bus. Therefore, we hope to enable visitors to know the seating capacity of a shuttle bus through the booking arrangement for group tickets. This arrangement does not require any consensus from the Guangdong side. We may ascertain the situation after computing the relevant figures obtained mainly from the shuttle bus operator.

WRITTEN ANSWERS TO QUESTIONS

Adopting an updated assessment tool to assess the care needs of the elderly

7. MR LUK CHUNG-HUNG (in Chinese): President, in 2000, the Social Welfare Department ("SWD") implemented a Standardized Care Need Assessment Mechanism for Elderly Services, under which accredited assessors use an internationally recognized assessment tool to assess the care needs of the elderly and match them with appropriate long-term care services. As some frontline service providers considered that the assessment tool was ineffective in identifying the cognitive and mental needs of those elderly persons with early-stage dementia, SWD commissioned the Sau Po Centre on Ageing of the University of Hong Kong in 2013 to update the assessment tool to interRAI-HC (elderly health and home care assessment tool) version 9.3 ("the new version tool"). The Government indicated at the end of last year that the new version tool would be introduced within the current financial year. In this connection, will the Government inform this Council:

(1) of the progress of adopting the new version tool, including the launch date and the to-date number of accredited assessors who have attended training programmes for conducting assessment with the new version tool;

(2) whether it has gained an understanding of the edge of the new version tool over the existing version of the tool in respect of identifying the cognitive and mental needs of those elderly persons with early-stage dementia;

(3) whether the Government will accede to requests for conducting reassessment with the new version tool for those elderly persons who have been assessed by the existing version of the tool and found ineligible for subsidized long-term care services; and

(4) whether it has assessed if more elderly persons will be identified to be in need of long-term care services after the adoption of the new version tool; if it has assessed and the outcome is in the affirmative, whether it will increase the quotas for such services gearing to this situation; if so, of the details?
SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr LUK's question is as follows:

(1) to (3)

With the support from the Lotteries Fund, the Social Welfare Department ("SWD") commissioned the Sau Po Centre on Ageing of the University of Hong Kong ("the Consultancy Team") in 2013 to carry out a research project on the enhancement of the infrastructure of long-term care in Hong Kong. One of the objectives is to update the assessment tool adopted under the Standardised Care Need Assessment Mechanism of Elderly Services ("SCNAMES"). The assessment tool currently in use, namely the interRAI-HC version 2.0 will be updated to the latest interRAI-HC Chinese version 9.3. Through using the updated assessment tool, clinical information will be collected from the elderly persons on aspects of their cognition, communication, mood and behaviour, social functioning, functional impairment, disease diagnosis and other health conditions, etc., for a more precise assessment of their current care needs and early identification of signs and symptoms indicating impairments (including dementia) for matching with appropriate long-term care services for the elderly.

The Consultancy Team is currently examining the applicability and reliability of the updated assessment tool in Hong Kong and will submit a research report to SWD in due course. Before the launch of the updated assessment tool, the Consultancy Team will also provide training on the use of the updated assessment tool to about 2 000 serving accredited assessors.

Under the current SCNAMES, elderly persons with long-term care needs or existing service users who find the services they are receiving not able to meet their care needs may request SWD, through their referring offices, for another assessment and apply for long-term care services that match with their care needs.

(4) The new assessment tool should be able to more precisely assess the different level of long-term care services required by the elderly, so as to assist in service matching in a more appropriate manner. The impact on the overall long-term care needs have yet to be assessed pending further detailed studies.
The Government will continue to adopt the approach of according priority to the provision of home care and community care, which are supplemented by residential care, in providing support for frail elderly persons with long-term care needs. The Government has all along been striving to increase subsidized elderly care places under a multi-pronged approach. To this end, the 2018 Policy Address has proposed a series of new initiatives to support frail elderly persons, including those suffering from dementia. These initiatives include:

(a) Strengthening the community care and support services for the elderly by providing an additional 2,000 service quota under the Enhanced Home and Community Care Services;

(b) Providing an additional 1,000 vouchers (bringing the total to 7,000 vouchers) under the Second Phase of the Pilot Scheme on Community Care Service Voucher for the Elderly to support ageing in place for elderly persons with moderate or severe impairment;

(c) Implementing a new scheme to set up day care units for the elderly at qualified private and self-financing residential care homes for the elderly ("RCHEs") to increase the supply of day care services;

(d) Providing designated residential respite places in private RCHEs participating in the Enhanced Bought Place Scheme to relieve the stress of carers; and

(e) Purchasing an additional 5,000 EA1 places under the Enhanced Bought Place Scheme in the next five years to increase the supply of subsidized residential care places for the elderly and enhancing the overall service quality of private residential care homes for the elderly.

Furthermore, SWD will continue to implement the Pilot Scheme on Residential Care Service Voucher for the Elderly by adopting the "money-following-the-user" approach with a view to offering elderly persons in need of residential care service an additional choice and providing an incentive for RCHEs to improve their services.
The nomination of the Hong Kong members of the Committee for the Basic Law of the Hong Kong Special Administrative Region

8. **MR JAMES TO** (in Chinese): President, according to the Decision of the National People's Congress Approving the Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region Under the Standing Committee of the National People's Congress, the Hong Kong members of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress ("BLC") shall be Chinese citizens who are permanent residents of the Hong Kong Special Administrative Region with no right of abode in any foreign country and shall be nominated jointly by the Chief Executive, the President of the Legislative Council and the Chief Justice of the Court of Final Appeal, for appointment by the Standing Committee of the National People's Congress ("NPCSC") for a term of office of five years. BLC was established on 1 July 1997, and the current BLC is of the fifth term. Regarding the nomination of the Hong Kong members of BLC, will the Government inform this Council whether it knows:

(1) how the nomination procedure is activated;

(2) the qualifications, apart from meeting the aforesaid requirements, that Chinese citizens must possess before they will be considered for the nomination, and whether self-recommended persons will be considered for the nomination; if so, of the details; if not, the reasons for that; and

(3) the number of nominees for each term of BLC and, among such nominees, the number of those who were not appointed by NPCSC (if any) and the reasons for that; whether a mechanism has been put in place for unappointed nominees to lodge appeals; if so, of the details; if not, the reasons and the legal basis for that, and whether it will put forward a proposal to the Central Authorities for establishing such a mechanism?

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Chinese): President, our consolidated reply to Mr James TO's question is as follows:
On 4 April 1990, the Third Session of the Seventh National People's Congress adopted the "Decision of the National People's Congress Approving the Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress" ("the Decision"). The Decision includes approving the proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region ("HKSAR") on the Establishment of the Committee for the Basic Law of the HKSAR ("the Basic Law Committee") under the Standing Committee of the National People's Congress ("NPCSC"), and establishing the Basic Law Committee when the Basic Law of the HKSAR of the People's Republic of China ("the Basic Law") is put into effect.

According to the Decision, the Basic Law Committee is a working committee under the NPCSC. Its function is to study questions arising from the implementation of Articles 17, 18, 158 and 159 of the Basic Law and submit its views thereon to the NPCSC. According to the Decision, the Basic Law Committee comprises twelve members, six from the Mainland and six from Hong Kong, including persons from the legal profession, appointed by the NPCSC for a term of office of five years. Hong Kong members shall be Chinese citizens who are permanent residents of the HKSAR with no right of abode in any foreign country and shall be nominated jointly by the Chief Executive, President of the Legislative Council and Chief Justice of the Court of Final Appeal of the HKSAR for appointment by the NPCSC.

On 22 June 2018, the Third Session of the Thirteenth National People's Congress adopted the composition of the fifth Basic Law Committee, including Maria TAM Wai-chu (Vice-chairperson), LAU Nai-keung, Albert CHEN Hung-yee, Johnny MOK Shiu-luen, WONG Yuk-shan and Priscilla LEUNG Mei-fun as Hong Kong members.

The nomination and appointment of members of the Basic Law Committee follow the aforementioned procedures and principles. It is our established position that we will not publicly comment on the Government's communication with the Central Authorities.
Passenger embarkation fee levied on owners of cross-boundary ferries

9. MS STARRY LEE (in Chinese): President, at present, the Marine Department levies, pursuant to the law, a passenger embarkation fee at $11 per passenger from the owners of cross-boundary ferries, and such a fee is passed on to the passengers. There are comments that with the economies within the Guangdong-Hong Kong-Macao Bay Area growing and integrating in an increasingly fast pace, the governments of the three places have all indicated that they will actively remove the various obstacles for exchange and cooperation. However, among the three governments, only the Hong Kong Government collects a passenger embarkation fee, which is not conducive to the connectivity and economic integration of the three places. Moreover, there are views that as a similar passenger boarding fee has not been imposed on the various modes of cross-boundary land transport in Hong Kong at present, the embarkation fee is unfair to those passengers departing by sea. In this connection, will the Government inform this Council:

(1) of the number of passenger trips departing by cross-boundary ferries and the total amount of embarkation fees collected in each of the past three years, with a tabular breakdown by ferry route;

(2) of the measures taken by the Government in the past three years to promote sea transport connectivity among Guangdong, Hong Kong and Macao, as well as the effectiveness of such measures; and

(3) whether it will review the current policy of levying a passenger embarkation fee, including whether that fee should be abolished; if it will, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, cross-boundary ferry services, being one type of cross-boundary transport services, help promote the connectivity at sea between Hong Kong and the Pearl River Delta ("PRD") region. With the development of the Guangdong-Hong Kong-Macao Bay Area, the Government will continue to closely monitor the development of, and demand for, cross-boundary transport services (including cross-boundary ferry), and will adopt measures in a timely manner to meet the needs of the community.
My reply to the various parts of Ms Starry LEE’s question, after consulting the Financial Services and the Treasury Bureau as well as the Marine Department ("MD"), is as follows.

(1) and (2)

At present, there are three cross-boundary ferry terminals in Hong Kong owned by the Government. Two of these terminals are managed by the Government (namely the Hong Kong-Macao Ferry Terminal and the China Ferry Terminal), providing a total of 14 routes of cross-boundary ferry services connecting Hong Kong and Macao Outer Harbour Ferry Terminal and Taipa Ferry Terminal, as well as 12 Mainland cities (including Zhuhai (Jiuzhou Port), Zhuhai Guishan, Zhongshan, Panyu Lianhuashan, Nansha, Heshan, Shunde, Gaoming, Jiangmen, Doumen, Shekou and Shenzhen Airport). The other cross-boundary ferry terminal (namely the Tuen Mun Ferry Terminal) is managed by a private operator, providing specified route between Hong Kong and Macao. The operator may provide cross-boundary ferry services between Hong Kong and other PRD cities having regard to commercial principles. At present, a cross-boundary ferry route between Hong Kong and Zhuhai (Jiuzhou Port) is operating at this terminal. The annual passenger departures and embarkation fees collected for the aforementioned cross-boundary ferry routes between 2015 and 2017 are set out at the Annex.

The patronage of cross-boundary ferry services has been stable in recent years, reflecting that there is a continuous demand from visitors for cross-boundary ferry services. In the past three years, at the request of the ferry operators, the Government approved an additional nine trips per day in total by the operators for routes between Hong Kong and Taipa Ferry Terminal in Macao, Zhuhai and Shekou, as well as the introduction of a new route between Hong Kong and Shenzhen Airport (chartered service).

On the other hand, MD reviews the utilization of cross-boundary ferry terminals from time to time with a view to enhancing the operation and facilities of the terminals, thereby encouraging more passengers to use cross-boundary ferry services. The relevant measures include enhancing the mechanism for allocating berthing slots for optimal use of each berth so as to increase the number of sailings that can be handled and the patronage; enhancing the berths
and passenger facilities so as to raise the operational efficiency of
ferry operators; and arranging additional terminal-based staff during
peak periods of passenger flow and on festive days so as to respond
to emergencies and maintain the order at the terminals. MD also
holds regular meetings with stakeholders for the sake of enhancing
the operational efficiency of cross-boundary ferry terminals.

(3) Under regulation 34 of the Shipping and Port Control (Ferry
Terminals) Regulations (Cap. 313H), a passenger embarkation fee
shall be paid to the Government by the owner of a ferry vessel in
respect of each passenger embarking on the ferry vessel at
cross-boundary ferry terminals. At present, the embarkation fee is
$11 per passenger. Ferry operators will determine the ferry fares
on commercial principles.

Cross-boundary ferry terminals are one of the public utilities owned
by the Government. It is the Government's established policy that
charges of Government-owned public utilities should in general be
set at a level to recover the full cost for the provision of services,
including the cost of the capital employed. The passenger
embarkation fee is charged to recover the relevant cost of providing
the ferry terminal services. The Government has an established
mechanism to regularly review the level of passenger embarkation
fee having regard to various relevant factors including public
acceptance and affordability.

Annex

Annual Passenger Departures and Embarkation Fees Collected for
Cross-boundary Ferry Routes from 2015 to 2017

<table>
<thead>
<tr>
<th>Routes</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Passenger Departures</td>
<td>Embarkation Fee ($)</td>
<td>Passenger Departures</td>
</tr>
<tr>
<td>1. Macao Outer Harbour Ferry Terminal and Taipa Ferry Terminal (Total)</td>
<td>11 946 284</td>
<td>131,409,124</td>
<td>11 456 315</td>
</tr>
<tr>
<td>Routes</td>
<td>2015</td>
<td>2016</td>
<td>2017</td>
</tr>
<tr>
<td>------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td></td>
<td>Passenger Departures</td>
<td>Embarkation Fee ($)</td>
<td>Passenger Departures</td>
</tr>
<tr>
<td>2. Doumen</td>
<td>11399</td>
<td>125,389</td>
<td>12482</td>
</tr>
<tr>
<td>3. Gaoming</td>
<td>17328</td>
<td>190,608</td>
<td>17509</td>
</tr>
<tr>
<td>4. Heshan</td>
<td>21329</td>
<td>234,619</td>
<td>20538</td>
</tr>
<tr>
<td>5. Jiangmen</td>
<td>37256</td>
<td>409,816</td>
<td>31448</td>
</tr>
<tr>
<td>6. Panyu Lianhuashan</td>
<td>159081</td>
<td>1,749,891</td>
<td>132089</td>
</tr>
<tr>
<td>7. Nansha</td>
<td>128726</td>
<td>1,415,986</td>
<td>108498</td>
</tr>
<tr>
<td>8. Shekou</td>
<td>114513</td>
<td>1,259,643</td>
<td>103594</td>
</tr>
<tr>
<td>9. Shunde</td>
<td>287826</td>
<td>3,166,086</td>
<td>267151</td>
</tr>
<tr>
<td>10. Zhongshan</td>
<td>496761</td>
<td>5,464,371</td>
<td>471719</td>
</tr>
<tr>
<td>11. Zuhai (Jiu Zhou Port)</td>
<td>1 009 932</td>
<td>11,109,252</td>
<td>968026</td>
</tr>
<tr>
<td>12. Zuhai Guishan</td>
<td>0</td>
<td>0</td>
<td>298</td>
</tr>
<tr>
<td>13. Shenzhen Airport</td>
<td>588</td>
<td>6,468</td>
<td>49</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>14 231 023</td>
<td>156,541,253</td>
<td>13 589 716</td>
</tr>
</tbody>
</table>

Painting the shells of live turtles with oil paints

10. **DR CHIANG LAI-WAN** (in Chinese): President, it has been reported that painting the shells of live red-eared sliders ("painted turtles") with colourful oil paints has become popular overseas in recent years, and this trend has spread to Hong Kong in recent months. Painted turtles are available for sale in some shops, and a red-eared slider fully painted in gold colour was found by some members of the public in a pond in Kowloon Park. Some experts have pointed out that the harmful substances in paints will enter the bloodstream of turtles through the shells; paints will hinder turtles' absorption of sunlight, making it difficult for them to produce vitamin D and hence affecting their bone structures; and paints applied on the noses and heads of turtles may cause turtles to suffocate to death because of blockage of their airways. In this connection, will the Government inform this Council:

(1) of the number of complaints relating to painted turtles received in the past 12 months, and whether follow-up actions were taken, by the authorities; if so, of the details; if not, the reasons for that;
(2) whether the acts of painting the shells of live turtles with oil paints and selling painted turtles are subject to regulation under the existing legislation; if so, of the details; if not, the reasons for that; and

(3) whether it has taken measures to curb the trend of painting the shells of live turtles with oil paints, e.g. calling upon members of the public and shops not to buy or sell painted turtles; if so, of the details; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to various parts of the question is as follows:

(1) In the past 12 months, the Agriculture, Fisheries and Conservation Department ("AFCD") has received a public enquiry about painted turtles being sold in shops. After receiving the enquiry, AFCD immediately contacted and inspected all licensed shops selling pet turtles over the territory, and did not find any act of selling painted turtles. AFCD also visited the Kowloon Park and did not find any painted turtles there.

(2) and (3)

All animal traders are required to obtain a licence for their operations from the Director of Agriculture, Fisheries and Conservation under the Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap. 139B). AFCD also issues codes of practice ("CoPs") to licenced animal traders, requiring them, among others, to observe the relevant regulations on prevention of cruelty to animals. Any breach of CoPs may be considered as a breach of the licence condition, and that AFCD may take further action. Applying oil paints on turtles is not encouraged by AFCD for the sake of animal health. AFCD will advise licenced animal traders against selling painted turtles during inspections.

If the substances in paints have negative impact on the health of turtles, the act of painting may constitute a breach of the Prevention of Cruelty to Animals Ordinance (Cap. 169). Any person who cruelly treats an animal and causes it unnecessary suffering commits
an offence and is liable on conviction to a maximum fine of $200,000 and imprisonment for up to three years. AFCD or other related departments will take follow-up actions upon receiving reports of cruelty to animals.

AFCD will continue to enhance public education to promote messages on responsible pet ownership and prevention of cruelty to animals. To further safeguard animal welfare, as announced by the Chief Executive in her 2018 Policy Address, the Government is mapping out the major direction and drawing up preliminary proposals for amending the legislation related to animal welfare, with a view to consulting the public early next year. The proposals include introducing a positive duty of care on animal keepers and exploring raising the penalties for acts of cruelty to animals.

Combating bogus marriages

11. **MR JEREMY TAM** (in Chinese): President, it has been reported that some cross-boundary bogus marriage syndicates provide one-stop services. Such services include: arranging bogus marriages for their clients to facilitate their application for Permits for Proceeding to Hong Kong and Macao (commonly known as One-way Permits ("OWPs")), and taking care of the divorce procedure on behalf of their clients after they come to settle in Hong Kong. On combating bogus marriages, will the Government inform this Council:

1. of the number of divorces and the divorce rate in each of the past five years in respect of those couples who were both Hong Kong permanent residents ("HKPRs"), with a breakdown by duration of marriage (namely, two years or below, three to four years, five to six years and seven to nine years);

2. whether it will start compiling statistics on the number of divorces and divorce rates in respect of those couples one party to which is a person who came to Hong Kong for settlement on OWPs, broken down by such persons' year of residence (namely, two years or below, three to four years, five to six years and seven to nine years) in Hong Kong, for comparison with the corresponding figures in (1); if so, of the details; if not, the reasons for that;
(3) whether OWP holders who have settled in Hong Kong for less than seven years will, for the reason of their divorce with HKPRs, have their Hong Kong identity cards and residence status invalidated by the Immigration Department ("ImmD") and be subject to repatriation to their places of origin;

(4) among the 1,542 suspected bogus marriage cases investigated by ImmD in the past three years, of the number of those in which ImmD decided, after proactively analyzing the relevant situation, to initiate investigations;

(5) of the statistics on convictions in each of the past five years involving offences related to bogus marriage (set out in the table below); and

<table>
<thead>
<tr>
<th>Year</th>
<th>Magistrates' Court</th>
<th>District Court</th>
<th>Court of First Instance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of defendants convicted on own plea (A)</td>
<td>Number of defendants convicted after trial (B)</td>
<td>Number of defendants acquitted after trial (C)</td>
</tr>
<tr>
<td>2013</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(6) of the number of spot checks by home visits conducted by ImmD in the past five years for investigating suspected bogus marriage cases; the respective numbers of offenders who were arrested, prosecuted and convicted as a result of the evidence obtained from (i) such operations and (ii) all operations other than such operations, and the percentages of those figures in the total number of suspected bogus marriage cases?

SECRETARY FOR SECURITY (in Chinese): President, the Government has always been concerned about "bogus marriages". The Immigration Department ("ImmD") set up a special task force in 2006 to step up enforcement actions to combat such offences to prevent persons seeking entry into Hong Kong by means of "bogus marriages" and intermediaries aiding others to seek entry into Hong Kong through such means. When suspected "bogus marriage" cases are identified, ImmD will conduct in-depth investigations on parties alleged to arrange and participate in "bogus marriages", collect evidence and initiate prosecution.

Any persons who make use of "bogus marriage" to obtain the requisite documents for the purpose of entering Hong Kong, or any persons who facilitate others to achieve such purpose through arranging "bogus marriages" for them, shall be guilty of an offence. In the course of contracting "bogus marriages" and applying for entries into Hong Kong through such marriages, the persons involved may have committed offences such as conspiracy to defraud, making false representation to ImmD officers, making a false oath, giving false declaration, bigamy, etc., and are liable on conviction to imprisonment for up to 14 years.

The reply to the questions raised by Mr TAM is as follows:

(1) and (2)

To get a divorce in Hong Kong, one should file a petition or an application for divorce to the Court, and it does not need to be processed by marriage registries under ImmD. In consultation with the Census and Statistics Department ("C&SD") and the Judiciary, it is noted that they do not maintain the statistics mentioned in the question. ImmD also does not have relevant figures. In fact, ImmD has conducted investigations into suspected "bogus marriage" cases via different channels and has been closely monitoring the
latest practice and trends of arranging "bogus marriage" by illegal intermediaries and "bogus marriage" syndicates. From experience, collecting the divorce-related statistics requested in the question serves no direct purpose in assisting the enforcement authorities to detect suspected persons participating in "bogus marriages" as well as verifying the husband-and-wife relationships of the persons concerned in the course of investigation. At present, therefore, we have no plan to compile such statistical figures. According to the records stated in the feature article named "Marriage and Divorce Trends in Hong Kong, 1991 to 2016" published by C&SD in January 2018, the numbers of divorce decrees granted between 2012 and 2016 are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of divorce decrees granted</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>21 125</td>
</tr>
<tr>
<td>2013</td>
<td>22 271</td>
</tr>
<tr>
<td>2014</td>
<td>20 019</td>
</tr>
<tr>
<td>2015</td>
<td>20 075</td>
</tr>
<tr>
<td>2016</td>
<td>17 196</td>
</tr>
</tbody>
</table>

(3) and (4)

ImmD has an established mechanism for handling cases of obtaining One-way Permits ("OWPs") by fraudulent means. ImmD will also initiate investigation into doubtful marriages, receive intelligence and collect evidence from various sources and through different channels in order to investigate thoroughly the parties to suspected "bogus marriage" cases and the intermediaries involved. The relevant persons will be prosecuted when there is sufficient evidence. Once a case is substantiated, ImmD can declare the invalidation of a person's Hong Kong Identity Card, regardless of whether that person is a holder of Hong Kong Permanent Identity Card or has settled in Hong Kong for less than seven years, or whether he/she has divorced his/her Hong Kong permanent resident spouse. In addition, regardless of his/her years of residence in Hong Kong, ImmD has the authority to remove him/her from Hong Kong. ImmD does not maintain the relevant statistical figures mentioned in the question.
In processing OWP applications under the category of "reunion with spouses" and in case the husband-and-wife relationship is in doubt, the Mainland authorities will pass the particulars of the applicants and their spouses in Hong Kong to ImmD for verification of the personal particulars of the Hong Kong residents, their certificates of registration of marriage in Hong Kong or other relevant records. ImmD will initiate follow-up actions and notify the Mainland authorities of the verification results.

ImmD has always been collecting intelligence of suspected "bogus marriage" through different channels and will initiate investigation and detect "bogus marriage" cases. In the 1,542 suspected "bogus marriage" cases investigated in the past three years, ImmD initiated investigations after proactively conducting in-depth analysis of information and intelligence gathered via different channels, which include but are not limited to the following:

(i) when conducting immigration examinations on arriving passengers, ImmD critically scrutinizes doubtful visitors coming to visit their spouses in Hong Kong on strength of "exit endorsement for visiting relatives" and will refuse their entries if their purposes of visit are in doubt;

(ii) ImmD pays particular attention to Mainland residents holding "exit endorsement for visiting relatives" during anti-illegal worker operations;

(iii) marriage registries step up examination on suspicious marriage registrations; and

(iv) ImmD initiates investigation into criminal syndicates which publish advertisements with wordings such as "making quick cash" and "intermediary for Mainland-Hong Kong marriages" to allure people to engage in "bogus marriage" on social networking and instant messaging mobile applications, as well as newspapers and web pages.

In addition, in processing OWP applications under the category of "reunion with spouses" and in case the husband-and-wife relationship is in doubt, the Mainland authorities will pass the
particulars of the applicants and their spouses in Hong Kong to ImmD for investigation. ImmD also from time to time receives suspected "bogus marriage" cases referred from other government departments in Hong Kong or reported by the public.

When suspected cases are identified, regardless of their sources, ImmD will proactively collect evidence through various channels, conduct thorough investigations on parties to the suspected "bogus marriage" and relevant intermediaries, and prosecute offenders where there is sufficient evidence.

(5) From 2013 to 2017, ImmD investigated into a total of 2 744 suspected cases of "bogus marriage", 5 208 persons were arrested as a result, out of which 606 persons were successfully convicted. Relevant statistics with breakdown by year is at the table below. In criminal prosecutions, the Court requires the highest standard of proof of "beyond reasonable doubt". As it is not easy to prove the false husband-and-wife relationship, many difficulties have to be overcome in the course of adducing the proof. Therefore, not all cases can be successfully prosecuted. ImmD has to rely on corroborating evidence, such as the movement records of the couple and the statements of other witnesses and parties to the cases to instigate prosecutions against such offences. ImmD does not maintain other statistics with breakdown mentioned in the question.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of cases</th>
<th>Number of persons arrested</th>
<th>Number of persons successfully prosecuted</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>515</td>
<td>1 102</td>
<td>188</td>
</tr>
<tr>
<td>2014</td>
<td>687</td>
<td>1 096</td>
<td>122</td>
</tr>
<tr>
<td>2015</td>
<td>461</td>
<td>1 016</td>
<td>113</td>
</tr>
<tr>
<td>2016</td>
<td>507</td>
<td>979</td>
<td>98</td>
</tr>
<tr>
<td>2017</td>
<td>574</td>
<td>1 015</td>
<td>85</td>
</tr>
<tr>
<td>Total</td>
<td>2 744</td>
<td>5 208</td>
<td>606</td>
</tr>
</tbody>
</table>

Note:

The year of initiating investigation and completing prosecution against all parties to the cases may be different. As such, the number of persons successfully prosecuted generally does not correspond to the number of cases in the same year.
In general, in handling suspected "bogus marriage" cases, the enforcement officers of ImmD will collect evidence through different channels, including carrying out spot checks by home visits, collecting circumstantial evidence and proof, conducting separate interviews with persons involved, etc, to verify the husband-and-wife relationships of the persons in the cases. In view of the uniqueness of each "bogus marriage" case, appropriate ways of collecting evidence and the evidence needed vary. The investigation officers will apply different and possibly more than one investigation methods according to the background and circumstances of each case. ImmD does not maintain the relevant statistical figures mentioned in the question.

To more effectively combat "bogus marriage", ImmD will continue to take various investigation actions with flexibility and skills in view of the trend of "bogus marriages" and circumstances of individual cases. ImmD will also continue to be committed to combating offences related to "bogus marriage" by stepping up enforcement, publicity, intelligence analysis and cross-boundary cooperation with a view to bringing the offenders to justice.

Hospital accreditation programme

12. PROF JOSEPH LEE (in Chinese): President, from April 2009 to January this year, the Hospital Authority ("HA") had implemented a hospital accreditation programme ("the accreditation programme") by phases in public hospitals, with a view to enhancing the accountability of hospitals for service quality and safety. In this connection, will the Government inform this Council whether it knows:

(1) the (i) expenditure incurred and (ii) manpower resources deployed (including the respective numbers of staff members and working hours involved, broken down by staff grade) in each of the past five years by public hospitals for implementing the accreditation programme, with a tabulated breakdown by name of hospital and the cluster to which the hospital belonged; and
(2) the service quality improvement initiatives identified, by HA in each of the past five years, during the implementation of the accreditation programme, and whether HA allocated, in respect of such initiatives, additional financial and manpower resources to the various public hospitals; if HA did, of the details with a tabulated breakdown by name of hospital and the cluster to which the hospital belonged; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the various parts of the question raised by Prof Joseph LEE is as follows:

(1) The Hospital Authority ("HA") has implemented in phases a hospital accreditation programme in public hospitals of all clusters since 2009, with a view to enhancing the quality of hospital services and patients' safety. The accreditation programme is one of the HA's continuous quality improvement programmes. The recurrent funding for implementing the accreditation programme and related continuous quality improvement programmes in the clusters is currently about $60 million per year. The funding is mainly used for commissioning an internationally recognized accrediting organization to conduct independent and objective assessments of hospital performance, developing territory-wide accreditation standards, providing staff training, providing support for hospital clusters in their accreditation and improvement work, and funding daily expenses, etc. The accreditation programme covers areas such as clinical services, logistics support and institutional management, and is a cross-cluster and inter-departmental continuous quality improvement programme that engages staff of various grades. Staff involved in the accreditation programme are also engaged in other health care services. Hence, HA does not have a breakdown of the relevant grades, number of staff and working hours involved in the accreditation programme.

(2) The accreditation programme is one of HA's continuous quality improvement programmes. HA has put in place an established mechanism, under which hospital clusters are allocated additional funding each year through the annual planning exercise for increasing manpower and improving services according to the needs of individual clusters, which are determined by factors such as the
population growth of the catchment districts, and manpower and service arrangements of hospitals. HA does not have a breakdown of additional resources and manpower deployed for implementing the accreditation programme.

Plugging loopholes in electronic payment services

13. MR CHARLES PETER MOK (in Chinese): President, it has been reported that loopholes were uncovered in the procedure for binding credit cards or bank accounts with stored value facilities ("e-wallets"). As the binding procedure of some credit cards did not include a two-factor authentication via mobile phone short message service ("SMS") for identity verification, fraudsters could complete the binding procedure using an anonymous mobile phone card (commonly known as "prepaid SIM card"). Also, as there were loopholes in the process for e-wallet users to set up direct debit authorization ("eDDA") through the Faster Payment System, fraudsters could set up eDDA using prepaid SIM cards and stolen bank account information and then steal money through money transfers. Moreover, some members of the public have relayed to me that the frequent uncovering of security loopholes in the procedure for binding credit cards or bank accounts has undermined their confidence in electronic payment services and the development of financial technologies. After completing a review on the eDDA setup process at the end of last month, the Hong Kong Monetary Authority ("HKMA") requested e-wallet operators and banks to refine such process. In this connection, will the Government inform this Council:

1. of (i) the total number of reports on frauds involving e-wallets received by the Police and HKMA since January this year and the total amount of money involved, and (ii) the details of the follow-up actions taken on such cases, including the investigation progress and the respective numbers of persons arrested and prosecuted;

2. of the details and effectiveness of the measures taken to refine the eDDA setup process;

3. whether it had required e-wallet operators and card-issuing banks to conduct security risk assessments before they launched e-wallets; if so, whether the scope of such assessments included if reliable identity verification arrangements were in place for the procedure for binding credit cards with e-wallets;
(4) whether it will stipulate that the procedure for binding credit cards with e-wallets must adopt a two-factor authentication (such as via SMS verification) or other effective measures for identity verification, in order to eradicate the aforesaid frauds; and

(5) as HKMA, in collaboration with the Mainland authorities, is introducing measures to facilitate cross-boundary electronic payment services (e.g. the trial use of Hong Kong's e-wallets on the Mainland), whether HKMA has assessed the risks posed by such measures to the personal data privacy of Hong Kong residents; if so, of the outcome and the corresponding measures; in view of the differences in the laws and regulations between the two places, how the authorities protect the consumer rights and interests as well as personal data privacy of those Hong Kong people who use cross-boundary electronic payment services?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, the Faster Payment System ("FPS") is a new financial infrastructure, connecting banks and stored-value facility ("SVF") operators. It enables the public to transfer funds instantly anytime, anywhere, across different banks and SVF operators. While FPS should bring convenience to the public, we need to ensure that the system is safe and reliable so that the public can use the system with ease and confidence. In response to reports of fraud cases involving FPS, the Hong Kong Monetary Authority ("HKMA") had taken immediate remedial actions by requesting the SVF operators to strengthen the verification requirement so as to close the security loophole.

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

(1) and (2)

Earlier there were suspected cases of individual's personal information and bank account information being stolen. Fraudsters used such stolen information to set up direct debit authorization, including electronic direct debit authorization ("eDDA") through FPS, in e-wallets provided by the SVF operators. In light of these incidents, HKMA immediately requested the SVF operators to suspend direct debit authorization services. HKMA subsequently
announced a set of refined procedures on 26 October for setting up direct debit authorization in e-wallets to prevent an eDDA from being set up with information obtained by unlawful means. These refined procedures include:

(a) the user will receive an SMS notification from his/her bank to confirm the setting-up of eDDA;

(b) the user will need to make a one-time credit transfer from the relevant bank account to his/her e-wallet so as to confirm the e-wallet user is the same as the bank account owner; or

(c) two-factor authentication by the banks.

The above refined procedures could enhance consumer protection and allow the SVF operators and banks to take appropriate measures to resume their services having regard to their operational conditions. The SVF operators are gradually resuming their direct debit authorization services in accordance with the refined procedures above.

Based on information obtained by HKMA, some 20 bank accounts were compromised and the information therein was used to set up direct debit authorizations through e-wallets. The amount of money involved was around HK$500,000. The Police are following up on these cases. In general, bank account owners who have not authorized direct debit authorization set-up will not be held liable. HKMA has been closely following up the reported cases with the relevant banks and SVF operators. The majority of the cases have been reviewed, and the bank account owners concerned have been reimbursed through their banks. While eDDA in question were conducted through FPS, the nature of the incidents was about stolen personal information, and did not involve the security of FPS.

(3) and (4)

Regarding the process of binding credit cards with e-wallets provided by the SVF operators, HKMA has earlier issued guidance to the SVF operators that support credit card binding service.
Specifically, the SVF operators are required to implement appropriate arrangements to confirm that the cardholder has given consent when a credit card is bound to an e-wallet account. To enhance consumer protection, HKMA has further clarified the above guidance and set out clearly that the binding of a credit card to an e-wallet account should only be allowed if the relevant card issuer can confirm the cardholder's consent through SMS one-time password or other effective means.

(5) The SVF operators must comply with HKMA's regulatory requirements on payment security, information system management, user protection, etc. for its day-to-day operation, including the launch of new services. For instance, an SVF operator should have policies and procedures in place on storage of account information and bear the loss of the value stored in a user account where there is no fault on the part of the user. An SVF operator is also required to comply with other relevant regulations, including the Personal Data (Privacy) Ordinance, and assess the relevant risks and control measures of the services in a prudent manner. An SVF operator should also consider the characteristics of individual services and balance them against the user experience when formulating specific security control measures. An SVF operator should keep those measures under review from time to time and make appropriate adjustment in light of the actual operations to ensure that the users' interests are protected. HKMA will review the SVF operators' implementation of relevant measures during its regular supervision.

Opening and maintenance of bank accounts by enterprises

14. **MR KENNETH LEUNG** (in Chinese): President, the Hong Kong Monetary Authority ("HKMA") issued guidelines for a number of times in the past two years to request banks to take measures to improve customer interfacing in the account opening processes, including streamlining the account opening processes and adopting customer due diligence ("CDD") that is proportionate to the risk level. Besides, HKMA launched a Mystery Shopping Programme ("MSP") in December 2017 to assess the effectiveness of such measures and banks' compliance with HKMA's guidelines and requirements. However, some members of the accounting sector have recently complained to me that their
customers still encounter quite a number of difficulties in opening and maintaining bank accounts. The process of document submission and CDD involved in the account opening applications are quite complicated and time-consuming, thereby hindering the normal operation of the enterprises concerned. In this connection, will the Government inform this Council:

(1) whether it knows (i) the respective numbers of account opening applications from new enterprise customers received, approved and rejected by banks in each month of the past three years, and (ii) the average processing time in respect of those applications the vetting and approval of which have been completed;

(2) of the total number of complaints received by HKMA in the past three years about banks' (i) refusal to open accounts for new enterprise customers, and (ii) cancellation of accounts of individual or enterprise customers; the major types of enterprises involved in those complaints, and the reasons for refusal to open accounts/cancellation of accounts;

(3) of the details and results of MSP; whether HKMA has, in the light of the results of MSP, (i) given comments, advices or warnings to the banks concerned, and (ii) adjusted the relevant measures and guidelines; and

(4) whether HKMA has plans to issue clearer guidelines to banks to stipulate that banks must formulate arrangements for risk assessments and CDD which are proportionate to the type, business nature, and operation scale of the customers; if so, of the details; if not, the reasons for that?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, in recent years, as the international community steps up efforts to combat money laundering and terrorist financing ("ML/TF"), financial institutions around the world have generally strengthened the related controls, including undertaking more comprehensive due diligence on customers.

The Hong Kong Monetary Authority ("HKMA") has been reminding the local banking industry that, in implementing robust anti-money laundering and counter-terrorist financing controls, they should be mindful not to create hurdles
for legitimate businesses and ordinary citizens to access banking services. HKMA has issued guidance to banks in the past two years, reiterating that banks should apply a risk-based approach in conducting customer due diligence ("CDD") and adopt measures which are commensurate with the customer's background, circumstances and ML/TF risk level. Banks should also maintain proper communication with customers throughout the CDD process, and ensure that the process is transparent, reasonable and efficient, in accordance with the "Treat Customers Fairly" principle.

In response to the HKMA guidance, banks have taken measures to improve the account opening process. Apart from the establishment of mechanisms to review unsuccessful applications, all retail banks currently provide a "pre-vetting" service, whereby banks accept submissions of requisite documents for account opening by applicants via email, fax or mail for pre-screening or pre-assessment before arranging face-to-face meetings with the applicants, with a view to providing greater convenience to applicants. Some banks have also set up dedicated hotlines and dedicated branches deployed with properly trained frontline staff to handle account opening matters, so as to improve customer experience.

Our response to each part of the question is as follows:

(1) The retail banking sector currently opens an average of about 10,000 new business accounts every month, of which some 60% to 70% belong to small and medium-sized enterprises ("SMEs") and start-up companies. Of the successful cases, on average some 50% to 60% were able to open accounts within two weeks, and some accounts could even be opened as quickly as within a few days. The exact time taken depends on the complexity of individual cases and whether the applicants can provide the requisite information. The average unsuccessful rate of account opening applications for the first nine months of this year is below 5%, which is an improvement from around 10% in early 2016.

(2) In 2016, 2017 and 2018 (up to the end of October), HKMA received 31, 22 and 17 complaint cases respectively concerning refusal of opening corporate accounts by banks. The corporates involved were mainly engaging in trade or financial services (such as finance or investment companies) business. The number of complaints
relating to closure of corporate accounts by banks during the same period was 53, 46 and 70 cases respectively, involving corporates from different industries. The major reasons for unsuccessful account opening or closure of accounts were that the customers concerned could not provide the banks with the relevant information or documents for conducting CDD, or that the relevant accounts were found to be involved in suspicious transactions during banks' ongoing CDD process.

HKMA requires banks to put in place appropriate mechanism for handling customer complaints in a fair and expeditious manner. Retail banks should have appropriate procedures to review their decisions on refusal of account opening or account closure upon requests of customers. If a customer considers that a bank has not handled his/her case properly, he/she can make a complaint to the bank concerned or HKMA. HKMA will follow up on each and every complaint case, and require the bank concerned to handle the complaint properly and provide feedback to the complainant. In some cases, accounts were subsequently opened or could be maintained after review by banks and provision of supplementary information or documents to the banks by the applicants or customers.

(3) The mystery shopping programme focused on the customer interface aspect of the account opening processes for SME and ethnic minority customers. The service provider engaged by HKMA has completed the on-site fieldwork at retail banks. HKMA is now reviewing the preliminary reports submitted by the service provider. Depending on the results, HKMA will appropriately follow up with the banks concerned.

(4) The Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (for Authorized Institutions) issued by HKMA has stipulated that banks should apply risk-based approach when conducting CDD and the relevant measures taken should be commensurate with the ML/TF risks associated with a business relationship. When assessing the ML/TF risks involved, banks should consider various factors including customer risk, country risk, as well as product, service, transaction or delivery channel risk.
Banks should adopt a balanced and reasonable approach when conducting customer risk assessments and CDD, without creating hurdles for legitimate businesses and individuals to access banking services.

Compilation of statistics on mortgage loans

15. **MR WU CHI-WAI** (in Chinese): President, the Hong Kong Monetary Authority ("HKMA") indicated that the debt-servicing ratio ("DSR") for the new residential mortgage loans ("RMLs") approved in the second quarter of this year was 34%, and that this ratio had factored in the repayments for all additional mortgage loans obtained by the borrowers from third parties other than banks ("third-party mortgages"). However, HKMA's data on third-party mortgages were not directly provided by the finance companies offering such mortgage loans, but were estimations based on figures provided by banks and outcome of sampling checks on the land records. In this connection, will the Government inform this Council:

(1) of the number of cases in which the borrowers were granted mortgages on the same residential property both by a bank and by a third party/third parties, the amount of the loans involved and the percentage of such amount in the total amount of new RMLs approved throughout the year, in each of the past three years, as well as the average (i) loan-to-value ("LTV") ratio, (ii) loan amount and (iii) DSR in respect of those cases; the average (iv) LTV ratio and (v) loan amount of the third-party mortgages involved in those cases;

(2) in respect of the new RMLs approved in each of the past three years by (i) banks and (ii) finance companies not associated with banks and developers, whether it knows (a) the number of such loans, (b) the total amount of loans involved, (c) the average LTV ratio and loan amount, and (d) the average, the highest and the lowest interest rates charged;

(3) whether it knows the following details of the new RMLs approved in each of the past three years by finance companies under developers:
(i) the number and total amount of such loans, with a breakdown by LTV ratio, interest rate and whether or not income tests were conducted;

(ii) the average, the highest and the lowest interest rates charged; and

(iii) the average DSR;

if not, whether the Government will request the finance companies concerned to submit such information direct or through the banks;

(4) as the interest rates charged on the mortgage loans provided by finance companies under developers will usually be raised substantially after a number of years, whether HKMA has grasped the situation where the borrowers concerned have applied to banks for remortgaging/loan refinancing for full repayments of the mortgage loans provided by such finance companies; if so, of the respective numbers of such applications received, approved and rejected by banks in each of the past three years; if not, whether HKMA will request the banks to compile and provide such statistics; and

(5) of the details of the sampling checks on the land records conducted by HKMA (including the sampling method and proportion); whether HKMA will consider conducting a comprehensive check on all the land records in respect of the transactions in the past three years of newly completed residential properties, so as to fully grasp the data on third-party mortgages; whether it has assessed the impacts of this type of mortgages on the stability of the property market and the banking system; if so, of the outcome; if not, whether it will conduct such an assessment expeditiously?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, since October 2009, the Hong Kong Monetary Authority ("HKMA") has introduced eight rounds of countercyclical macroprudential measures for property mortgage loans to strengthen the risk management of banks and the resilience of the Hong Kong banking sector to cope with possible downward adjustments of property prices. These measures include: lowering
the caps on loan-to-value ("LTV") ratios and limits on debt servicing ratios ("DSR") for property mortgage loans; applying stress testing on mortgage applicants' repayment ability in the face of rising interest rates; and requiring banks to hold more capital against their residential mortgage portfolios. Our reply to different parts of the question is as follows:

(1) HKMA regularly collects from banks data on residential mortgage loans ("RMLs"), which include the value of the mortgage loans approved by banks and the number of mortgage loans involving co-financing arrangements. However, HKMA does not collect data on the value of the second mortgages granted by other companies. For example, in the first three quarters of 2018, banks approved a total of 1,913 RMLs involving co-financing arrangements, amounting to 2.2% of total new RMLs approved, with an aggregate value of HK$10.1 billion, representing 2.8% of total new RMLs approved. Please refer to the table below for detailed figures in the past three years:

<table>
<thead>
<tr>
<th>New RMLs associated with co-financing schemes approved by banks</th>
<th>2016</th>
<th>2017</th>
<th>2018 (January to September)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number (proportion of total new RMLs approved)</td>
<td>1,872 (2.1%)</td>
<td>2,764 (2.6%)</td>
<td>1,913 (2.2%)</td>
</tr>
<tr>
<td>Value (HKD) (proportion of total new RMLs approved)</td>
<td>9.6 billion (3.2%)</td>
<td>14.7 billion (3.7%)</td>
<td>10.1 billion (2.8%)</td>
</tr>
</tbody>
</table>

In respect of RMLs involving co-financing arrangements, HKMA collects only data on the mortgage loans granted by banks. As such, it is unable to provide data on the overall value of second mortgages. It should be noted that under HKMA's supervisory guideline, banks are required to take into account all the monthly debt obligations of borrowers when calculating their DSRs, including the total monthly repayment of second mortgages.
Furthermore, the above mentioned figures reflect only second mortgages which have been reported by the borrowers to banks. There have been cases where mortgage borrowers may have further mortgaged their properties without seeking prior consent from the mortgagee banks. In order to facilitate banks' better management of their risks, HKMA, in collaboration with the Land Registry ("LR"), introduced a mortgage e-Alert Service for banks in February 2017. By subscribing to this service, banks will receive electronic notifications from LR when further mortgage documents in respect of the properties mortgaged to the banks concerned are lodged for registration with LR. If a bank finds that a customer has breached the mortgage deed by obtaining further mortgage without seeking the bank's prior consent, the bank can follow up with the customer and take appropriate risk mitigating measures.

(2) and (3)

Figures on new RMLs approved by banks in the past three years are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2017</th>
<th>2018 (January to September)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New RMLs approved by</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>banks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Value (HKD)</td>
<td>298.7 billion</td>
<td>396.4 billion</td>
<td>354.2 billion</td>
</tr>
<tr>
<td>Number</td>
<td>87,477</td>
<td>104,390</td>
<td>87,666</td>
</tr>
<tr>
<td>Average size (HKD)</td>
<td>3.41 million</td>
<td>3.80 million</td>
<td>4.04 million</td>
</tr>
<tr>
<td>Average LTV ratio</td>
<td>51.8%</td>
<td>49.4%</td>
<td>47.4%</td>
</tr>
</tbody>
</table>

In general, as property developers and money lenders are not regulated by HKMA, it does not have information relating to new RMLs approved by these companies in the past three years. However, to ensure proper risk management by banks and the effectiveness of HKMA's macroprudential measures, HKMA has been collecting from banks the outstanding value of mortgage loans extended by property developers and money lenders. These figures show that the outstanding value of mortgage loans extended by
property developers and money lenders account for only a very small portion of the outstanding value of RMLs offered by banks. Please see table below for details.

<table>
<thead>
<tr>
<th>(HKD)</th>
<th>End-2016</th>
<th>End-2017</th>
<th>End-June 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggregate outstanding value of RMLs of the banking sector</td>
<td>1,118.7 billion</td>
<td>1,205.8 billion</td>
<td>1,257.8 billion</td>
</tr>
<tr>
<td>Outstanding value of mortgage loans extended by major property developers as reported by banks</td>
<td>20.7 billion</td>
<td>31.7 billion</td>
<td>Not yet available</td>
</tr>
<tr>
<td>Outstanding value of mortgage loans extended by money lenders that have a credit relationship with banks (as estimated by banks)</td>
<td>5.6 billion</td>
<td>4.0 billion</td>
<td>5.0 billion</td>
</tr>
</tbody>
</table>

(4) Based on RML data regularly collected by HKMA from banks, the average LTV ratio of newly approved RMLs (including refinanced mortgages and further charges) remains at a level of around 47%. HKMA therefore has not specifically requested banks to analyse the number of customers who have switched their mortgage loans from finance companies owned by property developers to banks or applied for further charges from banks. HKMA will review from time to time the need to collect such information having regard to the latest market conditions.

(5) HKMA has been monitoring second mortgages on properties through different channels, including data on RMLs associated with co-financing arrangements collected from banks, and information from LR and the Sales of First-hand Residential Properties Electronic Platform.
Currently, the main providers of second mortgages are money lenders and property developers. For money lenders that have a credit relationship with banks, as the value of mortgage loans extended by them accounts for less than 1% of the aggregate outstanding value of RMLs of the banking sector, the impact on banking stability is assessed to be very limited.

For property developers, while the total outstanding value of mortgage loans extended by them remains small relative to the aggregate outstanding value of RMLs of the banking sector, HKMA observed that it has been growing quickly. In this connection, HKMA has, since May 2017, required banks to strengthen their credit risk management with respect to lending to property developers. The requirements include lowering the financing caps for construction loans and requiring banks to set aside additional capital for exposures to property developers offering high LTV mortgages.

Support for non-Chinese speaking students in learning Chinese History

16. MR CHEUNG KWOK-KWAN (in Chinese): President, since 2014, the Education Bureau ("EDB") has implemented the Chinese Language Curriculum Second Language Learning Framework to step up the support for non-Chinese speaking ("NCS") students in learning Chinese. In addition, the Chief Executive has announced in this year's Policy Address that from the 2019-2020 school year onwards, additional resources will be provided for public sector secondary schools to support NCS students in using the Chinese language to learn Chinese History. In this connection, will the Government inform this Council:

(1) given that Chinese History has become a compulsory subject at junior secondary level since September this year, of the number of cases, received by EDB since the commencement of the current school year, in which teachers sought assistance as they had encountered difficulties in teaching NCS students Chinese History; the immediate measures put in place to assist those teachers in overcoming the difficulties;
(2) of the outcome of the discussions and the support measures formulated by the Ad Hoc Committee on Supporting Non-Chinese Speaking Students Learning Chinese History and Chinese Culture since its establishment in May this year;

(3) as some teachers have pointed out that since all of the teaching materials for Chinese History available on the market are compiled for Chinese-speaking students, such materials are not suitable for NCS students whose cultural backgrounds and proficiency in the Chinese language are different from those of Chinese-speaking students, and hence the schools have to compile teaching materials by themselves for NCS students and provide explanations in English when teaching the subject, whether EDB currently provides assistance to the schools concerned in compiling such teaching materials;

(4) whether EDB has formulated a Chinese History curriculum framework and learning/examination assessment guides especially for NCS students; if not, of the reasons for that; and

(5) whether EDB has issued guidelines to the schools concerned on how they may utilize the aforesaid additional resources to provide support for NCS students?

SECRETARY FOR EDUCATION (in Chinese): President, the 2017 Policy Address announced the inclusion of Chinese History as an independent compulsory subject for the junior secondary level, with a view to enabling all secondary students to learn Chinese history in a holistic and systematic manner. As a part of the Hong Kong community, non-Chinese speaking ("NCS") students should understand Chinese history and culture, learn about the development and cultural characteristics of the society in which they live, appreciate and respect different historical and cultural legacies, and integrate into the mainstream Chinese society, which will be conducive to their further studies and employment in Hong Kong, or even their career development on the Mainland in future.

The Education Bureau understands that NCS students may encounter difficulties when studying Chinese History due to language barriers and cultural differences. Therefore, the Education Bureau provides flexibility for the schools
admitting these students to make adaptations to teaching contents, pedagogy and assessment, flexibly design school-based curricula and adopt diversified teaching strategies. Examples include adopting a story-telling approach to teach history, using teaching materials of a non-text nature such as audio-visual materials, supplementing teaching with English, and deploying the one-off grant for the promotion of Chinese history and culture provided by the Education Bureau to develop suitable learning kits or organize diversified learning activities, with a view to enhancing NCS students' interest in and effectiveness of learning Chinese History. The Education Bureau has informed schools of the arrangement through briefing sessions and other channels.

Regarding Mr CHEUNG Kwok-kwan's question, our reply is as follows:

(1) Since commencement of the current school year, we have occasionally received phone calls or emails from teachers concerning arrangements about NCS students' learning of Chinese History. Immediately through telephone conversations, emails, interviews and school visits, we provided suggestions after ascertaining their needs. We have also enlisted seconded teachers with experience in teaching NCS students to support these schools by sharing their experience and teaching materials, thereby allaying teachers' concerns. According to our records, there are only eight relevant enquiries.

(2) to (5)

The Ad Hoc Committee on Supporting Non-Chinese Speaking Students Learning Chinese History and Chinese Culture ("the Ad Hoc Committee") was established in the 2017-2018 school year to advise schools on learning and teaching strategies and curriculum adaptation. Based on the Revised Curriculum Framework of Chinese History (Secondary One to Three) published in May 2018, the Ad Hoc Committee is deliberating on an adapted curriculum framework which will be available for schools' reference as soon as it is endorsed by the Committee on Personal, Social and Humanities Education. A working group will also be set up under the Ad Hoc Committee to advise on support strategies and measures, such as tryout teaching, developing sample teaching materials and devising related learning activities, compiling a glossary of history terms in
both Chinese and English and producing teachers' handbooks. The working group would also contact relevant organizations/bodies, such as the Hong Kong Museum of History, to provide bilingual learning resources on history.

In collaboration with experts and academics, the Education Bureau will provide schools admitting NCS students and their teachers with enhanced professional support, including (1) allowing teachers in need of support to observe how experienced teachers teach NCS students in class; (2) organizing workshops for devising and developing suitable teaching materials for NCS students; and (3) designing diversified learning and teaching activities, such as e-learning, field studies, visits, competitions and drama performances, for raising NCS students' interests in studying Chinese History. Our school-based support services will continue to support teachers in adapting the curriculum and designing teaching strategies according to their school contexts.

The Education Bureau will inform schools of the support measures available through circular memoranda and other means. Concurrently, with a view to supporting NCS students' learning of Chinese History using the Chinese language, the Education Bureau plans to disburse additional funding to local public sector and Direct Subsidy Scheme secondary schools which have admitted NCS students. Each school will receive a total amount of $100,000 in the 2018-2019 and 2019-2020 school years. Subject to the approval of the Legislative Council, the Education Bureau will issue a circular memorandum to schools to provide details in relation to the grant.

The work and performance of the Joint Office

17. **MR PAUL TSE** (in Chinese): President, in 2006, the Buildings Department and the Food and Environmental Hygiene Department ("FEHD") set up a Joint Office ("JO") dedicated to handling reports on water seepage in buildings. It is learnt that for over a decade, members of the public have incessantly criticized JO's work efficiency and effectiveness. The following situation occurred whenever officials of JO attended on invitation district
seminars concerning water seepage problems in buildings: members of the public who were not satisfied with the officials' explanations surrounded the officials to air grievances and lodge complaints on the spot. Despite the initiative taken by the Audit Commission and the Office of The Ombudsman ("The Ombudsman") to investigate the work of JO and put forward improvement proposals, public grievances on JO's poor performance are still increasing steadily. Recently, some staff members of FEHD have even unexpectedly complained to the Public Complaints Office ("PCO") of this Council about JO's low efficiency due to its poor system and administration. From 2016 to September this year, The Ombudsman received a total of 360 complaints against JO's failure to properly handle water seepage problems. Among the over 100,000 reports JO received from 2015 to 2017, only 17% of the cases had the source of water seepage identified. It is learnt that whilst JO relies mainly on the colour water test in identifying the source of water seepage, the practice is so ineffective that some cases have remained unresolved for as long as a decade. Even though JO is aware of a number of technologies, measures and methods for identifying the source of water seepage, its work efficiency has not been improved so far. Quite a number of members of the public consider that JO's performance is extremely poor and its operating cost is high, and they question why the Government has not ceased the operation of JO and used the full amount of the funds originally earmarked for its operating expenditure to directly engage or subsidize members of the public to engage private water seepage investigation companies to take up the relevant work instead. In this connection, will the Government inform this Council:

(1) of the total number of reports on water seepage received by JO in the past three years, together with a breakdown of the figures and their percentages by the testing method adopted for handling the cases (i.e. (i) colour water test, (ii) infrared camera scanning and (iii) microwave tomography scanning);

(2) of the respective average unit costs of the aforesaid three testing methods;

(3) given the significant increase in the expenditure of JO year on year in recent years, with its 2018-2019 estimates of expenditure standing high at $108 million, whether the Government has reviewed why it still significantly increased the estimates of expenditure for JO under the circumstances of many members of the public having criticized
JO for its work efficiency and the Audit Commission and The Ombudsman having taken the initiative to investigate the work of JO;

(4) as I have learnt that, in response to the complaints lodged by some FEHD staff members to PCO of this Council about the poor system and administration of JO, the Government will form a high-level inter-departmental group to thoroughly investigate the situation, of the progress of the relevant work;

(5) as it has been reported that while JO has still failed to identify the source of water seepage at the ceiling of a residential unit in To Kwa Wan after conducting investigations by means of colour water test for six years, the private water seepage investigation company hired by the newspaper organization concerned has taken only half an hour to identify the source of water seepage by making use of infrared camera scanning device and the method of water quality test, whether the Government will approach the newspaper organization and residential unit concerned to gain an understanding of the case, and study why there is such a huge difference between the testing efficiency of JO and that of the private water seepage investigation company; and

(6) whether it will, from the perspectives such as cost effectiveness and target orientation, consider ceasing the operation of JO in an orderly manner, and use the funds originally earmarked for its operating expenditure to engage private water seepage investigation companies to take up the relevant work instead; if not, of the reasons for that?

SECRETARY FOR DEVELOPMENT (in Chinese): President, proper management and repair of buildings, including resolving water seepage problems, are the responsibilities of building owners and occupiers. However, when the water seepage condition concerned has caused health nuisance, risk to the structural safety of the building or waste in water supplied, the Government will intervene according to the power given under the Public Health and Municipal Services Ordinance (Cap. 132), the Buildings Ordinance (Cap. 123) and the Waterworks Ordinance (Cap. 102) respectively. To strengthen the handling of water seepage condition in buildings, the Government has set up a joint office
Generally speaking, JO's investigation of water seepage cases is carried out in three stages. JO staff are responsible for the investigation at Stage I (confirmation of water seepage condition) and Stage II (initial investigation includes colour water test of drainage pipes or reversible pressure test for water supply pipes). If the source of seepage could not be identified during Stage II investigation, Stage III investigation (professional investigation) would be pursued. At Stage III, JO will engage outsourced consultants to assist in carrying out detailed investigation including moisture monitoring at seepage locations, ponding test for floor slabs, water spray test on walls as well as reversible pressure test for water supply pipes to identify the source of water seepage. If the source of seepage can be identified in any stage of investigation, JO will issue "nuisance notice" in accordance with the Public Health and Municipal Services Ordinance to the responsible party demanding abatement of the nuisance within a specified period.

JO is facing many challenges in recent years, including the record high number of water seepage reports, difficulties in gaining cooperation from owners or occupants and the limitations of tests. In face of various challenges, JO is pressing ahead with various tasks including reviewing comprehensively on its operations, arranging full use of new technological methods for testing in pilot districts to accumulate experience for extension to all districts in the territory, as well as setting up four regional joint offices to rationalize the workflow and strengthen communication between the staff of the two departments with a view to enhancing the overall efficiency of JO and services to the public.

In consultation with the Food and Health Bureau, FEHD and BD, the Development Bureau provides a consolidated reply to the six parts of the question as follows:

(1) The current conventional testing methods for JO to investigate water seepage cases include moisture monitoring at seepage locations, colour water test of drainage pipes, ponding test and water spray test for floor slabs and walls as well as reversible pressure test for water supply pipes. Depending on the seepage situations, each case may involve one or more testing methods mentioned above.
To improve the success rate of identifying sources of water seepage, since August 2013, JO has commissioned a consultant to pilot the use of infrared thermography and microwave tomography. The purposes of these new testing technologies are the same as those of the use of colour water in conducting ponding and water spray test for floor slabs and walls, which are mainly applicable to the investigation of seepage on floor slabs. However, the conventional test of moisture monitoring at seepage locations, as well as colour water test of drainage pipes and reversible pressure test for water supply pipes as needed, are still required for cases using the new testing technologies. From 2015 to 2017, the purpose of applying the new testing technologies was to confirm its technical feasibility, so they were only used in a small number of complicated cases in the past three years.

The statistics required are provided as follows:

<table>
<thead>
<tr>
<th>Number of Cases⁽¹⁾</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Reports received</td>
<td>29 617</td>
<td>36 376</td>
<td>36 002</td>
</tr>
<tr>
<td>(b) Reports handled</td>
<td>25 093</td>
<td>29 148</td>
<td>30 605</td>
</tr>
<tr>
<td>(i) Cases screened out⁽²⁾</td>
<td>12 000</td>
<td>13 196</td>
<td>14 732</td>
</tr>
<tr>
<td>(ii) Cases investigated (all cases had undergone conventional tests)</td>
<td>13 093</td>
<td>15 952</td>
<td>15 873</td>
</tr>
<tr>
<td>- Cases investigated by new testing technologies</td>
<td>18</td>
<td>37</td>
<td>27</td>
</tr>
<tr>
<td>(c) Seepage ceased during investigation</td>
<td>4 920</td>
<td>5 385</td>
<td>5 448</td>
</tr>
<tr>
<td>(d) Source of water seepage identified</td>
<td>4 679</td>
<td>6 846</td>
<td>6 253</td>
</tr>
<tr>
<td>(e) Source of water seepage could not be identified and investigation terminated</td>
<td>3 494</td>
<td>3 721</td>
<td>4 172</td>
</tr>
<tr>
<td>(f) Success rate of sources of water seepage identified amongst cases investigated [(d)/(b)(ii)]</td>
<td>36%</td>
<td>43%</td>
<td>39%</td>
</tr>
</tbody>
</table>
(g) Success rate of sources of water seepage identified amongst cases where investigation was completed \[\frac{(d)}{(d)+(e)}\]  

<table>
<thead>
<tr>
<th>Number of Cases&lt;sup&gt;(1)&lt;/sup&gt;</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>(g) Success rate of sources of water seepage identified amongst cases where investigation was completed [\frac{(d)}{(d)+(e)}]</td>
<td>57%</td>
<td>65%</td>
<td>60%</td>
</tr>
</tbody>
</table>

Notes:

(1) Figures in (a) to (g) do not correspond to the number of reports received in the same year.

(2) These include unjustified cases and withdrawn cases.

Since the second half of June 2018, JO has confirmed to fully apply the new testing technologies in Stage III of the water seepage investigation in three pilot districts (i.e. Kowloon City, Wan Chai and Central and Western). Nonetheless, the new testing technologies have their limitations and cannot be effectively applied under some circumstances, for example, when there is spalling of concrete ceiling at the locations of water seepage, when there is blockage of pipes and other facilities, when there are tile finishes on ceilings. For such cases, JO has to continue to employ the conventional tests.

From the second half of June to the end October 2018, JO has applied the new testing technologies in some 70 cases. With the experience and data obtained through wider application of such methods in the pilot districts, JO will evaluate the effectiveness of the new testing technologies and refine the technical guidelines and procedures relating to the use of the testing methods. JO will consider whether to extend such methods to all districts of the territory in the second quarter of 2019.

(2) Professional tests are conducted by contract consultants commissioned by JO for Stage III investigation. Taking an ordinary domestic flat with one kitchen and one toilet as an example, the cost for conducting conventional tests is around $3,500 per case while the cost for adopting the new testing technologies for similar cases is around $9,000 in general. The cost does not include the overall staffing and operating expenditure of FEHD and BD at JO.
Since its establishment, JO has endeavoured to enhancing the overall efficiency, improving the success rate of investigation and providing better service to the public. In 2016, the Audit Commission conducted a value-for-money audit on JO and made a series of recommendations. The Development Bureau and the Food and Health Bureau have been following up with the two departments to actively implement the various improvement measures.

In fact, the success rate of investigation has improved since the establishment of JO. Among the 609 cases of water seepage reports received in total by FEHD for Sham Shui Po district in 2004 before the establishment of JO, 97 cases were screened out; as for the 512 cases with investigation concluded, only 73 cases could identify the source of water seepage, rendering a success rate of 14%. In 2017, the successful rate among cases where investigations were conducted by JO was 39%.

The Government has been scrutinizing the manpower and expenditure situation of JO. To cope with the record high number of cases (increased from over 17,000 cases in 2007 to over 36,000 cases in 2017), JO has to expand its staff establishment and increase its expenditure to engage consultants to provide assistance in carrying out Stage III professional investigation. In addition, we would like to point out that besides investigating the source of water seepage, once the source of seepage could be identified and the case of nuisance established, JO will issue "nuisance notice" to the person concerned under the Public Health and Municipal Services Ordinance and instigate prosecution against cases not complying with the "nuisance notice". In case access to premises for investigation is denied, JO has to duly observe the relevant provisions and procedures of the Ordinance in order to gain entry into the concerned premises for investigation. For complicated cases, JO staff will have to conduct different, ongoing or repeated tests and monitoring. The time required for investigating a water seepage case varied due to the complexity of the case and whether the relevant parties are cooperative.
JO’s investigation and evidence collection work is conducted in accordance with the standards of executing criminal proceedings (for example, JO must ensure that the evidence collected is admissible to court). The standard is different from that of a water seepage investigation conducted by a private consultant firm engaged by an individual for the purposes of identifying the repair works needed or instituting civil proceedings. The two cannot be compared in the same light.

To further improve the handling of water seepage cases, in addition to actively exploring the feasibility of fully implementing the new testing technologies, a task force comprising representatives from the Food and Health Bureau, the Development Bureau, FEHD, BD and Water Supplies Department and convened by the management levels of FEHD and BD was formed early this year. The task force is currently conducting a comprehensive review of the operation of JO, including streamlining the work procedures and continuing to implement various recommendations of the 2016 Audit Report. The review is expected to complete in three years.

Impacts of microplastics on the ecosystem and human health

18. MR KENNETH LAU (in Chinese): President, it has been reported that the findings of a number of overseas studies have revealed that microplastics (i.e. plastic pellets or flakes of less than 5 mm in diameter or length, including plastic fibres as minute as having a diameter or length of only 1 μm) are widely found in bottled water, tap water, seawater, edible salt, marine life and human waste. Some researchers have pointed out that microplastics, given their very tiny size, may enter human vascular and lymphatic systems, thereby jeopardizing human health. In this connection, will the Government inform this Council:

(1) whether it has monitored on a regular basis the concentration of microplastics in the water bodies of the reservoirs and rivers of Hong Kong; if so, of the outcome; if not, the reasons for that;

(2) as the Government said in November last year that the Water Supplies Department had engaged consultants to conduct a review on the risks of plastic fibre materials on drinking water safety, of the
progress of that review; whether it has evaluated the impacts of drinking water containing microplastics on human health; if so, of the details;

(3) whether it compiled statistics and conducted researches in the past three years on the concentration of microplastics in Hong Kong waters and marine life; if so, of the details; if not, the reasons for that;

(4) of the microplastics removal capability of the sewage treatment processes in various sewage treatment works, as well as the relevant performance indicators; and

(5) as the authorities said in April this year that they had commissioned consultants to conduct a one-year study to examine the impacts of microplastics on Hong Kong's environment, and to gain an understanding of the bans imposed by places outside Hong Kong on personal care and beauty products containing microplastics, so as to formulate regulatory proposals applicable to Hong Kong, whether the authorities will, before the study is completed, introduce measures to reduce microplastic materials entering the natural environment; if so, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, microplastic pollution and the associated potential environmental impacts are a new global issue in recent years. Microplastics found in the aquatic environment have different identities and origins. They include microbeads arising from industrial production (e.g. as additives in personal care and cosmetic products ("PCCPs")) and fragments from degradation of plastic products and waste. The common concern about microplastics is that it may be mistakenly consumed by aquatic organisms as food and toxic substances may also be adhered to or accumulated on its surface, thereby causing potential impacts on the ecosystem and human health through food chain transfer. There are opinions that preventive measures should be taken as soon as possible to reduce the release of plastic materials to the marine environment. We have been keeping a close watch on the latest development on the subject and, apart from conducting a one-year consultancy study for developing appropriate control strategies targeting microbead-containing PCCPs, have also been collecting and studying relevant scientific research findings and data from various sources.
Our detailed replies to the questions raised by Mr Kenneth LAU are as follows:

(1) At present, there has not yet been a unified standard or protocol in the scientific community for environmental monitoring of microplastics. Sampling and analytical methods as well as the types of plastic polymers being studied vary among individual research projects. Authorities in the international arena, such as the United Nations Environment Programme, Codex Alimentarius Commission (under Food and Agriculture Organization of the United Nations and the World Health Organization ("WHO")) and European Food Safety Authority, etc, have not yet promulgated any relevant guideline or standard on microplastics. Under these circumstances, the Environmental Protection Department ("EPD") has not conducted any routine monitoring of microplastics in Hong Kong's rivers and streams. To our knowledge, there has not been any government organization announcing the routine monitoring of microplastics or releasing such data.

At present, EPD is keeping abreast of the international and local development in environmental monitoring methods for microplastics. We are also actively participating in discussions on the standardization of microplastic monitoring methodologies at symposiums organized by international and regional organizations (e.g. the Asia-Pacific Economic Cooperation) with a view to taking follow-up actions on the environmental monitoring of microplastics at a suitable juncture.

On the issue of microplastics in drinking water, the Water Supplies Department ("WSD") has engaged consultants to collect information and carry out a study. It similarly shows that there is currently no internationally standardized method for testing microplastics in water samples, and no drinking water standard on microplastics has been adopted by any overseas jurisdiction. Furthermore, WHO has not yet included microplastics in its Guidelines for Drinking-water Quality as health-related parameters that need to be monitored. In these circumstances, WSD has not conducted any routine monitoring of microplastics at local reservoirs or water gathering grounds. Nevertheless, WSD will keep in view related international
development. If researches do show that microplastics will pose a risk in drinking water safety, WSD will work with experts in the field and consult relevant government departments on the inclusion of microplastics as one of the monitoring parameters and formulation of corresponding measures.

(2) According to the risk assessment conducted by WSD's consultants, although international studies on microplastics in drinking water are still at an early stage, the current outcome reveals that microplastics (including microplastic fibres) are ubiquitous in the environment, and drinking water as a medium only accounts for a very small part of the total human intake, as compared to other exposure routes including food and consumable products (e.g. clothing, cosmetics and skin care products, toothpaste, shower gel, etc.). Therefore, the consultants consider that even if microplastics are present in drinking water, it will not constitute a major health risk.

(3) In the absence of a standardized monitoring method and protocol as mentioned in part (1), the Government has not conducted any statistical analysis or research study on the concentrations of microplastics in Hong Kong waters and marine organisms in the past three years. Nonetheless, we are aware of local academic research studies in recent years reporting that microplastics do exist in various locations in Hong Kong waters, in concentrations not higher than others places and presenting relatively low levels of potential environmental impact. Through various channels including the Environment and Conservation Fund, EPD will subsidize and encourage local academic institutions to conduct relevant research projects with the aim of gradually building up the local scientific database on microplastics.

(4) The Drainage Services Department operates sewage treatment works to remove pollutants for meeting effluent quality standards as stipulated in Discharge Licences issued under Water Pollution Control Ordinance. The current effluent quality standards do not cover microplastics. However, as over 90% of sewage in Hong Kong is receiving chemically enhanced primary treatment ("CEPT") or secondary treatment before being discharged, it is envisaged that a significant portion of the microplastics in raw sewage should have
been removed along with other pollutants during the treatment process. Overseas open literature has demonstrated that microplastics removal rate in CEPT plants is about 70% to 80%, and is even higher for secondary treatment works.

(5) Apart from the one-year consultancy study, EPD has been implementing multi-pronged measures to reduce plastic waste generation at source and curb their release to the sea with a view to alleviating its impacts on the marine ecosystems. For example, we held a "Plastic Free Beach, Tableware First" campaign at all public beaches this summer to encourage members of the public and eateries in the vicinity of the beaches to avoid the use and distribution of disposable plastic utensils. In the coming year, the Government will take the lead to implement green procurement policies including avoiding disposable plastic tableware of single use. Specific measures will include: prohibiting the provision of plastic straws and polystyrene food containers in premises serving government staff; requiring the restaurant operators at certain government premises to avoid the use of disposable tableware as far as practicable in new or renewed contracts; working together with the catering trade to encourage less use of disposable tableware for promoting waste reduction at source.

Furthermore, since the set-up of an interdepartmental working group for cleaning shorelines in 2012, additional resources amounting up to HK$100 million per year have been allocated for strengthening the cleanup of marine refuse, patrol and enforcement against littering at sea, and also providing supportive facilities for preventing refuse from entering the sea. For examples, more waste recycling bins are provided at various coastal locations including piers, landing points, waterfront areas, etc.; more than 190 water dispensers are set up at coastal areas including beaches, water sports centres, promenades and waterfront parks to encourage citizens to bring their own water bottles and avoid buying drinks in single-use plastic bottles. The Government has also been promoting clean shorelines and waste reduction at source through publicity and education activities, the Clean Shoreline Engagement Platform as well as the Environment and Conservation Fund.
Approach for relaxing the demand-side management measures for the property market

19. **MR TONY TSE** (in Chinese): President, in order to address the overheated property market and maintain financial stability, the Government (including the Hong Kong Monetary Authority) has implemented a series of demand-side management measures since 2010. There are comments that the continuous fall in property prices in the past two months is reflective of the gradual emergence of the impacts of factors such as the trade war between China and the United States and the setting off of a cycle of rising interest rates, and property prices may drop by 30% to 70% from their peaks. It is therefore recommended that the Government expeditiously relax the various demand-side management measures (commonly referred to as "reduce the 'curb' measures"). However, there are other comments that if the timing, strength, priority or management of public expectation is inappropriate when reducing the curb measures, such a move might instead exacerbate the drop in property prices, thereby causing members of the public with lower risk appetite to become owners of properties with negative equity. In this connection, will the Government inform this Council:

(1) of the respective (i) dates of introduction and (ii) contents of the various demand-side management measures, as well as (iii) the respective amounts of taxes collected (if any) so far under such measures (set out in a table);

(2) whether it has formulated objective criteria for reducing the curb measures; if so, of the considerations in formulating the criteria and the details of the criteria; if not, the reasons for that; and

(3) whether it has assessed the timing, strength, priority and public expectation in reducing the curb measures and made preparation accordingly (including the formulation of contingency plans); if so, of the details?

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, maintaining the healthy development of the private residential property market is one of the important objectives of Government's housing policies. In the past few years, due to tight housing demand-supply balance and the continued
ultra-low interest rate environment, local property prices have been on the rise, with heightened risk of a bubble. The Government has adopted a two-pronged approach by striving to increase land and housing supply to meet demand, and introducing several rounds of demand-side management measures as and when necessary to suppress external demand, short-term speculative demand and investment demand, with a view to stabilizing the property market and preventing adverse consequences arising from an exuberant market. The Hong Kong Monetary Authority ("HKMA") has also introduced several rounds of counter-cyclical macro-prudential measures to strengthen risk management of banks and resilience of the banking sector to cope with any possible impact in the event of a fall in property prices.

Having consulted the Financial Services and the Treasury Bureau, the Inland Revenue Department and HKMA, I set out my consolidated reply to various parts of the question raised by Mr Tony TSE as follows:

(1) Various demand-side management measures introduced by the Government since 2010 (including dates of introduction, contents of the measures, as well as amount of stamp duties collected by the Government so far) are set out at Table 1. Counter-cyclical macro-prudential supervisory measures introduced by HKMA since 2009 (including dates of introduction and contents of the measures) are set out at Table 2.

(2) and (3)

The escalating trade conflicts between the United States and the Mainland have cast increasing uncertainties on the global and local macroeconomic outlook. In addition, as the monetary policy normalization in the United States continues to proceed, local interest rates will rise further under the Linked Exchange Rate System. The Government has from time to time reminded the public to manage risks prudently. Prior to making home purchase decision, one should carefully assess various risks, particularly the impact of increasing interest rates on individual's repayment ability.

Faced with the changes in the local and global economy, the Government will remain vigilant as usual and make reference to a series of indicators, including property prices, home purchase
affordability ratio,\(^{(1)}\) transaction volume, housing supply, etc., and closely monitor the developments of the property market and the evolving external environment. The Government will take appropriate actions as and when necessary in response to market changes, with a view to ensuring a healthy development of the property market.

Although prices and transaction volume of private flats have subsided in recent months,\(^{(2)}\) local housing is still in the state of demand-supply imbalance and the current property price level remains out of line with economic fundamentals and the general public's affordability. The home purchase affordability ratio\(^{(1)}\) in the third quarter of 2018 stayed high at 74%, well above the 20-year long-term average of 44% from 1998 to 2017. The Government has no intention to relax or withdraw any demand-side management measures at the moment, lest this would send a wrong message to the market and make the property market more exuberant.

As regards HKMA's counter-cyclical macro-prudential measures, the intent is to ensure stability of the banking system through implementation of appropriate measures according to the development of the property cycle, taking into consideration key factors such as the trend of property prices, property transaction volume, economic fundamentals and the external environment. HKMA will consider appropriate relaxation of the counter-cyclical measures if a downward cycle in the property market is confirmed. However, as property prices had risen by more than two times since 2008 and decreased by only about 1.5% in aggregate in the past two months, HKMA has not yet determined that the property market has entered into a downward cycle, and therefore does not consider it appropriate to relax the counter-cyclical measures at this juncture.

\(^{(1)}\) Home purchase affordability ratio refers to the ratio of mortgage payment for a 45-square metre flat to median income of households (excluding those living in public housing), at the prevailing mortgage rate for a tenure of 20 years.

\(^{(2)}\) According to information of the Rating and Valuation Department, the overall price index of private flat has subsided since August 2018, registering a cumulative drop of 1.5% in August and September. Property transactions have also declined in recent months. The monthly average number of sale and purchase agreements for residential property received by the Land Registry from August to October 2018 was about 4,200, below the monthly average of about 5,700 in the first seven months this year.
Table 1

Demand-side management measures introduced by the Government since 2010

<table>
<thead>
<tr>
<th>Measure</th>
<th>Effective date</th>
<th>Content</th>
<th>Amount of stamp duties collected as at October 2018 ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Stamp Duty (&quot;SSD&quot;)</td>
<td>20 November 2010</td>
<td>Introduced SSD, which is applicable to any residential property acquired on or after 20 November 2010 and resold within 24 months at the following rates:</td>
<td>1,853</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i) 15% if the property has been held for six months or less;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii) 10% if the property has been held for more than six months but for 12 months or less; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(iii) 5% if the property has been held for more than 12 months but for 24 months or less.</td>
<td></td>
</tr>
<tr>
<td>27 October 2012</td>
<td></td>
<td>Increased SSD rates and extended the holding period within which residential property transactions are subject to SSD. The enhanced SSD is applicable to any residential property acquired on or after 27 October 2012 and resold within 36 months at the following rates:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i) 20% if the property has been held for six months or less;</td>
<td></td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Measure</th>
<th>Effective date</th>
<th>Content</th>
<th>Amount of stamp duties collected as at October 2018 ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buyer's Stamp Duty (&quot;BSD&quot;)</td>
<td>27 October 2012</td>
<td>Introduced BSD at a flat rate of 15%, which is applicable to any residential property acquired on or after 27 October 2012, unless the buyer is a Hong Kong permanent resident (&quot;HKPR&quot;) who is acting on his own behalf.</td>
<td>40,335</td>
</tr>
<tr>
<td>Doubled ad valorem Stamp Duty (&quot;DSD&quot;)</td>
<td>23 February 2013</td>
<td>Doubled the ad valorem stamp duty rates on transactions for residential and non-residential properties (DSD rates range between 1.5% and 8.5% depending on the amount of consideration or value of the property concerned). DSD is applicable to properties (including residential and non-residential) acquired on or after 23 February 2013, unless the buyer is a HKPR who is acting on his own behalf, and is not a beneficial owner of any other residential property in Hong Kong at the time of acquiring the residential property concerned.</td>
<td>Residential property transactions (up to 4 November 2016): 25,229 Non-residential property transactions: 41,543</td>
</tr>
<tr>
<td>Measure</td>
<td>Effective date</td>
<td>Content</td>
<td>Amount of stamp duties collected as at October 2018 ($ million)</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>----------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>New Residential Stamp Duty (&quot;NRSD&quot;)</td>
<td>5 November 2016</td>
<td>Increased the ad valorem stamp duty rates on residential property transactions to a flat rate of 15%, in lieu of the DSD rates. NRSD is applicable to any residential property acquired on or after 5 November 2016. Non-residential property transactions are not affected and remain subject to DSD rates.</td>
<td>23,962</td>
</tr>
<tr>
<td></td>
<td>12 April 2017</td>
<td>Tightened exemption arrangement for HKPRs under the NRSD regime. Under the tightened exemption arrangement, acquisition of a single residential property (with or without one car parking space) under a single instrument by a HKPR who is acting on his own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition will continue to be subject to the lower ad valorem stamp duty rates at Scale 2. However, if HKPR concerned acquires more than one residential property under a single instrument, the transaction will no longer be exempted and will be subject to the NRSD rate of 15%.</td>
<td></td>
</tr>
</tbody>
</table>
Table 2

Counter-cyclical macro-prudential measures introduced by HKMA since 2009

<table>
<thead>
<tr>
<th>Date of implementation</th>
<th>Content of measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 October 2009</td>
<td>First Round</td>
</tr>
<tr>
<td></td>
<td><strong>Loan-to-value (&quot;LTV&quot;) caps</strong></td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value ≥ HK$20 million: 60%</td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value &lt; HK$20 million: 70% (loan cap: HK$12 million)</td>
</tr>
<tr>
<td>13 August 2010</td>
<td>Second Round</td>
</tr>
<tr>
<td></td>
<td><strong>LTV caps</strong></td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value ≥ HK$12 million: 60%</td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value &lt; HK$12 million: 70% (loan cap: HK$7.2 million)</td>
</tr>
<tr>
<td></td>
<td>- Non-owner-occupied residential property: 60%</td>
</tr>
<tr>
<td>19 November 2010</td>
<td>Third Round</td>
</tr>
<tr>
<td></td>
<td><strong>LTV caps</strong></td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value ≥ HK$12 million: 50%</td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value ≥ HK$8 million but &lt; HK$12 million: 60% (loan cap: HK$6 million)</td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value &lt; HK$8 million: 70% (loan cap: HK$4.8 million)</td>
</tr>
<tr>
<td></td>
<td>- Non-owner-occupied residential property: 50%</td>
</tr>
<tr>
<td></td>
<td>- Non-residential property: 50%</td>
</tr>
<tr>
<td></td>
<td>- Net worth-based lending: 50%</td>
</tr>
<tr>
<td>Date of implementation</td>
<td>Content of measures</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>10 June 2011</td>
<td>Fourth Round</td>
</tr>
<tr>
<td></td>
<td><strong>LTV caps</strong></td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value ≥ HK$10 million: 50%</td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value ≥ HK$7 million but &lt; HK$10 million: 60% (loan cap: HK$5 million)</td>
</tr>
<tr>
<td></td>
<td>- Owner-occupied residential property value &lt; HK$7 million: 70% (loan cap: HK$4.2 million)</td>
</tr>
<tr>
<td></td>
<td>- Borrowers with income mainly derived from outside Hong Kong: applicable LTV caps lowered by 10 percentage points</td>
</tr>
<tr>
<td></td>
<td>- Net worth-based lending: 40%</td>
</tr>
<tr>
<td>14 September 2012</td>
<td>Fifth Round</td>
</tr>
<tr>
<td></td>
<td><strong>LTV caps</strong></td>
</tr>
<tr>
<td></td>
<td>- DSR-based lending for borrowers with multiple mortgages and whose income is derived from outside Hong Kong: applicable LTV caps lowered by 10 percentage points</td>
</tr>
<tr>
<td></td>
<td>- Net worth-based lending for borrowers with multiple mortgages: 30%</td>
</tr>
<tr>
<td></td>
<td><strong>DSR limits (for borrowers with multiple mortgages)</strong></td>
</tr>
<tr>
<td></td>
<td>- Base: 40%</td>
</tr>
<tr>
<td></td>
<td>- Stressed (200 basis point interest rate hike assumption): 50%</td>
</tr>
<tr>
<td></td>
<td><strong>Maximum loan tenor</strong></td>
</tr>
<tr>
<td></td>
<td>- All properties: 30 years</td>
</tr>
<tr>
<td>22 February 2013</td>
<td>Sixth Round</td>
</tr>
<tr>
<td></td>
<td><strong>LTV caps</strong></td>
</tr>
<tr>
<td></td>
<td>- Non-residential property: applicable LTV caps lowered by 10 percentage points</td>
</tr>
<tr>
<td></td>
<td><strong>DSR limits</strong></td>
</tr>
<tr>
<td></td>
<td>- Interest rate hike assumption for stressed DSR increased to 300 basis points</td>
</tr>
<tr>
<td></td>
<td><strong>Standalone car park space</strong></td>
</tr>
<tr>
<td></td>
<td>- LTV caps and DSR limits same as non-residential properties</td>
</tr>
<tr>
<td></td>
<td>- Maximum loan tenor: 15 years</td>
</tr>
<tr>
<td>Date of implementation</td>
<td>Content of measures</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td><strong>Risk-weight floor</strong></td>
<td>- Introduced a 15% risk-weight floor for all new residential mortgage loans approved by banks using Internal Ratings-Based Approach</td>
</tr>
<tr>
<td>27 February 2015</td>
<td>Seventh Round</td>
</tr>
<tr>
<td><strong>LTV caps</strong></td>
<td>- Owner-occupied residential property value &lt; HK$7 million: LTV limit lowered by 10 percentage points to 60%</td>
</tr>
<tr>
<td></td>
<td><strong>DSR limits</strong> (for second owner-occupied residential properties)</td>
</tr>
<tr>
<td></td>
<td>- Base: 40%</td>
</tr>
<tr>
<td></td>
<td>- Stressed (300 basis point interest rate hike assumption): 50%</td>
</tr>
<tr>
<td></td>
<td><strong>DSR limits</strong> (for all non-owner-occupied properties and car park spaces)</td>
</tr>
<tr>
<td></td>
<td>- Base: 40%</td>
</tr>
<tr>
<td></td>
<td>- Stressed (300 basis point interest rate hike assumption): 50%</td>
</tr>
<tr>
<td><strong>Risk-weight floor</strong></td>
<td>- 15% for all residential mortgage loans approved by banks using Internal Ratings-Based Approach</td>
</tr>
<tr>
<td>19 May 2017</td>
<td>Eighth Round</td>
</tr>
<tr>
<td><strong>LTV caps</strong></td>
<td>- DSR-based lending for borrowers with multiple mortgages and whose income is derived in Hong Kong: applicable LTV caps lowered by 10 percentage points</td>
</tr>
<tr>
<td><strong>DSR limits</strong> (borrowers whose income is derived from outside Hong Kong)</td>
<td>- Applicable DSR limits lowered by 10 percentage points</td>
</tr>
<tr>
<td><strong>Risk-weight floor</strong></td>
<td>- Increased to 25% for all new residential mortgage loans approved by banks using Internal Ratings-Based Approach</td>
</tr>
</tbody>
</table>
Food safety issues concerning online food ordering platforms

20. **MR JIMMY NG** (in Chinese): *President, in July this year, the Centre for Health Protection announced that seven persons had fallen ill after consuming takeaway food from a food premises. It was reported that the food in question was bought from that food premises by an online food ordering platform upon receiving orders from its customers, and then collected by the customers within a specified time at a designated pickup point set up by the platform on the street. Some members of the public are concerned that as online food ordering platforms are currently not subject to regulation, it is difficult to ensure that the food is stored at a proper temperature and free from contamination during transportation and while awaiting collection. In this connection, will the Government inform this Council:

(1) whether it has compiled statistics on the respective current numbers of (i) operators selling non-prepackaged food online without physical premises and (ii) online food ordering platforms;

(2) of the number of complaints received by the Government in the past three years concerning the quality of food sold by online food ordering platforms;

(3) given that currently food factories selling restricted food online must obtain relevant permits, and the licensing conditions include certain regulations about food safety (e.g. the food must be obtained from lawful sources and stored at a proper temperature at all times, and the permittees must take measures to prevent the food from cross-contaminating during transportation), whether the Government has plans to expand the scope of such permit system to cover (i) online food ordering platforms and (ii) the various types of non-prepackaged foods in order to ensure food safety; if so, of the details; if not, the reasons for that;

(4) whether it will use the Measures for the Supervision and Administration of Food Safety in Online Catering Services promulgated by the China Food and Drug Administration as a blueprint for regulating issues relating to food safety of online food ordering platforms; if so, of the details; if not, the reasons for that; and
(5) given that currently various online food ordering platforms have posted on their websites limitation of liability clauses (e.g. they are not liable for the quality of food supplied by a third party, and the amount of compensation payable to a customer is capped at the value of the order), rendering it difficult for customers to seek reasonable compensation, whether the Government will consider establishing a mechanism to protect the consumer rights and interests of those customers; if so, of the details; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, e-commerce is getting more and more popular, including food transaction through the Internet, mobile applications or social media platforms (hereafter referred to as "online food sale").

Currently, food safety and food trade operations are regulated in various aspects under the laws of Hong Kong. Any person who undertakes business relating to producing, trading, importing or distributing food must meet the requirements of relevant legislation, irrespective of whether the business is conducted in physical premises, or through any means of transactions (including face-to-face, phone, electronic media, etc.).

The Public Health and Municipal Services Ordinance (Cap. 132) stipulates that all food for sale for human consumption in Hong Kong, whether imported or locally produced, must be fit for human consumption.

Under the Food Business Regulation (Cap. 132X) ("the Regulation"), any person who carries on any business which involves the preparation of food for sale for human consumption outside the premises, including online sale of the food concerned, must obtain a food factory license issued by the Food and Environmental Hygiene Department ("FEHD"). In addition, depending on the circumstances, modes of operation and the types of food for sale, operators of online food sale business must obtain relevant licenses or permits issued by FEHD. Any person operating online food sale business shall not sell any restricted food specified in the Regulation (including sashimi, sushi, oysters to be eaten in raw state, etc.) unless the Director of Food and Environmental Hygiene has granted written permission to the person to do so.
FEHD currently adopts the following licensing requirements to further safeguard the food safety of online food sale:

(a) FEHD requires that, with effect from February 2016, operators who do not have physical premises have to apply for permits if they sell restricted food online. Permits are issued on the conditions that the operators must provide particulars, such as the permit number, the type(s) of restricted food permitted for sale and the business address, on their websites and printed promotional materials for consumers' reference and verification on FEHD's website. In addition, the restricted food must be obtained from lawful sources and prepackaged by the suppliers before delivering to customers, the packages shall not be tampered with during transportation to prevent cross-contamination, and the food shall be stored at a safe and proper temperature at all times; and

(b) Operators of food premises which are holders of food business licenses or permits (except for Factory Canteen License, Cold Store License, Fresh Provision Shop License with endorsement(s) for sale of live poultry and/or processed fresh poultry carcasses and offal, and Permit to Sell Food by means of Vending Machine) must comply with the conditions stated in paragraph (a) above if they also carry out online food sale.

The list of food premises issued with food business licenses or permits, as well as operators without physical premises issued with permits for online sale of restricted food, are available on FEHD's website for public inspection.

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

(1) As at 31 October 2018, FEHD has issued 351 permits for online sale of restricted food. FEHD does not keep statistics on food premises issued with food business licenses or permits which are also involved in online food sale.

FEHD has been closely monitoring online food sale activities, including online traders that are not involved in food production and do not have physical premises. If FEHD suspects that any online food sale activity involves unlicensed business, or has doubts on the
source and safety of the food concerned, it will conduct investigations, including decoy operations to collect evidence and information, and take appropriate actions.

(2) From 2016 to 31 October 2018, the Centre for Food Safety ("CFS") of FEHD has received seven food complaints concerning ordering food through mobile applications and two cases of food poisoning referred by the Centre for Health Protection of the Department of Health concerning ordering food through mobile applications. CFS has taken follow-up actions immediately, including seizing food exhibits, taking food samples for testing, and taking appropriate actions.

(3) and (4)

As mentioned above, food safety and food trade operations are regulated by the laws of Hong Kong in various aspects. We will continue to make reference to the practices of other places in monitoring and regulating online food sale, and consider further improving our regulation of online food sale platforms.

(5) According to the Commerce and Economic Development Bureau, existing laws in Hong Kong already impose controls on contracts relating to consumer transactions. For instance, section 7(1) of the Control of Exemption Clauses Ordinance (Cap. 71) stipulates that a person cannot by reference to any contract term or any notice given to persons generally or particular persons, exclude or restrict his liability for personal injury or death resulting from negligence. In addition, the Supply of Services (Implied Terms) Ordinance (Cap. 457) ("the Ordinance") imposes terms to be implied in contracts for the supply of services. For example, section 5 of the Ordinance provides that where the supplier is acting in the course of a business, the supplier shall carry out the service with reasonable care and skill. Section 8(1) of the Ordinance stipulates that if a party to a contract is a consumer, the other party cannot, by reference to any contract term, exclude or restrict any of his liability arising under the contract by virtue of that Ordinance. Depending on the actual circumstances of the cases concerned (including contract terms), consumers may lodge claims under the contract law and/or any other relevant laws.
Consumers may also seek assistance from the Consumer Council. Consumer Council acts as a conciliator in handling disputes between consumers and traders. It assists traders and complainants to resolve their disputes, for instance, by trying to contact the traders with a view to helping both parties reach a mutually satisfactory settlement through conciliation.

Implementation of the Trade Descriptions Ordinance

21. **MR HOLDEN CHOW** (in Chinese): President, the Customs and Excise Department has been adopting a three-pronged approach (i.e. compliance promotion, law enforcement, as well as publicity and education) for implementing the Trade Descriptions Ordinance (Cap. 362) ("the Ordinance"). Some frontline staff members have relayed that the Ordinance has an extensive scope and the relevant workload is heavy, but the manpower for implementing the Ordinance has not increased in the past three and the current financial years, which has been maintained at 190 persons. As a result, their work pressure has been increasing day by day. In this connection, will the Government inform this Council:

(1) on law enforcement for the Ordinance, of the respective numbers of (i) prosecutions and (ii) convictions during the period from October last year to October this year;

(2) of the respective manpower currently deployed for performing work on (i) compliance promotion, (ii) law enforcement and (iii) publicity and education, in respect of the Ordinance; and

(3) whether it has plans to increase, in the next financial year, the staffing establishment for implementing the Ordinance?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, the Government attaches great importance to protecting consumer rights. The Trade Descriptions Ordinance (Cap. 362) ("the Ordinance") prohibits specified unfair trade practices deployed by traders against consumers, including false trade descriptions, misleading omissions, aggressive
commercial practices, bait advertising, bait-and-switch and wrongly accepting payment. The Customs and Excise Department ("C&ED") is the principal agency to enforce the Ordinance. It has been adopting a three-pronged approach in enforcing the Ordinance proactively, which include conducting briefings for and visits to traders to tender advice and guidance to them on the legal requirements under the Ordinance and measures that should be taken for compliance; taking necessary and timely enforcement actions to combat unfair trade practices; and launching extensive publicity and education programmes to raise consumers' awareness of unfair trade practices through joint efforts with the Consumer Council.

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

(1) Between October 2017 and October 2018, C&ED initiated 90 prosecutions under the Ordinance, among which 66 cases resulted in convictions, while court proceedings are in progress for 14 other cases.

(2) At present, 190 officers of C&ED are responsible for the enforcement of the Ordinance. Depending on the actual circumstances, C&ED will deploy manpower flexibly for compliance promotion, enforcement action as well as publicity and education work to implement the Ordinance. It is difficult to quantify the manpower deployed for each task separately.

(3) As the Ordinance covers a wide range of goods and services, in order to facilitate traders' compliance and optimize the use of enforcement resources, C&ED adopts a risk-based approach under which priority is accorded to handling cases that may have significant implications on consumers, the trades or the community at large. C&ED will review the manpower establishment from time to time in view of the implementation situation of the Ordinance, and will ensure that the Ordinance is enforced effectively through manpower redeployment or application for additional resources according to established procedures when necessary.
Statistics on and screening services for breast cancer

22. **DR ELIZABETH QUAT** (in Chinese): President, breast cancer is the most common cancer with the third highest mortality rate among women in Hong Kong. In 2016, breast cancer accounted for 26.6% of all new cancer cases among women in Hong Kong. Besides, Hong Kong is one of the regions in Asia with high incidence of breast cancer, with the number of cases of women diagnosed with breast cancer rising by three times in the past two decades. In this connection, will the Government inform this Council:

(1) of the public healthcare institutions which currently provide mammography and breast ultrasound scanning for women; the number of units providing such services and the average charge for each test (with a breakdown by District Council district);

(2) whether it knows, in each of the past five years, the number of person-times, age distribution and waiting time of women who received mammography and breast ultrasound scanning which were provided by public and private healthcare institutions; if it does not have such figures, whether it will compile such statistics;

(3) whether it knows the number of new confirmed breast cancer patients in each of the past five years, with a breakdown by stage of breast cancer and age distribution;

(4) given that public hospitals provide appropriate services for breast cancer patients through their multi-specialty teams while surgeons and clinical oncologists will make appropriate treatment arrangements, whether it knows the current ratio of the number of specialists responsible for treating breast cancer in public and private healthcare institutions to the number of patients;

(5) given that the Chief Executive indicated in the Policy Address she delivered last month that a study to identify the risk factors associated with breast cancer for local women was expected to be completed in the latter half of next year, and that the Government would closely monitor the scientific evidence and outcome of the study to review the type of screening suitable for women of different risk profiles, of the details (including the timetable) of such work;
(6) given that the number of new breast cancer cases and the number of deaths caused by breast cancer among women have been increasing year after year in recent years, and some cancer experts have suggested that breast cancer screening should be carried out for women at increased risk of developing breast cancer (e.g. those who have a family history of breast cancer), whether the Government (i) knows the current number of women at increased risk of developing breast cancer, (ii) will review the mechanisms for and measures on preventing breast cancer in order to help such women take preventive actions, and (iii) will launch a screening programme specifically for such women prior to the implementation of the relevant measures to be put forward by the study mentioned in (5); if so, of the details (including the timetable); if not, the reasons for that;

(7) given that a study report of the Hong Kong Breast Cancer Foundation has pointed out that the implementation of a population-wide screening programme is an effective way to lower the breast cancer mortality rate, whether the Government has studied the justifications behind the assertion made earlier by the Cancer Expert Working Group on Cancer Prevention and Screening that "all screening tests have their limitations";

(8) whether it knows if the Hospital Authority ("HA") procured additional 3D mammography screening machines in the past five years in order to provide screening tests for women at increased risk of developing breast cancer; if HA did, of the number; if not, the reasons for that; and

(9) as there are views that women's awareness of the efficacy of breast examination is inadequate at present, whether the Government will allocate resources to step up publicity to boost the importance attached to breast examination by women; if so, of the details (including the timetable); if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Government attaches great importance to cancer prevention and control. The Cancer Expert Working Group on Cancer Prevention and Screening ("CEWG")
under the Government's Cancer Coordinating Committee regularly reviews and
discusses the latest scientific evidence, local and worldwide, with a view to
making recommendations on cancer prevention and screening suitable for the
local population. My reply to the various parts of the question raised by
Dr Elizabeth QUAT is as follows:

(1) and (2)

At present, both the Department of Health ("DH") and the Hospital
Authority ("HA") provide mammography and breast ultrasound
scanning services for women. Details are as follows:

Department of Health

Woman Health Service ("WHS") is provided in DH's three Woman
Health Centres ("WHCs") and 10 Maternal and Child Health Centres
("MCHCs") on sessional basis (details are at Tables 1 and 2 of
Annex 1) for women aged 64 or below for the purposes of health
promotion and disease prevention. The services include health
education, assessment, counselling and investigations as appropriate.
Investigation includes mammography for women at higher risk of
developing breast cancer. Breast ultrasound scanning as a
supplementary examination may be arranged for them if necessary.

The fees and charges for WHS and attendance for mammography
over the past five years are at Tables 3 and 4 of Annex 1. DH does
not keep records of age distribution of clients who received
mammography or attendance and age distribution of those who
received breast ultrasound scanning as a supplementary examination.
The waiting time for DH's WHS varies depending on individual
WHCs/MCHCs. The median waiting time is five weeks.

Hospital Authority

Currently, there are 14 hospitals in different hospital clusters of HA
providing mammography and breast ultrasound scanning services
(details are at Table 1 of Annex 2). HA doctors will assess patients'
conditions and refer patients for mammography or ultrasound
scanning when necessary. As the examination fees have already been covered in the inpatient or outpatient service fees, patients are not required to pay additional fees.

The number of patient attendance over the past five years and the waiting time in 2016-2017 and 2017-2018 for mammography provided by HA are set out at Tables 2 and 3 of Annex 2. HA does not maintain or plan to compile age breakdown on the number of patient attendance for mammography and statistics on the number of patient attendance and waiting time for breast ultrasound scanning service.

(3) According to the statistics of the Hong Kong Cancer Registry, the incidence of cases of female breast cancer in Hong Kong from 2012 to 2016, with a breakdown by stage of cancer and age distribution at diagnosis, are tabulated at Annex 3.

(4) The cancer services (including breast cancer treatment) provided by HA are based on a coordinated cross-specialty (e.g. pathology, radiology, medicine, surgery, clinical oncology and palliative care) and cross-disciplinary service system. HA does not have information on the ratio of breast cancer specialists to patients.

(5) to (7)

In examining whether to introduce a population-based screening programme for a specific disease or cancer (including breast cancer), the Government shall make reference to CEWG's recommendations and carefully considers a number of factors, including the seriousness and prevalence of the disease locally, accuracy and safety of the screening tests for the local population, as well as effectiveness of the screening programme in reducing disease incidence and mortality. The Government shall also give due consideration to the actual circumstances such as the feasibility, equity and cost-effectiveness of the screening programme and public acceptance.
Women at increased risk (such as carriers of certain deleterious gene mutations, those with a family history of breast or ovarian cancer, etc.) should seek doctors' assessment and advice before deciding whether they should undergo breast cancer screening.

As for asymptomatic women at average risk, the Government and the medical sector need to gather more research findings and data to explore whether it is appropriate to implement population-based breast cancer screening for this group of women in Hong Kong. In this regard, the Government has commissioned the University of Hong Kong to conduct a study on risk factors associated with breast cancer for local women so as to help formulate the future strategies for breast cancer screening in Hong Kong. The study is expected to be completed in the latter half of 2019. The aim of the study is to formulate a risk prediction model for breast cancer in Hong Kong using a case-control study approach under which a comparison is made between women with and without breast cancer. It also aims to find out the relations between risk factors (such as age, body mass index and other personal characteristics, physical activity, family history of breast cancer, history of benign breast disease, etc.) and breast cancer development. The Government will review and consider what type of screening is to be adopted for women of different risk profiles, having regard to the scientific evidence and outcome of the study.

Some western countries and regions which have relatively high incidence of breast cancer have implemented population-based mammography screening programmes since the 1980s. However, studies found that there was only a slight drop or even no reduction in the mortality of breast cancer after implementation of such programmes. Some studies revealed that screening programmes have caused problems and harm such as over-diagnosis and over-treatment. As for countries and regions which have a predominantly Chinese or Asian population and have implemented population-based breast cancer screening programmes, detailed assessment data on the effectiveness (such as data on whether the programmes can effectively reduce the mortality of breast cancer among the female population, increase the long-term survival rate of such patients, etc.) and cost-effectiveness of the programmes have
yet to be published by the governments concerned. The Government will review and formulate future strategies for breast cancer screening in the light of the findings of the aforementioned study on risk factors associated with breast cancer for local women.

(8) Over the past five years, HA acquired two 3D mammography machines.

(9) Many risk factors for breast cancer are closely related to lifestyles, such as lack of physical activity, alcohol consumption, obesity after menopause, etc. The Government will enhance education and publicity on breast health. Through mass media and collaboration with community partners and service providers, the Government will actively promote the adoption of healthy lifestyles (e.g. avoiding alcohol consumption, having a balanced diet, doing regular exercise, maintaining healthy body weight and waist circumference, prolonging breastfeeding duration, etc.) as the major preventive strategy. It will also promote the awareness of breast health among women for early detection of breast abnormalities and immediate medical attention.

Annex 1

Services Provided by DH

Table 1: Three Woman Health Centres of DH Providing WHS

<table>
<thead>
<tr>
<th>District</th>
<th>Woman Health Centres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Eastern</td>
<td>Chai Wan Woman Health Centre</td>
</tr>
<tr>
<td>2 Kwun Tong</td>
<td>Lam Tin Woman Health Centre</td>
</tr>
<tr>
<td>3 Tuen Mun</td>
<td>Tuen Mun Woman Health Centre</td>
</tr>
</tbody>
</table>

Table 2: Ten Maternal and Child Health Centres of DH Providing WHS (on sessional basis)

<table>
<thead>
<tr>
<th>District</th>
<th>Maternal and Child Health Centres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Central and Western</td>
<td>Sai Ying Pun Maternal and Child Health Centre</td>
</tr>
<tr>
<td>2. Southern</td>
<td>Ap Lei Chau Maternal and Child Health Centre</td>
</tr>
<tr>
<td>3. Sham Shui Po</td>
<td>West Kowloon Maternal and Child Health Centre</td>
</tr>
</tbody>
</table>
5. North      Fanling Maternal and Child Health Centre
6. Sai Kung   Tseung Kwan O Po Ning Road Maternal and Child Health Centre
7. Sha Tin    Lek Yuen Maternal and Child Health Centre
8. Sha Tin    Ma On Shan Maternal and Child Health Centre
9. Kwai Tsing South Kwai Chung Maternal and Child Health Centre
10. Kwai Tsing Tsing Yi Maternal and Child Health Centre

<table>
<thead>
<tr>
<th></th>
<th>District</th>
<th>Maternal and Child Health Centres</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>North</td>
<td>Fanling Maternal and Child Health Centre</td>
</tr>
<tr>
<td>6.</td>
<td>Sai Kung</td>
<td>Tseung Kwan O Po Ning Road Maternal and Child Health Centre</td>
</tr>
<tr>
<td>7.</td>
<td>Sha Tin</td>
<td>Lek Yuen Maternal and Child Health Centre</td>
</tr>
<tr>
<td>8.</td>
<td>Sha Tin</td>
<td>Ma On Shan Maternal and Child Health Centre</td>
</tr>
<tr>
<td>9.</td>
<td>Kwai Tsing</td>
<td>South Kwai Chung Maternal and Child Health Centre</td>
</tr>
<tr>
<td>10.</td>
<td>Kwai Tsing</td>
<td>Tsing Yi Maternal and Child Health Centre</td>
</tr>
</tbody>
</table>

Table 3: Fees and charges for WHS

<table>
<thead>
<tr>
<th>Service</th>
<th>Eligible person*</th>
<th>Non-eligible person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual fee of WHS (mammography not included)</td>
<td>$310</td>
<td>$850</td>
</tr>
<tr>
<td>Mammography (extra charge for each time)</td>
<td>$225</td>
<td>$510</td>
</tr>
</tbody>
</table>

Note:
* Charges are waived for recipients of Comprehensive Social Security Assistance, holders of Level 0 Voucher of the Pilot Scheme on Residential Care Service Voucher for the Elderly, and persons who are exempted from payment of medical fees under the waiving mechanism of public hospitals and clinics.

Table 4: Attendance for mammography^ in each of the past five years

<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>Total</td>
<td>8 019</td>
<td>6 039</td>
<td>4 504</td>
<td>2 326</td>
<td>1 238</td>
</tr>
</tbody>
</table>

Note:
^ According to the recommendations of the Cancer Expert Working Group on Cancer Prevention and Screening under the Cancer Coordinating Committee, since 2013, WHS has been promoting health education (including promotion of awareness of breast cancer and adoption of healthy lifestyles for prevention of breast cancer). On the other hand, the target groups of receiving mammography has been adjusted to individual women at higher risk of developing breast cancer.
Annex 2

Services Provided by HA

Table 1: HA Hospitals Providing Mammography and Breast Ultrasound Scanning Services

<table>
<thead>
<tr>
<th>Cluster</th>
<th>Hospital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong East</td>
<td>Pamela Youde Nethersole Eastern Hospital</td>
</tr>
<tr>
<td>Hong Kong West</td>
<td>Queen Mary Hospital</td>
</tr>
<tr>
<td></td>
<td>Tung Wah Hospital</td>
</tr>
<tr>
<td>Kowloon Central</td>
<td>Queen Elizabeth Hospital</td>
</tr>
<tr>
<td></td>
<td>Kwong Wah Hospital</td>
</tr>
<tr>
<td></td>
<td>Our Lady of Maryknoll Hospital</td>
</tr>
<tr>
<td>Kowloon East</td>
<td>United Christian Hospital</td>
</tr>
<tr>
<td></td>
<td>Tseung Kwan O Hospital</td>
</tr>
<tr>
<td>Kowloon West</td>
<td>Princess Margaret Hospital</td>
</tr>
<tr>
<td></td>
<td>Yan Chai Hospital</td>
</tr>
<tr>
<td>New Territories East</td>
<td>Prince of Wales Hospital</td>
</tr>
<tr>
<td></td>
<td>North District Hospital</td>
</tr>
<tr>
<td>New Territories West</td>
<td>Tuen Mun Hospital</td>
</tr>
<tr>
<td></td>
<td>Pok Oi Hospital</td>
</tr>
</tbody>
</table>

Table 2: Number of patient attendance for mammography in HA over the past five years

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>20 162</td>
<td>21 082</td>
<td>21 670</td>
<td>22 913</td>
<td>21 690</td>
</tr>
</tbody>
</table>

Table 3: Waiting time for mammography in HA in 2016-2017 and 2017-2018#

<table>
<thead>
<tr>
<th>Year</th>
<th>Priority 1 Median waiting time (weeks)</th>
<th>Priority 2 Median waiting time (weeks)</th>
<th>90th percentile waiting time (weeks)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-2017</td>
<td>2</td>
<td>35</td>
<td>132</td>
</tr>
<tr>
<td>2017-2018</td>
<td>2</td>
<td>39</td>
<td>139</td>
</tr>
</tbody>
</table>

Note:

# Starting from the reporting period of 2016-2017, the waiting time for mammography service has been compiled based on new definition and calculation method, and therefore not directly comparable to previous statistics.
Statistics on Incidence of Cases of Female Breast Cancer in Hong Kong with Breakdown by Stage of Cancer and Age Distribution at Diagnosis from 2012 to 2016

<table>
<thead>
<tr>
<th>Stage</th>
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GOVERNMENT MOTIONS

PRESIDENT (in Cantonese): Government motions. Two proposed resolutions to be moved by the Chief Secretary for Administration under the Legal Aid Ordinance.

First motion: To increase the financial eligibility limits of legal aid applicants.

Second motion: To expand the scope of the Supplementary Legal Aid Scheme.

The Secretariat has informed Members in writing that as the Chief Secretary for Administration's two motions are related to the review of the legal aid, this Council will proceed to a joint debate on the two motions.

After the joint debate has come to a close, this Council will first vote on the Chief Secretary for Administration's first motion. Irrespective of whether the Chief Secretary for Administration's first motion is passed or not, the Chief Secretary for Administration may move his second motion.

The joint debate now begins. Members who wish to speak on the two motions will please press the "Request to speak" button.

I will first call upon the Chief Secretary for Administration to speak on the two motions and move the first motion.

PROPOSED RESOLUTIONS UNDER THE LEGAL AID ORDINANCE

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I move that the first motion under my name as printed on the Agenda be passed to increase the financial eligibility limits of legal aid applicants. Later, I will also move that the second motion under my name as printed on the Agenda be passed to expand the scope of the Supplementary Legal Aid Scheme ("SLAS").
Legal aid services form an integral part of the legal system in Hong Kong. The policy objective of legal aid is to ensure that all those who comply with the regulations of the Legal Aid Ordinance (Cap. 91) ("LAO") and have reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong will not be denied access to justice due to a lack of means. To qualify for legal aid, a person is required to satisfy both the means test and merits test as provided by LAO.

At present, a person whose disposable financial resources do not exceed $302,000 is financially eligible for legal aid under the Ordinary Legal Aid Scheme ("OLAS") as set out in section 5 of LAO. The same limit is also applicable to criminal legal aid. The financial eligibility limit ("FEL") for SLAS is $1,509,980 as specified in section 5A of LAO.

Pursuant to the Government's report to the Legislative Council in September 1999, the Government will review the relevant limits annually to take into account general price movement and biennially to take into account changes in private litigation costs and other relevant factors.

The previous adjustment to FELs was implemented in February 2018, reflecting the 4.0% increase in Consumer Price Index (C) ("CPI(C)") for the period between July 2014 and July 2016. For the current review, we propose to increase the FELs under OLAS and SLAS by 1.7% to reflect the accumulated change in CPI(C) for the period of July 2016 to July 2017.

This Resolution proposes to increase FEL under OLAS from $302,000 to $307,130, and FEL under SLAS from $1,509,980 to $1,535,650.

We have informed the Legal Aid Services Council ("LASC"), the Hong Kong Bar Association, The Law Society of Hong Kong and the Legislative Council Panel on Administration of Justice and Legal Services ("AJLS Panel") of the outcome of the current review.

The proposal to increase FELs is estimated to incur an additional recurrent expenditure of around $650,000 in a full year by the Legal Aid Department ("LAD"). The additional expenditure and workload in effecting the proposal will be absorbed by LAD with its existing resources.
Subject to Legislative Council's approval of the Resolution, the adjusted FELs will come into effect upon gazettal. May I invite Members to support the Resolution to increase FELs of legal aid applicants.

President, now I am going to speak on expanding the scope of SLAS. The Government briefed the AJLS Panel in April 2017 and April 2018 respectively on the recommendations and proposed legislative amendments made upon completion of the review of SLAS by LASC. With the support of the AJLS Panel, the Resolution that I will propose later today aims to amend LAO with a view to expanding the scope of SLAS to cover certain types of monetary claims against financial intermediaries and derivatives.

SLAS currently covers, among others, professional negligence claims against certified public accountants (practising) and negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products. The Government proposes to amend LAO to cover under SLAS monetary claims for professional negligence against financial intermediaries licensed or registered for Type 1 (dealing in securities), Type 2 (dealing in futures contracts) or Type 8 (securities margin financing) regulated activities within the meaning of the Securities and Futures Ordinance (Cap. 571).

Moreover, regarding the derivatives claims, the Government proposes to amend LAO to cover under SLAS civil proceedings for monetary claims in respect of derivatives of securities, currency futures or other futures contracts involving a legal aid applicant who was induced to deal in those derivatives, futures or contracts by fraud, deception or misrepresentation. This is to align the treatment of civil proceedings under SLAS and OLAS.

According to my proposed Resolution, the above two types of claims will be added to Part 1 of Schedule 3 to LAO, which sets out the proceedings for which legal aid may be given under SLAS (including its scope).

The AJLS Panel not only expressed support to the proposal, but also requested the Government to consider further expanding the scope of SLAS to include, in particular, claims against the incorporated owners of multi-storey buildings and claims arising out of sale of goods and provision of services.
We understand Members' concern. The Government is open to all possible options with a view to expanding the scope of SLAS on an incremental basis. We have invited LASC to further study the scope of SLAS and make recommendations to the Government in due course.

Taking this opportunity of enacting legislative amendments for revising the scope of SLAS, the Government will also revise the minimum claim amount for SLAS (which stands at $60,000 at present), to tie in with the Judiciary's increase in the jurisdictional limit of the Small Claims Tribunal to $75,000. Moreover, we will link the relevant provisions in LAO with the monetary limit specified in the Small Claims Tribunal Ordinance (Cap. 338) to relieve the need for consequential amendments to LAO in any future adjustments to the jurisdictional limits.

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

The proposed expansion of scope is not expected to have significant impact on the Supplementary Legal Aid Fund and no further injection is needed for the time being. The financial implications and increase in workload for processing and monitoring new applications arising from the proposed expansion of scope will be absorbed by the existing resources of LAD.

Subject to Legislative Council's approval of the Resolution, we will make consequential amendments to the Legal Aid Regulations (Cap. 91 sub. leg. A) and the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg. B), and specify a commencement date for the relevant legislative amendments with a view to expanding the scope of SLAS at an early date.

May I invite Members to support the Resolution. Thank you, Madam Deputy.
The Chief Secretary for Administration moved the following motion:

"RESOLVED that the Legal Aid Ordinance (Cap. 91) be amended as set out in the Schedule.

Schedule

Amendments to Legal Aid Ordinance

1. Section 5 amended (persons eligible for legal aid)
   Section 5(1)—
   **Repeal**
   "$302,000"
   **Substitute**
   "$307,130".

2. Section 5A amended (supplementary legal aid)
   (1) Section 5A(b)—
   **Repeal**
   "$302,000"
   **Substitute**
   "$307,130".
   (2) Section 5A(b)—
   **Repeal**
   "$1,509,980"
   **Substitute**
   "$1,535,650".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the first motion moved by the Chief Secretary for Administration be passed.
MR HOLDEN CHOW (in Cantonese): Deputy President, this resolution is very simple. With regard to increasing the financial eligibility limits of legal aid applicants, we definitely will not raise any objection, we will support it. I just want to take this opportunity to say that last year I chaired the Subcommittee on Proposed Resolution under section 7(a) of the Legal Aid Ordinance (Cap. 91) which reviewed the financial eligibility limits of legal aid applicants. At that time, a large number of members brought up the need for a comprehensive review in the future, in addition to the regular annual review of the financial eligibility limits which takes into account changes in consumer price index. If the overall financial eligibility to legal aid is to be reviewed comprehensively, a rather important consideration is the need to study beforehand the current costs charged for handling various civil proceedings in Hong Kong.

Deputy President, we all know that civil proceedings of various kinds in the community today involve different levels of legal costs. Of course, every case is unique as the details concerned are different. But in general, we can have a study by category on the various types of litigation cases.

In my capacity as Chairman of the above Subcommittee, I have suggested that the Administration request the two lawyer bodies, that is The Law Society of Hong Kong and the Hong Kong Bar Association, to provide information on studies by category of the overall legal costs. Regrettably, the two legal bodies have apparently failed to provide the relevant information back then even when the Panel on Administration of Justice and Legal Services raised discussion on this issue again recently. I very much hope that the Administration can make more efforts to come up with solutions or communicate with the two professional bodies again. The study and analysis of legal costs are very important. If we have the opportunity to obtain the information by category on the overall legal cost levels, this will definitely be conducive to future overall review of the legal aid system.

For instance, should financial eligibility limits be adjusted according to the levels of legal costs charged for different types of litigations? To put it simply, even middle class people may not always be able to shoulder legal costs when facing litigation, and the financial eligibility limits of legal aid may indirectly impede them in the pursuit of justice. It is worth mentioning that the Department of Justice has convened more than 20 meetings to discuss "consumer class actions" alone. Yet, no progress has been made in this regard. Consumer class actions aim to protect consumer rights. Without such a channel, a
consumer may not be successful in the pursuit of justice when facing litigation, because of the scope of legal aid or its financial eligibility limits. Deputy President, I find this somehow regrettable.

Deputy President, with this speech, I would like to call on the Government once again to make greater effort in order to obtain information on the legal costs charged for various types of civil proceedings and conduct an analysis. I believe this will definitely be helpful to a future comprehensive review on the legal aid system.

With these remarks, Deputy President, I support the proposed resolution.

DR KWOK KA-KI (in Cantonese): Deputy President, I speak in support of the resolution proposed by the Chief Secretary for Administration. When we talk about the existing system or the core values of Hong Kong, judicial independence and the court are an indispensable lifeline of Hong Kong. In recent years, we came across more and more cases involving civil right infringement or cases initiated by the Government against members of the public. And legal aid is very important in this context.

In the past, legal aid usually involved criminal or civil litigation. Rarely did these cases involve political issues. Regrettably, 21 years after the reunification, especially in the past 10 years, or since the previous Government when its expectation and that of the people went increasingly apart, the Government has resorted to different means to restrict or even take away the civil rights prescribed under the Basic Law. It is at such a time that ordinary citizens without and influence need to rely on the legal aid system to a greater extent.

The legal aid system is not something new. It has been criticized by many people. Chief Justice Geoffrey MA of the Court of Final Appeal has reiterated on a number of occasions that the court is the place to seek justice, and legal aid is an indispensable and important pillar to Hong Kong, which has served to counter a bit some fallacious reasoning and ill-intentioned criticism. But I believe criticism against the legal aid system will not disappear.

Deputy President, retired photographer CHEUNG Tak-wing filed a judicial review against the Government with the help of legal aid for depriving the public of the right to use the Civic Square without justified reasons. The court ruled in
favour of CHEUNG two days ago, and justice is upheld. The Government proposed the relocation of the Central Government Offices ("CGO") to the present location a few years ago. They pledged that CGO would be a door always open to the people. While these words are still ringing in our ears, the Government installed fencing a few feet high in 2014 to enclose the Civic Square to separate itself from the people and repeated what it did for the West Wing of the previous CGO before the relocation, which has been subject to our denunciation as it strays from its original pledge.

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki, you are not focusing on the topic.

DR KWOK KA-KI (in Cantonese): Deputy President, I am speaking on the resolution. I am explaining why the legal aid system and the amendments on the legal aid system proposed by the Secretary are so important. It is because the legal aid system gives people more leeway in their litigation. They are qualified for legal aid if they satisfy the means test. Legal aid is a cornerstone of Hong Kong, despite the fact that this resolution does not mention how to enhance the legal aid system or provide reasonable remunerations for legal aid lawyers.

I remember in 2014, Mr SHIEH Wing-tai, the Chairman of the Hong Kong Bar Association at the time, raised a very important point when he spoke on the criminal legal aid system, which was also neglected in the existing legal aid system. He said that the amount of legal aid granted for civil litigation has been far higher than that for criminal litigation. The practice is strange because justice will not, in most cases, differentiate between civil and criminal.

If Members still remember, not long ago the Government initiated litigations against some members of the public who had participated in the "Occupy Central movement" and a member of the public who had participated in civil resistance. They are all charged with criminal offences. When the Government stands on the opposite side of the people, and uses its enormous resources, famous prosecutors, immeasurable money and biggest effort to oppress people opposing it at court, legal aid becomes something very important to them. Legal aid is the only means for people with no power nor influence and money to confront the Government which sits on trillions of dollars at court.
Hence, we have to embrace the legal aid system, hoping that it can keep up with the times and provide adequate support for more people being oppressed in society. As we all know, if the adversary at court is the Government or some lofty corporations or consortia, it is difficult for a general member of the public to fight it at court. Do Members still remember those lawsuits concerning farmland resumption? Many people were able to fight against large land owners and seek justice at court with the help of legal aid. Of course, it was not an easy task, unless the legal aid applicants managed to pass the means test.

Members across different camps and backgrounds wish to enhance the legal aid system to help more Hong Kong people who cannot afford the litigation fee to get the assistance they need. I hope the Government will not think that it has finished its job after passing this resolution. If the Government itself frequently resorts to legal actions to press charges against people who dislike or oppose its policies, then it should not give us the impression that it has deprived the oppressed of justice through an unreasonable legal aid system.

I wish to point out that this resolution has not dealt with the practical difficulties that many people have encountered. In Hong Kong today, people have to spend their income on other social expenses. Thus, the Government needs to review afresh the restrictions on legal aid application, especially the income and asset limits, so that more people can get the assistance they need through a more reasonable legal aid system.

There is no way that the system established by the Government now can give us peace of mind. Fortunately, Hong Kong has inherited the old legal aid system which has not been hard hit since the reunification. This is by no means easy. Many people who support the Government, or even the Chinese Government, opine that the amount of legal aid should be substantially reduced and more restrictions should be introduced to reduce the number of people eligible for legal aid. If we refer to those pro-China newspapers, we can often find news articles claiming that the legal aid services have been abused, or the legal aid system uses public money…

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK, you have spoken for nine minutes but you have not spoken on the subject.

I remind you once again that the present debate is not about the entire legal aid system. Please focus your discussion on the legislative amendments.
DR KWOK KA-KI (in Cantonese): Okay, Deputy President. I will continue to speak in support of the Secretary's resolution. I will also explain why I support it. I am about to point out that in this unjust society and under this unjust system, the Secretary has rightfully proposed to amend the legal aid system. He has done something important. If not, we will have to face an even more difficult situation, and it will be even more difficult to seek genuine justice in court.

However, I do not think the proposed amendments can adequately address the problem. I hope the Government can stay clear of the court and will not casually initiate litigation against people. This is indeed very worrying and people feel oppressed by its actions. The country that tops the world in doing this is definitely China. It often charges dissidents for inciting subversion of state power, or picking quarrels and provoking trouble, or sends them to trial and deprives them of political rights; many people are even …

DEPUTY PRESIDENT (in Cantonese): Dr KWOK, this is my third reminder to you. You have digressed from the subject.

DR KWOK KA-KI (in Cantonese): Deputy President, I will return to the subject immediately.

DEPUTY PRESIDENT (in Cantonese): You have already made your points clear. If you have no new points to raise, I will ask you to stop speaking.

DR KWOK KA-KI (in Cantonese): Deputy President, I am about to finish. I have very little time left.

DEPUTY PRESIDENT (in Cantonese): You have repeatedly affirmed the importance of the legal aid system and asked the Government to preserve this system. You have talked about all these points.
DR KWOK KA-KI (in Cantonese): Deputy President, I certainly affirm the importance of the legal aid system and this resolution because this shows that the principle of "one country, two systems" has been implemented in Hong Kong, and it gives Hong Kong people some hope to cling to in this piece of land with fading democracy and freedom. I so submit.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, I speak in support of the proposed resolution. In the first motion I moved soon after I became a Member of this Council in 2009, I have already pointed out the need to review the legal aid system, as well as the asset limit for applying legal aid and the coverage of legal aid services.

I especially pointed out back then that apart from the need to adjust the asset limit applicable under the Ordinary Legal Aid Scheme, the asset limit for the Supplementary Legal Aid Scheme ("SLAS") was another problem. It has come to my attention that under the existing legal aid system and the legal system of Hong Kong, when faced with expensive legal fees, only two categories of people (the poorest and the richest) would have the financial means or the opportunity to pursue legal justice until the very end and have their cases brought to the Court of Final Appeal. Both before and after I became a Member of this Council, people to whom I rendered most assistance were often those in the middle who were not even eligible for applying for legal aid under SLAS but had to take further actions to pursue legal justice, including middle-class people whom we have often mentioned.

There are many different categories of people in Hong Kong who are pursuing legal justice, and I have offered assistance to many of these people. I still consider the proposed revision in the current exercise or the existing arrangements under SLAS inadequate, and the proposed rate of increase is indeed very minimal. The asset limit adopted back then was $165,000 and this has already been increased to $300,000, while the asset limit for SLAS has been increased from $165,000 to $460,000, and then further to $1,500,000. Given that legal aid recipients under SLAS are required to bear part of the legal fees after they have won their cases, I think further upward adjustments can be made to the asset limit, particularly in view of the impact of inflation. We should never repeat the same practices in the cases of some other amendments, where adjustments were not made in line with inflation for as long as 10 years.
Where does the problem lie? Why have we been fighting for improvements to our legal aid system over the past 10 years? Those who have been Members should know very well that the first category of such cases were disputes involving owners' corporations. Many small home owners have taken their owners' corporations to court just for expressing their anger, demanding for an apology or the pursuit of justice which in their opinion has not been done, and some of them were eventually forced to sell their properties. Among the cases where I have offered assistance, some people ended up going bankrupt and in a miserable state. Some small home owners sued the property management companies which were part of some big consortia just for an apology from the companies concerned for mistakenly issuing warnings to them. In this connection, improvements have already been made with the enactment of the Apology Ordinance, under which both parties would be encouraged to settle their disputes through negotiations as far as possible, so as to bring an end to the situation where one has to use his own property to confront big enterprises and consortia.

The Lehman Incident is another very important trigger point, which has caused Members to abandon partisan biases and join hand in offering assistance to victims of the Incident, thereby extending the coverage of legal aid services, and this is a progress in this respect. Currently, most such cases in recent years involved consumers, such as the incident concerning California Fitness, the leakage of passengers' information by Cathay Pacific Airways in recent days, various medical incidents, etc. Hence, as far as the provision of legal aid is concerned, apart from pecuniary considerations, we should also take into account who should be assisted in this respect because those who fail to obtain legal aid will often be thrown into a state of extreme anxiety.

I wish to highlight today an area which I raised as early as in 2009 when I moved my first motion in this Council, but in which no progress has been made over the past 10 years, and this is about Hong Kong residents who ordinarily live on the Mainland. I have handled many such cases in person previously, and people involved in some of these cases were originally doing business on the Mainland. They were first dragged into civil disputes and then later charged with criminal fraud, and were eventually sentenced to imprisonment for more than 10 years due to the differences in the legal systems between the two places.

These cases included the well-known Zhili Handicraft Factory fire in Shenzhen. The factory owner was a good person, but he was not familiar with Mainland laws and needed our pro bono assistance. His spouse or family had already spent their entire fortune and were penniless then, and they could not
even afford the initial payment of lawyer fees. The current practice adopted by the Government has totally excluded them, and the existing legal aid system does not cover this group of Hong Kong residents who live on the Mainland, while the Government encourages Hong Kong people to work and start their own business on the Mainland under its policies. When they require policy support from Hong Kong, I think the coverage of the first tier of legal aid should at least be extended to include this group of Hong Kong permanent residents who are working or living on the Mainland, and we should not forget them.

Chief Secretary for Administration, we did not have many such cases 10 years ago, but now there are quite a number of them in 2018. I fully understand the points raised by Dr KWOK Ka-ki just now, but leaving other issues aside, I do not quite agree with him when he said that political incidents seemed to have been excluded from the coverage of legal aid services. On the contrary, in my opinion, in cases involving human rights or public interest, it will be possible for the people involved to obtain legal aid without even passing the means test, simply because public interest is involved. However, the nature of most such cases involved challenging the Basic Law, while some other previous applications which I helped to submit on the ground of public interest were rejected.

Many Hong Kong people living on the Mainland have questioned why they could not be granted legal aid in Hong Kong, since they have been a Hong Kong taxpayer for many years and have only moved to the Mainland in recent years. Some of them have settled on the Mainland, while some others are elderly persons who have already retired, but they can find nowhere to turn to for help when they are in need of assistance in this respect, and where is the Hong Kong Government? When a family is pushed into a corner and does not even have the means to meet their daily needs, how can it afford the legal fees? The husband of a family running a small or medium enterprise was sentenced to imprisonment for 10-odd years and the family was thrown in deep water, why could reasonable legal aid not be granted to them?

As we all know, wherever such cases may occur, things will be made much easier if professional services can be provided by people who are familiar with local laws. Otherwise, the persons involved will simply have no idea where to find lawyers, and can only choose the lawyers assigned by the authorities concerned. They do not have confidence in the arrangements, moreover, there may be communication problems. Hence, how can we offer assistance to them?
Chief Secretary for Administration, I hope the current-term Government can make one step forward in this respect. I understand that there are concerns over political issues involving the Mainland, but we can narrow the scope and assist Hong Kong permanent residents living on the Mainland in meeting the relevant requirements, as in the case of the imposition of an asset limit, for which a mechanism has been put in place so that a majority of these people can meet the eligibility requirements. Although it is now proposed to adjust the limit upward by a meagre sum of a few thousand dollars, which is of no great help, this is not a small sum for Hong Kong people living on the Mainland. Can the Government assist them if they meet the eligibility requirements?

I will continue to voice for them, because they are also Hong Kong people, and they will not travel all the way back to Hong Kong to seek help from Members of this Council if they are not in genuine difficulties. I will usually provide them with pro bono assistance, but this is after all a slow remedy which cannot meet their urgent needs, and policy support from the Government is necessary. Given that outreach arrangements can also be made for the granting of "fruit grants" and the provision of health care services as a token of appreciation for the contributions made for Hong Kong by Hong Kong people living on the Mainland, is it possible for the Government to adopt an open-minded attitude and give due consideration in this respect?

Chief Secretary for Administration, I have been fighting for improvements in this respect for 10 years, and I am looking forward to discussing this issue with you on some other occasions, with a view to addressing the needs of this small group of Hong Kong people. In my experience, if we can assist them in finding good lawyers, it is possible for them to be spared the suffering of imprisonment or have their terms of imprisonment shortened by three to four times. This can at least prevent their families from breaking up.

Deputy President, I of course support the proposed resolution moved by the Government, but I would also like to express my aspirations during the current discussions, and it is my hope that further improvements can be made by the Government to the relevant system and its coverage. I so submit.

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

(No Member indicated a wish to speak)
DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Chief Secretary for Administration to reply. Then, the debate will come to a close.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, I thank the three Members for their support to and their views on the two proposed resolutions. As I mentioned earlier, legal aid services form an integral part of the legal system in Hong Kong, and play a very important role in maintaining the rule of law. The policy objective of legal aid in Hong Kong is to ensure that all those who comply with the regulations of the Legal Aid Ordinance and have reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong will not be denied access to justice due to a lack of means.

As I have said in my speech just now, under the established mechanism for reviewing the financial eligibility limits ("FELs") annually, I move the first proposed resolution today to make an upward adjustment to the relevant limits under the Ordinary Legal Aid Scheme and the Supplementary Legal Aid Scheme ("SLAS") by 1.7% to reflect the change in Consumer Price Index (C). Mr Holden CHOW opined that FELs should be adjusted according to the increase in litigation costs, and in this connection, the Government has actually sought assistance from the two legal professional bodies when conducting previous reviews, but was advised that no information could be provided on private litigation costs. However, we will continue to seek the views of the relevant organizations and government departments, including the Judiciary and the Legal Aid Department, to examine feasible ways to collect information on litigation costs. The Government will timely consult the Legal Aid Services Council ("LASC") and the Legislative Council Panel on Administrative of Justice and Legal Services on the way forward.

My second proposed resolution seeks to amend the Legal Aid Ordinance in the light of the recommendations made upon completion of a review by LASC in 2016, with a view to expanding the scope of SLAS to cover professional negligence claims against financial intermediaries and derivatives claims.

SLAS came into operation in 1984, and it initially covered claims for damages concerning cases of personal injury and death only, but its scope was subsequently expanded to include employees' compensation claims and civil proceedings for medical, dental and even legal professional negligence claims. The scope of SLAS was significantly expanded in 2012 to cover more different
categories of professional negligence claims, including negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products, monetary claims against vendors in the sale of completed or uncompleted first-hand residential properties, representation for employees in appeals against awards made by the Labour Tribunal, etc. Expansion in the scope of SLAS has in fact all along been made since its initiation in a gradual and orderly manner.

SLAS is a statutory self-financing legal aid scheme. In order to ensure the financial sustainability of the scheme, SLAS has been targeting at cases which involve monetary claims that carry a high chance of success with good damages to costs ratio since inception. SLAS covers mainly cases where the defendants are insured or where the likelihood for payment of damages is high, such as claims lodged for personal injuries or death and work-related accidents. The high chance of recovery of damages has, to a large extent, helped to ensure the financial sustainability of SLAS. In considering new categories of cases to be covered by SLAS, we will continue to adopt the above principle.

Dr Priscilla LEUNG has just now enquired about the possibility of expanding the scope of SLAS to cover other categories of cases, such as claims against owners' corporations of multi-storey buildings. We understand Members' concerns and the Government is open-minded about all feasible options, with a view to expanding the scope of SLAS in a gradual and orderly manner. We have just invited LASC to conduct a further study on the scope of SLAS, and timely put forward its recommendations to the Government. We will strive to make a report in this respect in due course.

With these remarks, Deputy President, I appeal to Members for their support of the two proposed resolutions. Thank you.

DEPUTY PRESIDENT (in Cantonese): This Council now first votes on the Chief Secretary for Administration's first motion.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the first motion moved by the Chief Secretary for Administration be passed. Will those in favour please raise their hands?

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

(No hands raised)

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

DEPUTY PRESIDENT (in Cantonese): Chief Secretary for Administration, you may move your second motion.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, I move that my second motion, as printed on the Agenda, be passed.

The Chief Secretary for Administration moved the following motion:

"RESOLVED that—

(a) the Legal Aid Ordinance (Cap. 91) be amended as set out in the Schedule; and

(b) this Resolution is to come into operation on a day to be appointed by the Chief Secretary for Administration by notice published in the Gazette.

Schedule

Amendments to Legal Aid Ordinance

1. Schedule 2 amended (proceedings for which legal aid may be given under section 5)

   (1) Schedule 2, Part 2, paragraph 5—

   Repeal

   "Court of First Instance or District Court"

   Substitute

   "District Court or Court of First Instance".
(2) Schedule 2, Part 2, paragraph 11—
Repeal everything after subparagraph (e)
Substitute
"In this paragraph—
derivatives of securities (証券衍生工具) means—
(a) options to buy or sell interests in;
(b) certificates of interest or participation in;
(c) warrants to subscribe to; or
(d) rights (other than shares) in,
the capital of, or an instrument issued by, a
company, government authority or other body;
futures contract (期貨合約) has the meaning given by
section 1 of Part 1 of Schedule 1 to the Securities
and Futures Ordinance (Cap. 571).".

2. Schedule 3 amended (proceedings for which legal aid may be given under section 5A)
(1) Schedule 3, Part 1—
Repeal paragraph 2
Substitute
"2. For a claim for damages arising from personal injuries to, or the death of, a person that, in the opinion of the Director, is likely to exceed the specified amount—
(a) civil proceedings brought in the District Court for the claim by the person seeking legal aid (claimant), including proceedings for the defence to a counterclaim against the claimant and other proceedings incidental to the civil proceedings; and
(b) proceedings in a higher court that are related to the claim.".

(2) Schedule 3, Part 1—
Repeal paragraph 4
Substitute
"4. For a claim for damages for medical, dental or legal professional negligence that, in the opinion of the Director, is likely to exceed the specified amount—
(a) civil proceedings brought in the District Court, Court of First Instance or Court of Appeal for the claim by the person seeking legal aid, including proceedings for the
defence to a counterclaim against the person and other proceedings incidental to the civil proceedings; and
(b) proceedings in a higher court that are related to the claim.

(3) Schedule 3, Part 1, paragraph 5—

**Repeal**
"Court of First Instance, Court of Appeal or District Court"

**Substitute**
"District Court, Court of First Instance or Court of Appeal".

(4) Schedule 3, Part 1, paragraph 5(a)(viii)—

**Repeal**
"and".

(5) Schedule 3, Part 1, after paragraph 5(a)(viii)—

**Add**
"(ix) a licensed person (as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)) who is licensed for Type 1, Type 2 or Type 8 regulated activity within the meaning of that Ordinance;
(x) a registered institution (as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)) that is registered for Type 1 or Type 2 regulated activity within the meaning of that Ordinance; and",

(6) Schedule 3, Part 1, paragraph 5(b) —

**Repeal**
"$60,000"

**Substitute**
"the specified amount".

(7) Schedule 3, Part 1, paragraph 6—

**Repeal**
"Court of First Instance, Court of Appeal or District Court"

**Substitute**
"District Court, Court of First Instance or Court of Appeal".
(8) Schedule 3, Part 1, paragraph 6(b) —
Repeal
"$60,000"
Substitute
"the specified amount".

(9) Schedule 3, Part 1, paragraph 7 —
Repeal
"Court of First Instance, Court of Appeal or District Court"
Substitute
"District Court, Court of First Instance or Court of Appeal".

(10) Schedule 3, Part 1, paragraph 7(c) —
Repeal
"$60,000"
Substitute
"the specified amount".

(11) Schedule 3, Part 1, after paragraph 8 —
Add
"9. Civil proceedings in the District Court, Court of First Instance or Court of Appeal that are brought, by the person seeking legal aid, in respect of a claim for damages that falls within the following descriptions (including proceedings for the defence to a counterclaim against the person and other proceedings incidental to the civil proceedings), and proceedings in a higher court that are related to the claim—
   (a) the claim is made by the person in respect of derivatives of securities, currency futures or other futures contracts, on the basis that the person was induced to deal in those derivatives, futures or contracts by fraud, deception or misrepresentation; and
   (b) the claim is, in the opinion of the Director, likely to exceed the specified amount.".

(12) Schedule 3, Part 2, paragraph 2 —
Repeal
"Court of First Instance or District Court"
Substitute
"District Court or Court of First Instance".
(13) Schedule 3, Chinese text, Part 3, paragraph 1, definition of "控權公司"

Repeal the full stop
Substitute a semicolon.

(14) Schedule 3, Part 3, paragraph 1—

Add in alphabetical order
"derivatives of securities" (證券衍生工具) means—
   (a) options to buy or sell interests in;
   (b) certificates of interest or participation in;
   (c) warrants to subscribe to; or
   (d) rights (other than shares) in, the capital of, or an instrument issued by, a company, government authority or other body;

"futures contract" (期貨合約) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

"specified amount" (指明款額) means the monetary limit specified in paragraph 1 of the Schedule to the Small Claims Tribunal Ordinance (Cap. 338);".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the second motion moved by the Chief Secretary for Administration be passed.

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

(Members raised their hands)

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

(No hands raised)

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

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

First motion: To extend the period for amending the Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules, which was laid on the Table of this Council on 24 October 2018.

I call upon Mr CHAN Chun-ying to speak and move the motion.

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

MR CHAN CHUN-YING (in Cantonese): Deputy President, I move that the motion under my name, as printed on the Agenda, be passed.

At the House Committee meeting on 26 October 2018, Members decided to form a subcommittee to study the Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules ("the Rules").

To allow the Subcommittee sufficient time to scrutinize the Rules and to report to the House Committee, I call upon Members to support the motion to extend the scrutiny period of the subsidiary legislation to the Legislative Council meeting of 12 December 2018. Thank you.

Mr CHAN Chun-ying moved the following motion:

"RESOLVED that in relation to the Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules, published in the Gazette as Legal Notice No. 195 of 2018, and laid on the table of the Legislative Council on 24 October 2018, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 12 December 2018."
DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Chun-ying be passed.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Chun-ying be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

DEPUTY PRESIDENT (in Cantonese): Second motion: To extend the period for amending the Securities and Futures (Financial Resources) (Amendment) Rules 2018, which was laid on the Table of this Council on 24 October 2018.

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

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

MR CHRISTOPHER CHEUNG (in Cantonese): Deputy President, I move that the motion under my name, as printed on the Agenda, be passed.
At the House Committee meeting on 26 October 2018, Members decided to form a subcommittee to study the Securities and Futures (Financial Resources) (Amendment) Rules 2018. To allow the Subcommittee ample time to conduct the scrutiny, I, in my capacity as the Subcommittee Chairman, move the motion to extend the scrutiny period of the subsidiary legislation to the Legislative Council meeting of 12 December 2018.

Deputy President, I urge Members to support this motion.

Mr Christopher CHEUNG moved the following motion:

"RESOLVED that in relation to the Securities and Futures (Financial Resources) (Amendment) Rules 2018, published in the Gazette as Legal Notice No. 196 of 2018, and laid on the table of the Legislative Council on 24 October 2018, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 12 December 2018."

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

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Christopher CHEUNG be passed. Will those in favour please raise their hands?

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

(No hands raised)

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

DEPUTY PRESIDENT (in Cantonese): Third motion: To extend the period for amending the five items of subsidiary legislation in relation to the commissioning of the Hong Kong-Zhuhai-Macao Bridge, which were laid on the Table of this Council on 24 October 2018.

MR MARTIN LIAO (in Cantonese): Deputy President, a point of order.

DEPUTY PRESIDENT (in Cantonese): Mr Martin LIAO, what is your point of order?

MR MARTIN LIAO (in Cantonese): Deputy President, a quorum is not present in the Chamber.

DEPUTY PRESIDENT (in Cantonese): Mr Martin LIAO has requested a headcount.

Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)
DEPUTY PRESIDENT (in Cantonese): A quorum is present in the Chamber. The meeting now continues.

DEPUTY PRESIDENT (in Cantonese): I call upon Mr Frankie YICK to speak and move the motion.

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

MR FRANKIE YICK (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee, I move that the motion under my name, as printed on the Agenda, be passed.

At the House Committee meeting on 26 October 2018, Members formed a subcommittee to study the following five items of subsidiary legislation which were laid on the Table of the Legislative Council on 24 October 2018:

(a) Closed Area (Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road) Order (Commencement) Notice;

(b) Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 3) Notice 2018;

(c) Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road Closed Area (Permission to Enter) Notice (Commencement) Notice;

(d) Immigration (Places of Detention) (Amendment) Order 2017 (Commencement) Notice; and

(e) Immigration Service (Designated Places) (Amendment) Order 2017 (Commencement) Notice.
To allow sufficient time for the completion of the scrutiny, the Subcommittee agreed that a motion be moved by me to extend the scrutiny period of the five items of subsidiary legislation to the Legislative Council meeting of 12 December 2018.

Deputy President, I urge Members to support this motion.

**Mr Frankie YICK moved the following motion:**

"RESOLVED that in relation to the—

(a) Closed Area (Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road) Order (Commencement) Notice, published in the Gazette as Legal Notice No. 198 of 2018;

(b) Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 3) Notice 2018, published in the Gazette as Legal Notice No. 199 of 2018;

(c) Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road Closed Area (Permission to Enter) Notice (Commencement) Notice, published in the Gazette as Legal Notice No. 200 of 2018;

(d) Immigration (Places of Detention) (Amendment) Order 2017 (Commencement) Notice, published in the Gazette as Legal Notice No. 201 of 2018; and

(e) Immigration Service (Designated Places) (Amendment) Order 2017 (Commencement) Notice, published in the Gazette as Legal Notice No. 202 of 2018,

and laid on the table of the Legislative Council on 24 October 2018, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance
(Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 12 December 2018."

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

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Frankie YICK be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Fourth motion: To extend the period for amending the Land (Miscellaneous Provisions) (Amendment) Regulation 2018, which was laid on the Table of this Council on 31 October 2018

I call upon Mr Abraham SHEK to speak and move the motion.
PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR ABRAHAM SHEK: Deputy President, in my capacity as Chairman of the Subcommittee on Land (Miscellaneous Provisions) (Amendment) Regulation 2018, I move that the motion under my name, as printed on the Agenda, be passed.

At the House Committee meeting held on 2 November 2018, Members decided to form a subcommittee to scrutinize the subsidiary legislation. The Subcommittee held a meeting with the Administration on 13 November 2018 to examine the subsidiary legislation. To allow sufficient time for the Subcommittee to consider the supplementary information provided by the Administration pursuant to Members' requests made at the meeting and report its deliberations to the House Committee, I call upon Members to support the motion on extending the period for scrutinizing the subsidiary legislation to 9 January 2019.

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

Mr Abraham SHEK moved the following motion:

"RESOLVED that in relation to the Land (Miscellaneous Provisions) (Amendment) Regulation 2018, published in the Gazette as Legal Notice No. 205 of 2018, and laid on the table of the Legislative Council on 31 October 2018, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 9 January 2019."

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

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

(No Member indicated a wish to speak)
DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Abraham SHEK be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

DEPUTY PRESIDENT (in Cantonese): Fifth motion: To extend the period for amending the Foreign Lawyers Practice (Amendment) Rules 2018 (Commencement) Notice, the Solicitors' Practice (Amendment) Rules 2018 (Commencement) Notice and the Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018 (Commencement) Notice, which were laid on the Table of this Council on 31 October 2018.

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

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

MR DENNIS KWOK (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee on Foreign Lawyers Practice (Amendment) Rules 2018 (Commencement) Notice, the Solicitors' Practice (Amendment) Rules 2018 (Commencement) Notice and the Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018 (Commencement) Notice, I move the motion under my name, as printed on the Agenda, be passed.
At the House Committee meeting on 2 November 2018, Members decided to form a subcommittee to study the above notices which were laid on the table of the Legislative Council on 31 October 2018.

The Subcommittee has commenced its work. To give the Subcommittee sufficient time to complete its scrutiny work and to report to the House Committee results of the scrutiny, I move on behalf of the Subcommittee that the period for scrutinizing these notices be extended to the Legislative Council meeting of 9 January 2019.

I urge Members to support the motion.

Mr Dennis KWOK moved the following motion:

"RESOLVED that in relation to the—

(a) Foreign Lawyers Practice (Amendment) Rules 2018 (Commencement) Notice, published in the Gazette as Legal Notice No. 207 of 2018;

(b) Solicitors' Practice (Amendment) Rules 2018 (Commencement) Notice, published in the Gazette as Legal Notice No. 208 of 2018; and

(c) Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018 (Commencement) Notice, published in the Gazette as Legal Notice No. 209 of 2018,

and laid on the table of the Legislative Council on 31 October 2018, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 9 January 2019."

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

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

(No Member indicated a wish to speak)
DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Dennis KWOK be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

DEPUTY PRESIDENT (in Cantonese): Debates on motions with no legislative effect.

The motion debate on "Restructuring the governance of MTR Corporation Limited".

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

I call upon Mr Michael TIEN to speak and move the motion.

Stand-over item: Member's motion on "Restructuring the governance of MTR Corporation Limited" (since the meeting of 11 July 2018)

RESTRUCTURING THE GOVERNANCE OF MTR CORPORATION LIMITED

MR MICHAEL TIEN (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.
Deputy President, Secretary and Honourable Members, I proposed this motion before the summer recess. At the time, the entire political circle devoted most of the time to dealing with works problems involving the MTR Corporation Limited ("MTRCL"). Now that the new legislative session has commenced, MTRCL has again shown us how its performance is closely related to people's lives. Point (3) of my original motion is about its signalling system. I will go into the detail later on.

Secretary, I wish to discuss works projects as a start. I have come to realize that the quality of infrastructural projects in which we have taken pride all along is so very worrying. At the time, the successive problems with Hung Hom Station, To Kwa Wan Station and Exhibition Centre Station of the Shatin to Central Link ("SCL") led Members and the public to question whether all problems had been unveiled, and whether any other problems remained undetected. If a single incident occurs, I can regard it as an accident. If two incidents occur, I may attribute them to problems with some management personnel. But when incidents happen one after another, I will naturally think that the entire governance system has become diseased. As a saying goes, "An illness cannot be cured without treating the root cause." The purpose of my motion is to enable us to put our heads together.

The cost overrun and works delay involving the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") last time led to the stepping down of some people. But have their successors brought about fresh ideas and positive changes? Have they implemented the recommendations proposed in the Report of the Independent Expert Panel? I learned a remark from the MTRCL management several months ago, which goes, "In hindsight, things could have been done better." The former Projects Director of MTRCL invariably said so in every press conference. This is precisely where the problem lies. Effective governance cannot be achieved if one can realize what could have been done better only with the benefit of hindsight every time.

Besides, MTRCL is by far the largest infrastructure and real estate developer in Hong Kong, and it is responsible for the construction and management of transport facilities that are of utmost importance to Hong Kong people. It can be said that all people have, including their lives and properties, are in its hands. Unsatisfactory governance in MTRCL will bring a nightmare to
Hong Kong, as aptly reflected by the state of territory-wide paralysis last month. As I point out in my motion, Hong Kong will see the construction of seven rail lines in the days ahead. Judging from MTRCL's current performance, will people have confidence? But if other companies are entrusted with the construction of rail lines, then who should take charge of their operation afterwards? If design problems are found in the course of operation, should we revert to the times of the two railway companies? Or, will we see the presence of three or even four railway companies? Is this possible?

Whether people have confidence in the Government and its monitoring is precisely the issue that we must discuss today. I remember that when various rumours began to circulate several months ago, MTRCL issued a statement asserting that the rumours spread by someone outside would undermine public confidence in railway infrastructure projects. In my conjecture, that "someone" refers to me. Of course, I fully disagree. Secretary, "gold is tried in the fire". If it can be proven that the various prevailing rumours about MTRCL are mere fabrications, the rumours will disprove themselves somehow, and people will naturally have greater and greater confidence. But unfortunately, most of the previous rumours have proven to be true. While they may not be completely accurate, they are nonetheless very close to the truth. So, who is shattering public confidence? The Chairman of the independent Commission of Inquiry used "corporate arrogance" to describe the relevant contractor. So, can we likewise dismiss MTRCL as a "haughty corporation"? I think MTRCL's statement and its remarks at the press conference are short of sincerity.

The only feasible and effective way of restoring public confidence is to take immediate remedial actions, just as I think that it is necessary to break up the concrete walls at Hung Hom Station for inspection. Some people are very concerned about the pursuit of responsibility. Well, this is certainly important. But if we merely seek to pursue responsibility and only replace some personnel without changing other practices, I am sure that four or six years later, we will utter the same words "In hindsight, things could have been done better" again because MTRCL will remain in existence like "a perpetual government office with constant changes in its officials". I urge the Secretary to stop looking at all problems only in hindsight in the future because the best time is always now. I know the Secretary will definitely say that we must wait until the independent Commission of Inquiry has released its report. But I am not asking the
Secretary to take action tomorrow. The Government always needs quite some time before taking action. I hope that after hearing our views, the Secretary can take his time in studying them. If the independent Commission of Inquiry puts forth the same recommendations in the future, then the Secretary may take action immediately.

Point (1) of the original motion proposes "setting up an independent railway development department". The cost overrun involving XRL has enabled us to see that basically, former Secretary Prof Anthony CHEUNG would only be led by the nose if he monitored the management personnel in MTRCL's Projects Division through the Highways Department ("HyD"), and that this approach can only achieve the function of "checking the checker". Due to their lack of sufficient expertise, they could only put complete trust in MTRCL, meaning that "if you are okay, then I am okay." Despite obvious delay in works progress, MTRCL successfully fooled HyD and then the Secretary with its assurance that it could catch up on the progress. In the case of the SCL project, the result is simply the same despite the holding of many Project Coordination Meetings and Project Progress Meetings. HyD has even failed to resolve any of the various problems brought up by the Buildings Department ("BD") because their expertise is in building bridges and roads. How can they get a full grasp of the very complicated railway works?

From the two examples mentioned above, we can see that HyD has failed in supervising MTRCL effectively. So, the authorities should separate the Railway Development Office from HyD and turn it into an independent department which is on a par with HyD and directly accountable to the Secretary. That way, it can effectively coordinate other departments such as BD, the Civil Engineering and Development Department and the Electrical and Mechanical Services Department.

This motion has stood over for several months, and it can only be discussed after the announcement of the Policy Address. But I think that now is actually a better moment because the Chief Executive is likewise considering the idea of splitting the Transport and Housing Bureau. So, don't you think it is opportune to set up an independent railway development department now? I even think that apart from railway construction, the independent railway development department should also be entrusted with their operation after construction and
other works matters. For instance, the signalling systems in Hong Kong, ones which caused the simultaneous breakdown of MTRCL's four rail lines, should also be followed through by that independent railway development department. After thorough consideration, I think the independent railway development department should be renamed as "railway regulatory department" and take charge of follow-through supervision from the beginning to the end.

Let me also raise one point in passing. The Chief Executive argues that there is no urgency in splitting the Policy Bureau concerned in the meantime. I strongly disagree to this assertion. Deputy President, in incidents concerning the Air Traffic Control System, the third airport runway, the Lamma maritime disaster, the cost overrun of the XRL and SCL projects, the scandalous shortening of steel bars, building subsidence, the simultaneous breakdown of four rail lines, the aftermath of Typhoon Mangkhut, the chaos after the commissioning of HZMB, traffic diversion among the three harbour crossings, electronic road pricing and bus crashes, when have people failed to see the name of our respectable Secretary Frank CHAN when they read newspapers? All such matters relate to one Policy Bureau—the Transport and Housing Bureau. As seven more rail lines will be constructed in Hong Kong in the days ahead, it is necessary to split the Policy Bureau concerned as early as possible; or else I will be worried about him. I hope he can discuss this with the Chief Executive as soon as possible.

Speaking of the signalling system, I wish to begin with a discussion on point (3) of the original motion: "investment strategy of updating the signalling system". This point might be a "side dish" if it was raised a few months ago. But after the simultaneous breakdown of four rail lines, it has become the "main course" today.

The signalling system is a long-standing problem in Hong Kong's railway network. MTRCL's decision on updating the signalling system must depend on its budget because as a listed company, MTRCL must be accountable to its shareholders, maintain its share price and maximize profits. Can MTRCL increase its fares if it replaces the signalling system before the end of its serviceable life? No. Will the passenger carrying capacity increase? No. This explains why MTRCL definitely will not replace it. Am I right? As an elderly person, I will certainly continue to use those items which remain useable.
I suggest a change in policy. Young people like to change their mobile phones right after mobile phones of a new generation are launched. But it is not necessary for MTRCL to replace its signalling system every time when a signalling system of a new generation is introduced. It should only consider the replacement of its signalling system after the introduction of a few facelift versions with upgrades to another level. With substantial net profits, MTRCL should not haggle over every penny. This morning, I intended to put a question to the Secretary. But I was unable to get a chance to do so despite a long wait. At present, a few rail lines are in need of signalling system replacement. But the relevant works can only be completed in 2026. What system will be used after replacement? A CBTC system operated on the basis of a moving-block mechanism. The CBTC system is a communications-based train control system which was launched in the 1990s and adopted on the West Rail Line as early as 2003. But now, we have merely started the gradual replacement of the signalling systems on the several rail lines with such a signalling system which was introduced 20 years ago, and their replacement can only be completed in 2026. Do Members think this is outrageous? Other places are now exploring the adoption of a cloud computing-based system. And I have learned that the system concerned will be launched in five years. So, will we have to wait until 2040 or even 2050 before the replacement of the existing system with this cloud computing-based system? I have also learned that this cloud computing-based system is very good as it can restore any signalling system delays to normal in only 15 minutes. Does the Secretary think that this system is better? The Secretary should tell MTRCL about it.

Let me discuss points (5), (6) and (7) concerning the works projects and operation of MTRCL. How can the recommendations concerned be implemented? I particularly wish to discuss point (5)—"reviewing the criteria of its internal tendering system".

As far as my understanding goes, the present internal tendering system of MTRCL differs greatly from the Government's tendering system. Apart from "the lowest bidder wins", the former system also attaches importance to a bidding company's possession or otherwise of railway works experience. But whether it has any local experience in the relevant works projects is not its focus. The problem is that an overseas company with railway works experience may lack local experience in the relevant works projects or may not be quite so familiar with the laws and established practices of Hong Kong. So basically, it may not care so much about its company's image and its accountability to the public. As
far as I know, at least three such overseas companies have simply left right after undertaking a works project in Hong Kong. This explains why my original motion proposes that MTRCL should follow the Government's bidding system and stipulate that in the case of works projects worth $300 million above, a bidding company must have at least seven years of local experience in the relevant works projects.

Point (2) about "planning new development areas in tandem with their ancillary railway facilities" has been discussed by Members for quite some time. I now wish to bring up one point. Many people may be aware that I have kept saying this every week: "The overcrowded New Territories West is lack of rail lines. Without a timetable on constructing new rail lines, I will oppose all the development projects in New Territories West." This is the point I wish to bring up. Actually, I already cast an opposition vote on the Development at Kam Tin South of Yuen Long at the Finance Committee meeting, and this is precisely the reason. At present, I am certainly delighted to hear the Lantau Tomorrow plan proposed in the Policy Address, including the construction of a rail line connecting New Territories West with Hong Kong Island. This is the rail line I am talking about. Actually, it is already a bit late to start the construction of this rail line, and perhaps it can only be completed near 2040. But now, the West Rail Line has exceeded its carrying capacity. Deputy President, the proposal put forth by the Government today nevertheless is almost identical to the one I proposed back in 2014. I must also commend the Government for agreeing to support my views.

Finally, I wish to discuss point (4) about "rationalizing the appointment of the Chairman and the Chief Executive Officer of MTRCL". I am aware that this proposal is rather controversial. Many people think that duty of the Chairman and the Chief Executive Officer of MTRCL is to formulate strategies. So, why should they also be responsible for engineering matters? Perhaps, this involves a chicken-and-egg relationship. But the problem is that many issues are related to engineering. If the top leaders of MTRCL know nothing about engineering, then the Projects Director may virtually become the ruler of an independent kingdom. The cases of the several press conferences and the relevant meetings in the Legislative Council were the same, in the sense that the Projects Director was the person who answered all the questions. Whether his replies were satisfactory is another matter—I of course think that his replies were unsatisfactory—but the major problem is that his two supervisors were present as a mere show of support for him. As the MTRCL Chairman told the media, "It
will be of no use to provide them with so much information as they are not engineering personnel." Unpleasant as it may sound, this is nonetheless true. As a master in financial investment and an expert in financial management respectively, they are absolutely capable of dealing with issues involving tens of billions of dollars. But I honestly wonder if they can tell the intensity of pressure in terms of newton per unit. I do not think they can. In that case, what should they do?

The major problem is that seven or eight massive works projects are in the pipeline. So, I sincerely request that in the Secretary's selection of a suitable person to fill the particular post of Chief Executive Officer—I know that the Secretary is now identifying a suitable candidate for the post of Chief Executive Officer of MTRCL, and I have also recommended a few candidates to him—he must choose a person with an engineering background, so as to exercise checks and balances on the Projects Director. This is rather appropriate. It is most desirable to select a person with a background in railway operation and engineering. He should not be required to deal with issues such as determining bids in land sale and constructing shopping arcades or commercial buildings because somebody else can cope with all this on his behalf. The area with the greatest difficulty is railway construction and operation.

I think that MTRCL's current business, whether speaking of its works projects or other respects, is honestly too multifarious. Like a person preoccupied with many thoughts, it has simply failed to stay focused. While MTRCL's development of real estate business is very satisfactory in both overseas and local communities, its railway operation alone has given people the impression that it is plagued by major problems. In the long run, the Government should probably consider the necessity or otherwise of buying back MTRCL and separating its portfolio into railway development and real estate business in Hong Kong and overseas countries.

Deputy President, my speech ends here. I only have around one minute left in my speaking time. I so submit.

Mr Michael TIEN moved the following motion: (Translation)

"That the MTR Corporation Limited ('MTRCL') has built and operates 11 railways in Hong Kong, and in the future, seven new railway projects will most likely be assigned to MTRCL; the people of Hong Kong heavily rely
on the railway system as a mode of transport, but in recent years, there have been strong views in society on the service quality, corporate governance and supervision of works of MTRCL; the Hong Kong SAR Government as the majority shareholder of MTRCL has a major responsibility of monitoring MTRCL in providing to the public the safest railway services and infrastructure of the best quality; in this connection, this Council urges the SAR Government to adopt the following measures to restructure the governance of MTRCL to restore public confidence in MTRCL:

(1) setting up an independent railway development department—given that at present, a railway from planning to construction involves various government departments, including the Electrical and Mechanical Services Department, the Civil Engineering and Development Department, the Buildings Department and the Highways Department, resulting in fragmentation of responsibilities and inefficiency; besides, responsible for all the works of roads, tunnels, bridges, etc. in Hong Kong, the Highways Department can hardly attend to everything at the same time, thus giving rise to problems in the regulation of railways; hence, the SAR Government should set up an independent railway development department dedicated to railway works and directly responsible to the Secretary for Transport and Housing;

(2) planning new development areas in tandem with their ancillary railway facilities—in planning some of the new development areas in the past, since the SAR Government did not concurrently consider ancillary transport facilities, serious traffic problems arose in such areas, and the SAR Government then constructed railways in a rush, thus causing the works quality to fall; hence, new development areas and ancillary railway facilities should be planned in tandem in order to prevent the quality of railway projects from being affected by very tight work schedules;

(3) urging MTRCL to regularly review its investment strategy of updating the signalling system—in the past, repeated serious disruptions of MTR train services were caused by the ageing signalling system; hence, MTRCL should regularly upgrade the signalling system to the latest version, rather than refusing to
upgrade the signalling system on the ground of the cost being the prime factor of consideration, so as to ensure provision of stable and reliable public transport services to passengers;

(4) rationalizing the appointment of the Chairman and the Chief Executive Officer of MTRCL—to cope with the foreseeable railway projects, either of the Chairman and the Chief Executive Officer of MTRCL, being the two highest persons-in-charge, should have an engineering background to facilitate monitoring of the works progress at the highest level;

(5) supervising MTRCL in reviewing the criteria of its internal tendering system—when drawing up the criteria of its internal tendering system, MTRCL should study following the criteria of the tendering system of the SAR Government which draw greater reference from the past performance, cooperative attitude, accountability performance of tenderers, etc., rather than overstressing the principle of 'the lowest bid wins' and the number of times the tenderers were awarded railway projects in the past as priority considerations, so as to avoid monopolization;

(6) requiring MTRCL to strengthen the project management notification system—MTRCL should draw up specific and transparent notification criteria and make improvements on two levels: on the first level, requiring frontline site staff to report to the management in higher ranks the site conditions, including but not limited to issuing to contractors non-conformance notices/reports for any work that does not comply with plans and works requirements, and on the second level, reporting to the Government all construction problems in respect of repeated mistakes without rectification, delays in resolving such problems and suspected violations of statutory requirements; and

(7) raising MTRCL's requirements for supervision of the works of contractors—MTRCL should draw reference from the requirements of the SAR Government in supervising public works, including considering the introduction of the Contractor Management Handbook for public works to conduct regular assessments on the quality, progress and safety of works, environmental protection,
management and attitude of the persons-in-charge of projects, subcontracting of works, performance of procurement, etc., and requiring resident site staff to conduct thorough on-site supervision, thereby effecting more stringent supervision of railway projects."

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

**DEPUTY PRESIDENT** (in Cantonese): Four Members will move amendments to this motion. This Council will conduct a joint debate on the motion and the amendments.

I will call upon Members who will move the amendments to speak in the following order: Mr LUK Chung-hung, Mr CHAN Han-pan, Dr KWOK Ka-ki and Mr LAM Cheuk-ting, but they may not move their amendments at this stage.

**MR LUK CHUNG-HUNG** (in Cantonese): Deputy President, as we all know, railway is the backbone of the public transport system in Hong Kong, no matter if passengers like it or not. Following the merger of the two railway corporations in 2007, local railway services have since been monopolized, with a daily patronage of as many as 5 million passengers. Hence, the performance of the MTR Corporation Limited ("MTRCL") will have a direct impact on the accessibility to destinations throughout the territory.

However, the services of MTRCL have constantly come under criticism in recent years, including the annual increase in its fares and chaotic situations caused by various sorts of delays, with the classic example being the breakdown of its four rail lines last month. Moreover, the quality of its projects is often questionable and plagued by scandals. MTRCL's performance falls sharply short of people's expectations.

Before making overall comments, we must first make clear the very nature of MTRCL. Actually, MTRCL is a public enterprise with the Government being its major shareholder (with 75% shareholding). It is no exaggeration to call it an "SOE" ("state-owned enterprise"). Thus, MTRCL ought to fulfil its corporate social responsibility and give priority to public interest and service
quality instead of focusing on making profits and the interests of its shareholders, particularly in view of the fact that four important government officials are sitting on its board, namely Secretary for Transport and Housing Frank CHAN, Secretary for Financial Services and the Treasury James Henry LAU, Commissioner for Transport Mable CHAN, Permanent Secretary for Development (Works) Mr LAM Sai-hung. Why did problems with MTRCL's operation still crop up despite the supervision of these four key officials? And so we really need to discuss this matter today.

I move an amendment to the original motion by further emphasizing that MTRCL must be held accountable for its governance and service performance, and it has to improve the notification mechanism for works accidents. Meanwhile, the Government's monitoring role and efforts have to be strengthened.

First of all, let me talk about the accountability of MTRCL's management. As I have pointed out just now, MTRCL is not an ordinary listed company but a listed company that should give priority to serve public interest. In reality, however, its biggest concern is the "maximization of profit", which is deemed utterly unacceptable by the general public. I must stress that MTRCL's management of the MTR Corporation should focus not only on the company's profitability but also on its performance in terms of works projects, operation, governance and service quality since its performance in various aspects will have impacts on the effectiveness of its efforts in promoting its business all over the world in the future and thus affect its future profits. How come MTRCL has adopted the mechanism of an ordinary listed company which distributes bonuses based on the profit made, while ignoring the company's performance in other aspects? Of course, MTRCL's management, in particular its CEO, will try their best to maximize profits for the company, and it is precisely because they focus their attention on profit-making that they had neglected the matters in other aspects.

As set out in the Annual Report 2017 of MTRCL, the high-income earners (senior management) of the Executive Committee under the Board of the company were given yearly bonuses totalling $19.5 million, with some $4 million of which going to the pocket of Lincoln LEONG, the Chief Executive Officer of MTRCL. Under the protection of tilted government policy, MTRCL has secured a dominant position by monopolizing local railway operation with an annual profit of $10 billion. Yet, its performance has fallen short of the public's
expectations. Deputy President, Secretary, how can members of the public not be infuriated upon learning the distribution of $19.5 billion as bonuses to MTRCL's senior management, especially when some people were withheld good attendance bonuses for being late due to MTR train delays? In light of this, the Hong Kong Federation of Trade Unions ("FTU") considers that MTRCL's positioning goes against its corporate social responsibilities as a public enterprise which will affect the company's healthy development in the long run. It is incumbent upon the Government as the majority shareholder of MTRCL to take forward the reform of governance of the latter since it has become a matter of the utmost urgency.

Therefore, we ask the Government to reform the relevant penalty mechanism for service disruptions. Apart from the current mechanism for imposing fines—such a mechanism is certainly problematic in that not the total length of service disruption is taken into consideration, say, only the longest delay was taken into account in coming up with the sum of fine to be imposed for the breakdown of the four rail lines (i.e. an hour or so) and MTRCL was fined $2 million only in the end. Such a mechanism is like a "toothless tiger" that does not have any deterrent effect. No wonder it has been under criticism.

More importantly, we consider it necessary for the authorities to refresh their mind and establish a mechanism under which the bonuses of MTRCL's management are deducted according to the number and severity of service disruptions in order to embody accountability. Second, we think that the Government also has a very important role to play. As I have mentioned at the beginning of my speech, with the four key officials sitting on the Board, how come the Government is incapable of exercising supervision? I do have confidence in Secretary Frank CHAN and hope that he will play a more active role in supervising the operation and services of MTRCL.

We are very much disappointed to learn the recent scandals involving the MTR projects as a result of its ineffective monitoring. I think the concession approach adopted by the Government is one of the contributory factors. In short, the project was contracted out to MTRCL as a package but the Government remained the party to foot all the bills. This had subsequently led to repeated cost overruns of the MTR project as well as other works problems. On cost overruns, the cost of the Shatin to Central Link ("SCL") is set to overrun by $16.5 billion and this tells us that cost overrun has become the norm. In addition, some of the steel bars at Hung Hom Station of SCL were found to have
been cut short, while subsidence of buildings along SCL have been detected. In the meantime, the works along the railway line had caused sinking and subsidence of MTR rail tracks, Light Rail platforms and the Viaduct of West Rail. All the above has exposed the inefficiency of MTRCL's notification mechanism for its project management and its public announcement mechanism, whereas the Government is in a passive position.

The problems with the concession approach which I mentioned originated from the lack of incentive for or determination of MTRCL to complete the project within the approved budget and on time since the Government will always foot the bills in case of cost overruns and MTRCL only has to make compensations for the management fees of certain works items. The government, being in a passive position, has to pay the remainder of the cost overrun because it cannot allow the works to be left unfinished, and so the Legislative Council has to approve the funding proposal sought to this end, meaning that taxpayers cannot say "no". Hong Kong people are really helpless in this regard. In other words, it is most apparent that the Government has contracted out the services concerned together with its responsibility of management.

Let us examine MTRCL's organizational structure now. Under the Board of MTRCL, there are various committees and it is hard to name them all here. It seems that MTRCL has established quite a lot of self-monitoring mechanisms, but they are all ineffective. Thus, the Government should step in to enhance its monitoring efforts, including strengthening the Highways Department's role in monitoring MTR projects, and ought to consider engaging external monitoring consultants as well, instead of allowing MTRCL to exercise self-regulation since it will never admit the existence of problems but feel complacent. The railway projects will be monitored more effectively if the Government proceeds to proactively exercise supervision over MTRCL.

Finally, the Government should also review the concession approach. For example, will it consider replacing the current approach with the ownership approach model? That is to say, when the Government entrusts a project to MTRCL in future, the latter must adopt a "one-stop" mode in carrying out the entire project (including financing, design, construction, operation and management) on the principle of "being responsible for cost overruns caused by itself". That way, MTRCL will be incentivized to keep a close eye on the accounts and the progress of works then.
As members of FTU, we do care about the rights and interests of frontline workers. Last year, I discussed the matters concerning manpower resources for railway services at the meeting of the Subcommittee on Matters Relating to Railways, during which a motion was passed. Regrettably, however, it was shown in the Government's and the Transport and Housing Bureau's replies that they did not face squarely the problem of declining service quality due to wastage of manpower and experience of frontline staff. Ultimately, the crux of the problem lies in the disproportionate reward for the efforts made by frontline staff. Hence, we find that many sizable organizations around the world have put in place a coordination mechanism between employers and employees for handling pay adjustments. In light of this, we hope the Government will, in ameliorating the governance of MTRCL, also respond to the aspirations of trade unions and frontline workers by establishing a fair and just pay negotiation mechanism for employers and employees so that employees will be duly remunerated for their hard work.

Lastly, we opine that in addition to revamping MTRCL’s governance in a top-down manner, both MTRCL and the Government should heed the voice of frontline workers for conducting a comprehensive reform. Only by doing so can the purpose of service improvements be achieved.

Thank you, Deputy President.

MR CHAN HAN-PAN (in Cantonese): Deputy President, a number of incidents of the MTR Corporation Limited ("MTRCL"), such as the works projects of the Shatin to Central Link, the failure of four rail lines on the same day and the yearly fare increases, have shaken the confidence of Hong Kong people on the railway operator and shattered its gilt reputation built up in the past 40 years. The MTRCL railway is still the world number one railway system, but I can feel that its quality is deteriorating, so can the public. I will thus interpret the criticisms of the public and of Members against MTRCL as an expression of their love for the railway. I hold that MTRCL and the Government should accept and listen carefully to these well-intentioned criticisms.

We can trace the scale of operation of MTRCL back to 40 years ago when the Government launched a comprehensive transport strategy. I have been urging the Government for years to conduct another comprehensive transport strategic study. The first comprehensive transport study proposed the
construction of underground railway. The second comprehensive transport study was conducted 13 years later and it looked into the construction of MTRCL's Tseung Kwan O Line and West Rail Line. And in the following 10 years, the Government implemented a rail-based transport policy and formulated the Railway Development Strategy 2000.

In the following 20 years, the Government did not conduct any more comprehensive transport studies. The Secretary says that the past few strategic studies can collectively form one comprehensive transport strategy. This fragmentary approach cannot focus on and address the problem. In my opinion, the transport in Hong Kong is facing internal and external problems of varying degrees and fails to cope with the changes in society.

First, internally speaking, Hong Kong has experienced substantial changes in its social structure, cultural development, modes of production, people's expectations towards their quality of life and the modes of communication. MTRCL has a standard on its train carrying capacity which has been lowered from six persons per square metre in the past to four persons per square metre at present. But we still find the train compartments very crowded because the internal structure of society and the expectations of the people have changed substantially.

The internal situation of society has changed, but the Government has not changed its policy to keep up with the times. This is the reason why to date the Government cannot kick start, or still has difficulty in kicking start the Railway Development Strategy 2014. It is because the Government has been using its old thinking to consider the needs of the people today. That is why the Railway Development Strategy 2014 which was announced five years ago has failed to achieve any prominent results.

The external situation has experienced major changes as well. Society is facing many cross-boundary transport problems. People want to live out the concept of "one-hour living circle". There are major changes in the flow of people and goods, as well as business opportunities. I thus hope that the Government can conduct an in-depth assessment on the overall transport strategy.

What should be done first? I suggest that the Government should carry out proper management having considered the present extent of railway development, reasonably distribute different public transport modes and sort out
the relationship between road transport and railway transport. Moreover, people hope that Hong Kong can become a "sponge city", such that in the event of incidents, the city can recuperate quickly, so as to enhance the resilience of the public transport in Hong Kong. I hope that Government can consider this assessment direction I propose for the future comprehensive transport study.

On railway operation, why are there criticisms against MTRCL for dominating the railway market? The mismanagement of the Kowloon-Canton Railway Corporation and the "mutiny" after the railway reform contributed to the merger of the two railway corporations. Of course, not every outcome is welcomed by us all but the merger has its benefits. For instance, the ticket fares were lowered after the merger and the entry and exit ticket gates that separated the two railway systems were removed. These are the benefits that we noticed at that time.

In retrospect 11 years later, perhaps some people may criticize those supporting the merger for claiming credits in hindsight. But sometimes, a patriot missile is not as accurate as remarks made by people in hindsight. However, we are also aware of the problems brought by one dominant railway operator in the market. For example, we have no other options but accept those sub-standard works projects now. Members of the public have no other transport alternatives except the railway. And we have to accept the fare increases by MTRCL. These are problems that have arisen from a lack of alternatives.

Many Members today made many suggestions on how to reform the monitoring of the railway. I basically support the proposals made by Mr Michael TIEN. But I wish to take this opportunity to talk about part (4). Mr TIEN suggests that the Chairman and the Chief Executive Officer of MTRCL should have an engineering background. I think the suggestion is reasonable because people with an engineering background should know how to monitor a works project. However, we must focus on the problem. Senior MTRCL management does not know what is happening in the frontline departments. Why? This is caused by the culture that discourages upward communication. Hence, even if the MTRCL Chairman or the Chief Executive Officer has an engineering background, he will not know what is happening on the front line if views from the bottom level cannot be passed to the upper level.
Hence, in my opinion, what needs to be changed is not adding the requirement of having an engineering background into the international recruitment of the future MTRCL Chairman because this requirement may narrow down the choice of candidates. I think what needs to be changed is the culture of the corporation, so as to enable staff views from the bottom to be passed to the upper level.

Punishments meted out by the senior management on subordinates should not be too harsh. If frontline staff is willing to tell the truth and be reasonable, the senior management should not be too mean. Accountants may not necessarily be parsimonious, but they have a detailed mind with the accounts. When a problem arises, they will immediately take out a calculator to make a calculation. This may not be desirable because if the problems in the lower level have to be settled with money to ensure passenger safety or fulfil public expectation, money should be spent to address the problems.

We thus hope that MTRCL can change the culture that discourages upward communication. If the lower level glorifies the incident report to the Chief Executive Officer, he cannot find out the real problem even if he has an engineering background. The efforts will be futile in the end. I hope Members will not put their focus on the wrong place. MTRCL may recruit its Chief Executive Officer or Chairman in the future. I hope that it will not lay down such a restriction. This is my first point.

Second, why is there the culture which discourages upward communication in MTRCL? I believe the majority of the MTR staff are working very hard, especially when the train is out of order. They often have to fix the problem throughout the night without rest or breaks. We should give them a credit. We should thank MTRCL for having an edge in its train operation and for its hard-working staff who have contributed to this city with their efforts.

But it would be hard on the lower-level staff if the senior management always expects them to be perfect. In times of troubles, the senior management should give their biggest support to the lower-level staff. The senior management should make frequent visits to the frontline departments. But they should not do it for show. In some companies, the senior management will inform the department concerned before making a visit, so that the department can make a show. I do not think this is an appropriate approach. I thus hope
that the future Chief Executive Officer and Chairman of MTRCL can change the entire management culture. This is even more important. My amendment mainly seeks to amend Mr Michael TIEN's motion on this point.

Moreover, regarding fare increases, I hope that MTRCL can alleviate its tension with the public because its yearly fare increases have tarnished its reputation. For the public, they do not have any alternatives. They have to take the MTR as their means of transport. I hope that the Government and MTRCL can strive to explore how to restore the formula on fare increase to its reasonable level, so that MTRCL will not be put in conflict with the people.

Deputy President, I so submit.

DR KWOK KA-KI (in Cantonese): Deputy President, we just proposed last week to set up a select committee under the Legislative Council (Powers and Privileges) Ordinance, and this week we are discussing the motion proposed by Mr Michael TIEN.

To be honest, Mr Michael TIEN's motion has some inadequacies, because he just proposed to review the governance of the MTR Corporation Limited ("MTRCL") despite the fact that there are many problems with its works. Any mention of MTRCL's works will leave Hong Kong people in tears. The construction cost of the Shatin to Central Link ("SCL") and the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") combined amounts to a tidy $200 billion, all from the pockets of Hong Kong people, but in return we have had a spate of incidents. All the issues raised by Mr Michael TIEN in his motion are basically the minimum requirements for any public works project. For example, the various requirements on the upward communication, tendering system, management system and supervision of works, etc. are the minimum practices for public works. Sadly, we need to ask the Government to do so by means of a Member's motion. Would the Secretary feel a bit shameful, especially having regard to his engineering background?

What we are talking about now is something forcibly built with hundreds of billions of dollars from Hong Kong people which has ended up in a mess beyond description. In addition to the surge of problems with the structural walls at Hung Hom Station, there is something amiss at almost every SCL station,
ranging from Ho Man Tin to To Kwa Wan to Exhibition Centre. Consequently, the Government has played a funny trick, i.e., as I often say, fiddling the exam results when a zero is scored. As excessive subsidence would never happen, there would never be any problems.

In fact, restructuring the governance of MTRCL is not simply about the works. That is why I proposed in my amendment a matter that I think the Government should definitely do. I will first talk about a major chronic issue, which is the last point of my amendment: conducting a study on buying back all the remaining shares of MTRCL. Please look back at history. MTRCL was established in 1975 as the Mass Transit Railway Corporation. The Government decided to privatize it in 2000. I believe that the period between 1975 and 2000 was the heyday for MTRCL, because, as all of us still remember, when the Kwun Tong Line and the Tsuen Wan Line were completed, albeit having endured untold hardships in the engineering works for four years since the green light was given in 1979, Hong Kong people were proud of them.

The main reason for things going awry is that, since the reunification, MTRCL has undertaken many projects, in particular XRL, that are beyond its ability to accomplish. In consequence, MTRCL basically does not have enough manpower and resources, and neither does the Government. Deputy President, it struck me deeply that every time the Director of Highways came here, he made us feel ridiculous. To put it bluntly, it is him who is responsible for the construction of bridges, the Central-Wan Chai Bypass, and again Central Kowloon Route. In addition, he has to come and discuss the railway incidents in this Council. How pitiable he is! In fact, we all know that these are beyond his ability to handle. How can he manage all the railway projects that are worth between $200 billion and $300 billion in total, including the recent South Island Line, SCL and XRL? Actually, the Government is unable to handle them, so it turns a blind eye. I think the Secretary's most classic remark was that he could know what was happening in MTRCL by reading newspapers. I am not sure if the Director of Highways can likewise learn from newspaper summaries about what happened in MTRCL on every single day.

Some people say that the Government is really unable to exercise control. Why? MTRCL's largest shareholder is the SAR Government, which owns almost 76% of the shares. The Chairman, the Chief Executive Officer ("CEO"), and even the Directors, except the officials, are all hand-picked by the Government. Though supposed to be the best candidates selected, they have
disappointed the public again and again. Recently, Frederick MA's term of office was even extended for another half a year. However, I do not dare to blame Frederick MA so much. Although he is quite arrogant and a little self-important, I believe the current mess is very difficult to clean up. In fact, this is the very shambles left behind by the Government.

On the one hand, the Government said that MTRCL has to take care of the interests of shareholders, referring to minority shareholders. That is why MTRCL has gradually become a financial institution. In fact, besides the railways, such as XRL, that it is forced to build by the Government, MTRCL is most concerned about how much money it has earned in the year. On the other hand, as we all know, the Government allows MTRCL to dominate some real estate projects along the railway, so that MTRCL enjoys awesome advantages. While other real estate developers have to submit tenders, they do not, because the Government has already granted them the rights. MTRCL should have done better, but it has instead completely disappointed us with a barrage of problems. We assumed that the situation would be improved after the expert report was completed in relation to the problems with MTRCL in 2014. However, with the Chairman of MTRCL replaced and a large sum of money paid to send away the CEO, the result is "a pile of shite" all the same.

In the past when MTRCL was wholly owned by the Government and had yet to be privatized, what I found best was that the Government could not let MTRCL off on the grounds that shareholders' interests were at stake, but now MTRCL can justly and forcefully take shareholders' interests as a reason for profit maximization. Therefore, even though reaping a profit of more than $16 billion, MTRCL can still continue to raise the fares. It could have saved on expenses but, as we all know, the signalling system is extremely aged and should have been improved long ago. However, MTRCL's senior staff members all receive up to ten million dollars in salary. In particular, CEO Lincoln LEONG received a total salary of over $13 million before his dismissal. Deputy President, I believe he is the "King of Employees" of Hong Kong, with the highest salary in the city, but has he done a better job? Of course not, because as he needs to "meet the quota", his first priority is to maximize profit. Surely very contented with this, the Government is laughing surreptitiously, hiding behind the so-called shareholders' interests, because, firstly, this will allow MTRCL to raise the fares every year, and, secondly, even if money is saved, the Government is not to blame. Even if the increase of fares and saving on
expenses end up in a big mess, everybody's interests can be exploited as long as shareholders' interests are served. Hong Kong people funded the Government for the construction of XRL, only to be eventually exploited by MTRCL.

I have no idea how many Members are willing to strike at the root causes for the sake of Hong Kong people, but if we continue with the current practice of using minority shareholders as an excuse, Hong Kong will be destined for bad luck. Some people say that the buy-back proposal will entail a huge sum of money. Let us do a brief calculation. The current market capitalization of MTRCL is $150 billion. If the calculation is based on the 4,434,552,207 shares currently owned by the Government, buy-back is quite possible for less than $60 billion. Why do some people say that it involves a lot of money? Summing up from 2012 to 2017, the total amount is $68.9 billion, not "689" LEUNG Chun-ying. In fact, the Government has enough money to buy back the entire MTRCL, thereby improving governance instead of hiding behind shareholders' interests.

However, the Government may not do so, because despite Secretary Frank CHAN's poor working ability, he can say every time that the problems have nothing to do with him, but with the CEO and the Chairman. Could he then just sit on his hands and pass the buck to his subordinates? It would not be that easy, because if he strives for his own good, these fundamental structural problems must be dealt with. The current penalty fails to punish MTRCL, but it punishes the public instead. Whenever a problem occurred, MTRCL would fork out money to offer rebates, and someone could still receive $15.2 million. If MTRCL does not change its current structure, which makes public monitoring impossible on grounds of shareholders' interests, then bad luck will befall Hong Kong. I so submit.

MR LAM CHEUK-TING (in Cantonese): Deputy President, Mr Michael TIEN has introduced the motion on "Restructuring the governance of MTR Corporation Limited" which, in my view, is a very important topic of discussion. However, I find the situation incomprehensible, because in order to restructure the governance of MTR Corporation Limited ("MTRCL"), we must first understand the problems with the existing governance of MTRCL, and in order to understand the problems with the governance of MTRCL, we could have found out the truth by investigating into the scandals of MTRCL through invoking the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance") as I proposed last
week. But why did Mr Michael TIEN and those Members from the pro-establishment camp cast their votes of opposition? When we do not understand the problems, how can we suggest and request a restructuring of the governance of MTRCL? At present when the true picture has yet to be found out, Members from various political parties and camps are already expressing their views and suggestions regarding the restructuring of the governance of MTRCL.

Deputy President, as we noticed, the recent situation of the Shatin to Central Link ("SCL") and the operation of MTR are really terrifying to the public. We saw the land subsidence problem, the cutting short of the reinforcement steel bars, the problem of not doing the works in accordance with the plans, and the serious incident of a breakdown of four railway lines. We cannot help feeling worried that the existing governance of MTRCL has already collapsed. Theoretically speaking, the Government has to monitor MTRCL, MTRCL has to monitor its contractors, while the contractors have to monitor their sub-contractors. Nevertheless, the situation of SCL tells us that monitoring has not been properly done at different tiers, and accountability at different tiers has become shirking of responsibility at different tiers. In regard to Secretary Frank CHAN who is now sitting opposite us, he is the Secretary for Transport and Housing as well as a member of the MTRCL Board. Last week, I asked him about his logic or justifications, in his opposition to the Member's motion under the Ordinance, for claiming that the Legislative Council's investigation would affect the progress of the SCL project. But he did not dare to answer.

The Legislative Council Subcommittee on Matters Relating to Railways has passed a motion asking Secretary Frank CHAN and Prof Frederick MA to step down on account of accountability, but the Secretary refused to do so. Deputy President, not only did he refuse to step down, but as we noticed, he also did not apologize openly in respect of the incidents. Instead, he warned the Legislative Council that the invocation of the Ordinance would affect the progress of the SCL project. Is that really the spirit of accountability of the Secretary? As the Secretary for Transport and Housing and a member of the MTRCL Board, he has shown his accountability in such a manner.

What about Prof Frederick MA? At the beginning when the scandal was revealed, Prof Frederick MA took a contemptuous attitude. I would describe it as supporting, being biased in favour of or condoning the management of MTRCL, in the hope of quashing major issues and quelling minor ones. But in
the wake of the spate of MTRCL scandals which were getting more and more serious, he submitted his resignation twice to the Chief Executive who, however, did not accept. In fact, it may not be possible to ask people to give you a job. But if you want to resign and does not want to work, it is impossible that you cannot make it. According to the Government, it wants him to stay on for a while and assist in the recruitment of a new Chief Executive Officer. But I do not quite understand. Is Prof Frederick MA the only person who is perspicacious and has the keen eye to recruit a competent Chief Executive Officer? If he were really that perspicacious, MTRCL would not have degenerated to such a state.

Besides, the three-member Expert Adviser Team appointed by the Government has asked MTRCL to open up the concrete to inspect any faulty reinforcement steel bars, and MTRCL submitted its proposal after procrastinating for a few months. But according to the Expert Adviser Team, this proposal was not in line with statistical analysis and an inspection could not be done in this way. The proposal was then returned to MTRCL which was asked to submit another proposal. Nonetheless, to date, MTRCL is still unable to decide how to open up the concrete to inspect the steel bars. MTRCL just keeps on procrastinating and glossing over the incidents, but why does the Government still insist on asking Prof Frederick MA to stay in his position for another half a year? Clearly knowing that his credibility and leadership as Chairman of MTRCL have already been impaired, the Government still entrusts him with important tasks. In fact, when these high-ranking officials are shirking responsibilities at different tiers, the subordinate management level and intermediate level staff will only follow suit.

Why did MTRCL face public queries in such an arrogant manner? Because it has the support of the high-ranking people such as the Chairman of MTRCL and the Secretary for Transport and Housing. The Government has basically failed to monitor MTRCL and has been unable to do its monitoring work properly. Hence, when Mr LUK Chung-hung said that he had confidence in the Secretary, I really find it difficult to understand the basis of his confidence.

Deputy President, Mr Michael TIEN proposes setting up a new and independent railway development department to monitor the railway works of MTRCL in a comprehensive way. However, given that the manpower of the independent railway development department in his proposal will be deployed from various government departments and will actually be the same group of
government officials, I do not think that this can improve the existing project monitoring problem. Of course, we opine that in monitoring MTRCL, especially the railway works undertaken by it, we need more manpower and professionals, and may even need to recruit overseas experts outside the Government. We also hope that the Government can consider allowing people's representatives to sit in the MTRCL Board so that the governance of MTRCL and its handling of public queries will not be carried out with an arrogant attitude again.

Moreover, in terms of railway system and signalling system, we know that the installation of the new signalling systems at four railway lines of MTRCL, namely the East Rail line, the Island line, the Kwun Tong line and the Tseung Kwan O line, will be completed in the period from 2019 to 2021. In our view, MTRCL should properly install the systems as soon as possible, as in the past, many major service disruptions were caused by the problems with the signalling systems.

As regards Mr Michael TIEN's proposal that either the Chairman or the Chief Executive Officer of MTRCL should have an engineering background, I do not think that it is necessary. Of course, the MTRCL Board should have some members with an engineering background. But as the Chief Executive Officer and the Chairman of the corporation, they should have broader vision to lead the corporation, and to properly monitor the management level and the operation of the whole corporation. I thus think they do not need to have an engineering background. In fact, we know that Ir Dr Philco WONG, the Projects Director of MTRCL back then, has an engineering background, but how was his performance? Was it not disappointing just the same? The crux mainly lies in a person's integrity and his sense of responsibility. If a person has problems with his integrity and sense of responsibility, no matter what professional qualifications he possesses, it is still pointless. In fact, the more professional qualifications one possesses, the more destructive his bad deeds can be.

Deputy President, I think that Mr Michael TIEN's proposal of setting up an independent railway development department in his motion is somewhat duplicating efforts, and therefore, the Democratic Party will abstain from voting on Mr Michael TIEN's motion as well as the amendments of Mr LUK Chung-hung and Mr CHAN Han-pan. Concerning Dr KWOK Ka-ki's request for "conducting a study on buying back all the remaining shares of MTRCL", we
find this proposal highly controversial. Since it involves a huge amount of public money, we have to be very careful in our consideration. Hence, we will also abstain from voting on Dr KWOK Ka-ki's amendment.

Finally, Deputy President, I would like to give a piece of advice to the Secretary and Prof Frederick MA: As supervisors of MTRCL, they are duty-bound to tackle the issues. Since these issues involve substantial public interests, they should come forward and be held accountable, instead of asking their subordinates to resign on account of accountability in any incident while they themselves will be holding on to their decent jobs in their own ways.

I so submit.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I have listened very carefully to the speeches of several Honourable Members and written down their views. In summary, they have expressed their views on various aspects of the MTR Corporation Limited ( "MTRCL" ), including the quality of project management, improvement of operating arrangements, updating of signalling systems and train control systems, refinement of the very nature of a railway corporation, fulfilment of corporate social responsibility, corporate governance and accountability, performance of the railway management personnel, recent incidents, planning for future railway development, internal organizational culture, internal communication, external notification and reporting, etc. All in all, I feel that Members' views are justified, and their questions, and even suggestions, stem from the love and care for MTR. As the saying goes, "love well, whip well".

First of all, I would like to thank Mr Michael TIEN for his motion on "Restructuring the governance of MTR Corporation Limited" and the amendments proposed by Mr LUK Chung-hung, Mr CHAN Han-pan, Dr KWOK Ka-ki and Mr LAM Cheuk-ting.

Hong Kong has a diversified public transport system with service coverage throughout the territory. Road space is very limited in Hong Kong, and the public are concerned about the environmental impact of road traffic. In contrast, railway is an environmentally friendly and efficient mass transit means. Therefore, the Government pursues a public transport-oriented policy using
railway as the backbone of the public passenger transport system. Although the passenger volume of the railway system accounts for about 43% of the overall passenger volume of public transport, road transport also has its advantages. Compared with the railway, road transport can provide point-to-point transport services in a more flexible manner. Therefore, other public transport means, such as franchised buses, minibuses and taxis, play different roles in providing comprehensive services and choices for the public.

Like Honourable Members, the SAR Government is very concerned about the Shatin to Central Link ("SCL") project, which has recently been alleged to have quality problems, and MTRCL's internal governance issues reflected from these incidents. The SAR Government has clearly stated on various occasions that railway safety is a matter of crucial importance. We will adopt the most stringent attitude to find the root cause and the right solution. Through today's debate, I hope to elaborate on our mechanism for monitoring MTRCL, listen to Members' views, and address Members' concerns.

The commissioned Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") and the SCL project under construction are both government-owned and implemented under the concession approach. In 2008, the consultancy report prepared by Lloyd's Register Rail (Asia) Limited pointed out that MTRCL had a decades-long proven track record of building railways in Hong Kong and a sound project management system at the time. Therefore, it recommended that, while MTRCL plays the "project manager" role for the XRL Hong Kong Section, a "monitoring and verification" approach should be adopted in the design and construction of the XRL Hong Kong Section, and that the Highways Department ("HyD") should perform the "check the checker" role to monitor the performance of MTRCL as the "project manager", and engage a professional consultant to conduct monitoring and verification works in order to utilize the Government's resources more effectively and avoid repetition of project management responsibilities with MTRCL. HyD has all along worked under a three-tiered monitoring mechanism to monitor the work of MTRCL.

In light of the cost overruns and delays of the XRL Hong Kong Section project, the Government released in January 2015 the Report of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link Independent Expert Panel, which reviewed the implementation of the XRL Hong Kong
Section and put forward recommendations, aiming to improve the systems, processes and practices for implementing and monitoring the XRL Hong Kong Section as well as future new railway projects. HyD has implemented a number of measures to enhance the monitoring of the progress and financial status of the XRL project, and applied such monitoring measures, where applicable, to the SCL project.

As regards the current incident involving the quality of works in the SCL project, the Chief Executive in Council directed earlier, on 10 July, that a Commission of Inquiry ("COI") be appointed under the Commissions of Inquiry Ordinance (Cap. 86) to conduct an investigation. COI would also review MTRCL's project management system and supervision system, etc. as well as the monitoring and regulatory mechanisms of the Government. It would also suggest appropriate measures in order to promote public safety and assurance on the quality of works. COI commenced its substantive hearing on 22 October. In addition, the Police has launched an independent investigation, and the Buildings Department has also initiated an investigation under the Buildings Ordinance in order to ascertain whether there is any violation of law. The Transport and Housing Bureau also set up an Expert Adviser Team ("EAT") for the SCL project on 15 August. EAT comprises three senior retired government officers. It will conduct an overall review of MTRCL's project management system, and recommend additional management and monitoring measures to be undertaken by MTRCL and government departments as appropriate, in taking forward the SCL project. EAT already released its first interim report on 24 October.

The Government has requested the Board of MTRCL to seriously follow up the incident. The Board already approved and announced the restructuring of the management team for the SCL project on 7 August. If future investigation confirms that the incident is related to the mismanagement and negligence of MTRCL, the Government will hold MTRCL accountable for the losses caused by the incident.

Before the commissioning of a new railway, all the relevant building structures, fire services systems, emergency escapes, trains, tracks, signalling systems and power supply systems are subjected to multiple approvals and tests. In addition to HyD, different government departments, including the Electrical and Mechanical Services Department ("EMSD"), the Fire Services Department,
the Buildings Department, the Police Force, the Transport Department ("TD") and the Environmental Protection Department, will provide advice on railway safety and design at various stages of the project according to their professional functions, so as to ensure that the new railway fully complies with safety standards when it comes into operation.

The motion proposes to set up an independent railway development department dedicated to railway works. In fact, the Railway Development Office ("RDO") under HyD has dedicated divisions responsible for monitoring the implementation of the XRL Hong Kong Section and the SCL project respectively. RDO is staffed with relevant professional and technical personnel to provide professional advice on electrical and mechanical engineering drawings and building plans, etc. HyD will examine the staffing establishment for all the offices and works projects under the department, and timely deploy manpower. When necessary, HyD will also seek additional resources to suit its overall needs at work. At the present stage, the Government will maintain an open attitude towards the proposal to strengthen RDO under HyD or set up a new department dedicated to railway works.

(The President resumed the Chair)

The original motion proposes that the Government should plan new development areas in tandem with their ancillary railway facilities. This is consistent with the Government's stance. Earlier on, some Members expressed their views on Railway Development Strategy 2014. Regarding the seven railway projects included in the blueprint for railway development up to 2031, the Government will follow the established mechanism to consult the public on the proposed alignment, locations of stations, and delivery programme before finalizing any proposed railway project, and make the final decision after obtaining the support of the Council. As for the East Kowloon Line and the Tung Chung West Extension mentioned in Dr KWOK Ka-ki's amendment, MTRCL submitted proposals for these two railway projects to the Government in end July 2017 and end January 2018 respectively. The Transport and Housing Bureau, HyD and the relevant bureaux/departments are evaluating the proposals and have requested MTRCL to provide additional information and supplement details. In carrying out the evaluation, our main focus is to ensure that the
proposals are practically feasible and can bring maximum benefits to the society. The Government will review the implementation of new railway projects and strengthen the monitoring system and institutional arrangements, taking into account the experience of the implementation of such projects as XRL Hong Kong Section and SCL.

I would like to, once again, reiterate that using railway as the backbone does not mean giving up road transport. It is still necessary for other means of public transport to continue to complement railway service. If an area without direct access to railway services is expected to see population growth following the completion of new residential development projects, TD will consider the proposals to strengthen the road-based public transport services in a timely manner in tandem with the pace of the population growth and the change in passenger volume for meeting the demand for public transport services arising from the new population. Other modes will continue to supplement the railways. The Transport and Housing Bureau will continue to coordinate different public transport services to enhance overall network efficiency, maintain reasonable fares, relieve congestion and reduce roadside emissions.

As regards MTRCL's corporate governance, its Board and senior executives perform different duties. The Board focuses on handling matters related to MTRCL's overall strategic policies and corporate governance, while the day-to-day management of MTRCL's business is delegated to the Executive Committee led by the Chief Executive Officer and senior executives, who report to the Board. The Board consists of members from different professional backgrounds. Six committees have been established under the Board to deliberate different matters related to the company in a more focused and effective manner. To appoint the Chairman of the Board of MTRCL, the Financial Secretary Incorporated will consider the candidate's understanding of MTRCL's business, professional background, public services and other relevant experience, etc. The remuneration level of MTRCL's management is determined by the Remuneration Committee. When deciding the annual payment of performance-based remuneration to MTRCL's senior management staff, the committee will consider the performance of individual staff members and MTRCL's performance in the construction and operation of railway projects. I will truthfully relay the views expressed by a number of Members earlier on to the Board of MTRCL for its consideration in tandem with future review and improvement efforts.
Both the motion and the amendments raised a number of recommendations on MTRCL's supervision of works, tendering system, project management notification, etc. As mentioned earlier, COI and EAT set up in connection with the incident involving the quality of works in the SCL project will review the relevant systems, processes and practices of MTRCL, and the adequacy of other relevant aspects. COI and EAT will also suggest appropriate measures in order to promote public safety and assurance on the quality of works. At the present stage, we are not in a position to draw a conclusion on how MTRCL should improve its project management system.

The tendering system adopted by the Government for public works projects, such as road works, land levelling and government buildings, and the requirements for supervision of the works of contractors have a certain reference value to MTRCL. The tendering system for the Government's public works contracts was established in accordance with the Stores and Procurement Regulations. The tendering exercise should be based on the principle of ensuring service quality and cost effectiveness. In assessing tenders for public works, the works departments will consider the tenderers' technical competence and past service performance in detail, in addition to the tender prices. Regarding the supervision of the works of contractors, the works departments will conduct a performance assessment on the approved contractors for public works every three months in accordance with the Contractor Management Handbook, with a view to speeding up the self-improvement of those contractors with unsatisfactory performance. Should a contractor constantly exhibit unsatisfactory performance or has committed misconduct, regulating actions will be taken against the contractor in accordance with established procedures. Such actions include temporary suspension from tendering and even removal from the relevant lists of approved contractors. The relevant procurement guidelines and the Contractor Management Handbook have been uploaded onto the website of the Development Bureau for reference by the industry and other organizations.

The motion has mentioned strengthening MTRCL's project management notification system. In the Government's view, as the project manager, MTRCL is required to ensure the quality of works comply with the requirements of the Entrustment Agreement and the works carried out by the contractors and subcontractors are in compliance with the standards during construction. MTRCL shall also ensure effective operation of the relevant notification
arrangements within MTRCL and between MTRCL and the contractors and subcontractors, so as to allow timely intervention by the management to deal with various problems related to the works.

Regarding the notification mechanism between MTRCL and the Government, in general, MTRCL should report to HyD matters relating to the progress of works, the cost of works, as well as safety concerns. Moreover, MTRCL should also report various incidents to HyD according to their severity, such as injuries of personnel and incidents which may cause public or media concerns.

The motion proposes that MTRCL should regularly review its investment strategy of updating the signalling system. MTRCL has comprehensive and rigorous asset management and maintenance systems. To increase capacity and further enhance the overall reliability and efficiency of railway services, MTRCL will introduce new signalling systems for seven MTR lines. MTRCL is also replacing the signalling system of the East Rail Line to tie in with the future operation of SCL. The aforesaid works will be completed in stages between 2019 and 2026.

Mr LAM Cheuk-ting suggests in his amendment that the SAR Government should step up its supervision of the works of updating the signalling system. The Mass Transit Railway Ordinance (Cap. 556) stipulates that MTRCL shall maintain a proper and efficient service at all times during the franchise period. EMSD and TD will continue to closely monitor railway safety and MTRCL's performance during the updating of the signalling systems.

In his amendment, Mr CHAN Han-pan suggests strengthening the corporate social responsibility of MTRCL. The Government has all along encouraged public transport operators, including MTRCL, to offer suitable fare concessions as far as possible for members of the public, taking into account their financial stability. The Government and MTRCL completed the second review of the Fare Adjustment Mechanism in March 2017. The new mechanism is based on public and objective data and a direct-drive formula. The Service Performance Arrangement and the Profit Sharing Mechanism in the mechanism were also adjusted after the review last year in response to the community's concern about fare levels.
In his amendment, Dr KWOK Ka-ki suggests buying back all the remaining shares of MTRCL. As I mentioned earlier, the Government has all along used railway as the backbone of public transport. To this end, we have detailed development plans and strict regulatory regimes to ensure safety and service quality. As regards MTR fares, the Government and MTRCL fully performed their gate-keeping roles for the public during the second review of the Fare Adjustment Mechanism last year, so that the mechanism after the review is more responsive to the community's concerns about such issues as fares, MTRCL's profit, and the public's affordability.

Meanwhile, the Government has been proactively carrying out its duty as MTRCL's majority shareholder by reflecting to the Board and management of MTRCL from time to time the common concerns of the community on MTR operations. At present, the Board of MTRCL consists of 20 members, of which four are Government Directors. The Chairman is also appointed by the Government. The Chairman and the Government Directors express their views on the development direction of MTRCL and closely monitor the overall strategic policies and operation of MTRCL, so there is no question of MTRCL's management taking care only of the interests of minority shareholders. In fact, as a listed company, MTRCL has also been committed to fulfilling its social responsibilities, including investing substantial resources each year in upgrading and renewing its railway assets, and enhancing station facilities. The Government and MTRCL report to the relevant Legislative Council Panel on the work progress from time to time. Details are available in the Annual Report of MTRCL.

The Government fully understands the increasing demands and expectations from the public towards MTRCL as the major public transport service operator in Hong Kong. Through the existing mechanism and various channels, we will definitely continue to monitor and urge MTRCL to maintain its efficient overall operation and provide safe and reliable railway services to the public. Therefore, the Government has no plan to buy back all the remaining shares of MTRCL.

President, I so submit.
MR CHAN CHUN-YING (in Cantonese): President, the exposure of quality problems with a number of works projects of the MTR Corporation Limited ("MTRCL"), coupled with the recent failures of its signalling systems, have aroused widespread concern in the community. With regard to the motion on "Restructuring the governance of MTR Corporation Limited" today, I would like to draw on my own personal experience as well as professional know-how to provide a few comments for consideration by the Government and MTRCL.

First, the function of the board of directors. Earlier, MTRCL admitted after a special board meeting that its existing reporting mechanism was flawed. It then decided to instruct the Capital Works Committee under the board to review the management processes and procedures of the Shatin to Central Link. The Capital Works Committee, which oversees capital works with a value of $10 billion or above, clearly does not have a duty in supervising the performance of the company's management. There are now seven committees under the MTRCL board. From a corporate governance perspective, all committees within the board level should be responsible for supervising management performance in their respective areas, and the performance in a relevant area should even be made a part of the overall appraisal coverage for the corporation.

Capital works are not a major business area of MTRCL. However, in view of the fact that the company is often entrusted by the Government with the construction of large-scale railway projects, its Capital Works Committee should also be properly authorized to supervise management performance in capital works. Separately, as the largest stakeholder of MTRCL, the Government has appointed public officers as the company's non-executive directors—there are four, according to the information provided by the Secretary just now. However, judging from the recent spate of incidents, these non-executive directors seemed to have failed to exercise their supervisory roles properly. The reasons behind were the already hectic and taxing schedules of these public officers which have prevented them from spending a substantial amount of time and energy on supervising MTRCL, or that the officers have yet to fully grasp the responsibilities as government-appointed directors? I have put forth this view in the Chief Executive Question and Answer Session and hope the Government will ponder and review the situation.

Secondly, the division of work between the Chairman and the Chief Executive Officer. Generally speaking, the board of directors of a public company will appoint two persons to be the Chairman and Chief Executive Officer respectively so as to avoid excessive concentration of power. The
division of work between them is clear: the Chairman is responsible for ensuring the proper performance of functions of the board in compliance with good corporate governance practices and procedures, while the Chief Executive Officer is responsible for leading the management and implementing important strategies adopted by the board.

Mr TIEN’s motion asked the Government to consider appointing a Chairman or Chief Executive Officer with an engineering background in the long run. I have reservations about this view. The chairman of the board is responsible for the strategic direction of the organization. As MTRCL is primarily a provider of mass transit service, its Chairman should specialize in strategies for transit service. And given the wide-ranging business scope of MTRCL, identifying a suitable candidate will be its next problem if the Chief Executive Officer is required to process professional backgrounds in all the business areas it involves.

Thirdly, performance appraisal. Each corporation has a set of key performance indicator ("KPI") for appraising management performance. I am not sure if the quality of capital works is included as one of the KPIs in MTRCL. If not, I hope the government-appointed directors can suggest to the board making capital works quality one of the KPIs of MTRCL management. Whenever MTRCL adjusts its fares, I always hear many voices in the community questioning the yearly fare hike in view of a spate of service disruptions in recent years.

Therefore, President, to address public concern about the capital works quality of MTRCL, I suggest including capital works quality as a consideration factor in MTRCL’s application for fare adjustment, so as to encourage it to take the quality problems in capital works and maintenance seriously.

Fourthly, internal reporting. To meet the requirements laid down in the Code on Corporate Governance Practices, all listed companies will formulate "Policy on Staff Reporting of Irregularities" to assure their staff of the appropriateness of internal reporting and that of the management mechanism. Staff can report to the auditing unit or to the chairman of the audit committee directly. Alternatively, they can even choose to report anonymously and let the audit unit conduct independent investigation into the reported incident and make recommendation with regard to the issues involved, in addition to reporting the investigation results to the audit committee and to the management.
MTRCL also mentions its whistle-blowing policy in its annual report. But the scope of this policy only covers concerns which have or could have significant adverse financial, legal or reputational impacts on the company. The policy applies to all staff, parties who deal with the company and the general public. I am not sure whether, up to the present moment, there is any reporting of quality problems with capital works by a whistle-blower. But I hope that after this incident, MTRCL will encourage stakeholders to make use of the existing mechanism to report quality problems with capital works, with a view to put Hong Kong people at ease when travelling with MTR.

MTRCL is a quality company which has all along been functioning properly, earning worldwide reputation for Hong Kong's railway system. But a series of blunders in capital works have somehow shaken people's confidence in the company. I believe that the government-appointed directors should strengthen the management of MTRCL with targeted measures, so as to restore people's confidence.

As a matter of fact, I agree in part with Mr TIEN's motion and the amendments proposed by some Members, but I cannot agree with certain contents in them. For instance, while we are discussing the governance of MTRCL, points (1) and (2) in the original motion are requests made to the Government instead of MTRCL, and point (3) is not a corporate governance issue. And as I have said earlier, I do not agree with the appointment requirements in respect of the Chief Executive Officer and the Chairman. I will therefore abstain from voting. As for the suggestion of buying back the shares of MTRCL, it is definitely infeasible and I will vote against it.

I so submit. Thank you, President.
works and the regulatory regime in regard to the MTR Corporation Limited ("MTRCL"), so I will not go into the details again here. Before I get to the point, I would like to share some statistics with you.

According to the Annual Results Report 2017 of MTRCL, the total patronage in Hong Kong reached 2 billion passenger trips and the fare revenue from domestic railway service alone already amounted to $12.8 billion. MTRCL’s share of the public transport market was 49.1%, compared to 34.9% for buses. It is evident, therefore, that members of the public rely heavily on MTR for transport.

President, in terms of statistics, MTRCL can present a brilliant performance record showcasing a reliability rate of over 99%. However, going by commuters' daily experience, we can hardly deny that the incidents happening to MTRCL over the past six months, including the quality problems of the SCL project, the subsidence issue and the four-line disruptions, have led to emotional breakdown and gradual "subsidence" of confidence in MTRCL among those commuting daily in jam-packed MTR trains.

In its long-term planning and development strategy, the Government uses railway as the backbone of public transport for new development areas ("NDAs"). A number of major infrastructure projects carried out in Hong Kong after the reunification are related to transport networks. They include the recently opened Hong Kong-Zhuhai-Macao Bridge, the soon-to-be-commissioned Liantang/Heung Yuen Wai Boundary Control Point, and the problem-stricken SCL project managed by MTRCL. According to Railway Development Strategy 2014, the Government will implement seven railway projects in the future, including Tuen Mun South Extension, Northern Link, East Kowloon Line, Tung Chung West Extension, North Island Line, Hung Shui Kiu Station and South Island Line, which are expected to cost more than $110 billion. We definitely do not want the future railway projects to be reruns of SCL.

Railway matters involve a number of government departments, such as the Electrical and Mechanical Services Department, Civil Engineering and Development Department, Buildings Department, Highways Department and Transport Department. Under the Highways Department is the Railway Development Office ("RDO") with a staff establishment of about 100 to implement railway projects and conduct planning for future railway expansion in
Hong Kong. As too many railway projects are underway at the same time in Hong Kong, some seasoned engineering veterans believe that the Government's manpower for project management is insufficient to enable adequate checks and balances on MTRCL and play the role of a monitor, thus culminating in the frequent emergence of engineering problems.

President, there is admittedly room for improvement in RDO, but as to whether an independent RDO should be set up or the existing RDO should be optimized, I adopt an open attitude. As far as MTRCL's SCL incident is concerned, the key is to boost the transparency of the Government's existing monitoring and reporting mechanism, and tighten up the requirements for MTRCL's to control the contractors' engineering works. I will accept any method provided that it can resolve the aforesaid two issues.

In addition to the regulatory regime, I would like to talk about the railway planning for NDAs. The Government has all along adopted the "demand-led" model to guide planning. In other words, it has first carried out planning in the domains of resident population, economic structure and main theme of the area, thus enabling the projection of housing and commercial floor area and the allocation of community facilities, and then provided infrastructure accordingly. However, the demand-led model has the drawback that it may not be able to reserve space and capacity to cope with various future uncertainties, among which are the recently often encountered delays to the development of NDAs due to various problems, such as land resumption.

The planning framework in Railway Development Strategy 2014 announced by the Government in 2014 covers a period up to 2031 only. The anticipated year of completion for Kwu Tung North and Fanling North NDAs has been extended to 2031, which translates to a time span of 23 years, or even longer, from initial planning to completion, while that for Hung Shui Kiu and Yuen Long South NDAs is 2038. Can the presently planned railway network cope with the increased population in the future? And how? I am eager to know the government officials' reply to my question.

At present, the passenger volume of the MTR West Rail Line is already close to its carrying capacity saturation. Tuen Mun Road and Castle Peak Road suffer congestion day in, day out. I have received quite a number of complaints from residents of the New Territories West alleging that the train compartments are always overcrowded during daily commuting hours. They are worried that
with the sharp increase in population upon completion of the NDAs, they cannot even force their way into the train compartments in future. Therefore, given its determination to use railway as the backbone, the Government should frequently examine whether the railway service for the NDAs can fit in with the latest changes in demographic planning.

President, in my view, the subject of our ongoing debate is based on a very simple vision, namely that members of the public should be spared from experiencing delay in arriving at work, traffic congestion during commuting hours, and anxiety on public transport. I hope that our debate today can draw on collective wisdom to help enhance the railway service in Hong Kong and bring it more in line with public expectations.

President, I so submit.

MR GARY FAN (in Cantonese): President, in the past few years, serious doubts have been raised in the community over the service quality of the MTR Corporation Limited ("MTRCL"). Incidents associated with the Shatin to Central Link ("SCL"), the breakdown of four MTR lines last month, and the signalling system failures which occur from time to time have shaken people's confidence in MTR service, making them feel disappointed to a great extent. Each occurrence of MTR incident invariably bring serious inconvenience to the people. Indeed, the Government's policy of "according priority to railway" implemented since 1998 has resulted in an over-reliance on MTR throughout the territory. For a sound transport system, relying on a single mode of transport is undesirable. So, I am going to speak on five concerns and recommendations. First, the internal governance of MTRCL; second, the transport policy of "according priority to railway"; third, supervision work; fourth, the suggestion of bringing MTR capital works under the Buildings Ordinance, and; fifth, the Fare Adjustment Mechanism which allows fares to go upward and downward.

First of all, the SCL scandal and the frequent signalling failures have exposed the magnitude of problems with MTRCL. The Government's oversight is a mere gesture without substantive effect. Hence, the Government must review the existing governance structure of MTRCL, reform the manpower structure of the Highways Department to enhance its monitoring function. First, modelling on the composition of certain university councils, the Government should amend the Mass Transit Railway Ordinance so as to appoint to the
MTRCL board additional directors, who are representatives elected by and from among Members of the Legislative Council and representatives from the Hong Kong Railway Workers General Union, for exercising supervision over MTRCL. The Government should also exert more influence on MTRCL in order to ensure that the company returns to its core business and focuses on the operation of passenger railway service. It should also monitor the MTRCL management to ensure that its policies give priority to the interest of Hong Kong people.

Second, when planning for transport facilities to support new towns, the Government should consider and review whether railway should remain as the backbone of the transport system. Over the years, this policy of according priority to railway has put operators of other forms of public transport, such as public light buses, taxis and buses, in great agony. The commissioning of a new railway will invariably cause great casualties among them. For instance, upon commissioning of the West Island Line a few years ago, the Transport Department cancelled a number of bus routes. With the expected commissioning of SCL, a new round of route cancellations is likely to happen to the bus and public light bus routes running in parallel. The Neo Democrats has made suggestions in this Council and in District Councils aimed at assisting various sectors time and again, which included the relaxation of red minibus restricted zones, but to no avail. As a result, the public light bus sector was unable to compete with MTR through improving its service quality and the room for its survival has continued to shrink as it can only operate a few routes with low passenger demands. The best strategy is for the Government to allow benign competition among buses, mini buses, taxis and MTR in urban design.

Third, with regard to the supervision of capital works, we request MTRCL to enhance its project management and notification system. First of all, frontline site staff should be made to report to the management in higher ranks before commencing each capital works item under MTR projects. Contractors can produce non-conformance reports to any works which have deviated from requirements laid down in the drawings, in an effort to avoid repeating the mistakes committed by Leighton Contractors (Asia) Ltd. In case the work projects are found to have problems which involve falsification, public safety or corruption, MTRCL should further report it to the most senior level officials in the Government. The Government must review the present arrangement for the appointment of consultants by the Highways Department to monitor work projects, increase the manpower of the Highways Department, enhance the supervisory regime on railway works projects and expand the Railway...
Development Office so that the Highways Department will have adequate manpower to conduct onsite inspections regularly for the purpose of strengthening supervision.

Four, according to section 41 of the Buildings Ordinance, SCL is exempted from the Buildings Ordinance as it is a government project. But as the SCL Hung Hom Station is located on land owned by the Kowloon—Canton Railway Corporation, which is not Government land, it is not exempted from the ordinance. And it is precisely because the SCL Hung Hom Station is subject to the Buildings Ordinance, the Buildings Department is obligated to conduct inspections and investigations after the scandal has been exposed. Thus, following the incidents involving SCL, the Government should consider afresh subjecting MTR works projects to the Buildings Ordinance. And according to the answer provided by Secretary Frank CHAN in response to a question on SCL Hung Hom Station platform works, which was raised in a Legislative Council meeting held in June, the Buildings Department could consider prosecuting or enforcing disciplinary sanction to the relevant persons, citing the Buildings Ordinance, should any serious violation involving safety or quality be found. This is an appropriate approach.

Lastly, MTRCL must also review the Fare Adjustment Mechanism ("FAM") which allows its fares to go upward and downward. MTRCL announced this year a fare hike of 3.14% under FAM, which includes a 1.49% rolled over from the fare freeze. According to the annual report of MTRCL, its net profit in 2017 amounted to $16.8 billion, an increase of 64% over the previous year. Its profit from Hong Kong property development stood at over $1 billion in 2017, which was a more than two-fold increase over the $300 million profit in 2016. MTRCL definitely has the room to use profit earned from property development to cover its transport development costs such as those in facilities upgrading. The total revenue from transport operations was $18 billion, which was more than that of the year before, despite having undergone a fare freeze last year. MTRCL definitely does not have a valid reason for a fare hike. But MTRCL refuses to let go of its desire to maximize profit and increase fares continuously. This shows the complete failure of the FAM to the ire of all. The maintenance of the present system gives MTRCL an excuse to increase fares year after year which is absolutely unfair to the people. Hence, we must—we must—demand that the Government conduct a review from these five aspects. MTRCL should revise the FAM formula to take into account its profit, various factors such as revenue from property development and rental revenue from
station shops, so that the fare mechanism reflects its genuine operating condition. These are the five aspects which, I hope, MTRCL will make changes. (The buzzer sounded)

PRESIDENT (in Cantonese): Mr Fan, please stop speaking immediately.

MR LEUNG YIU-CHUNG (in Cantonese): President, I consider it essential to restructure the governance of the MTR Corporation Limited ("MTRCL"). The recent past has seen serious cost overruns and delays in a number of mega projects and constant deterioration of service quality, as evidenced by the occurrences of train breakdown or system failure just days apart. Is it fair for members of the public or consumers to pay MTRCL while it increases the fares every year but fails to deliver proper service? In addition, the recent litany of engineering problems hitting SCL has further exposed MTRCL's ineffectiveness in its works supervision system, corruption in governance, disconnection in internal communication and inadequacy in crisis management. I hold that these problems have to be promptly and thoroughly rectified.

Recently, the scandals around the works of SCL have been growing in size. While a number of major stations were discovered to have problems with the works, the contractor actually single-handedly covered them up, so that the $100 billion SCL project, which is already blighted by serious cost overruns and delays, has degenerated into an astronomically priced jerry-built project. This disturbance appears to be the contractor riding roughshod over the construction plan, but in essence, it reveals that MTRCL has gone so far as to outsource its corrupt management culture together with its responsibilities, assuming that it can just remain on the sidelines and go through the motions after payment.

Let us take To Kwa Wan Station as an example. The contractor should have obtained approval from MTRCL before altering the design of the steel bars for structural walls, but MTRCL's management actually said that it knew nothing about the steel bars being cut short. In response to a request from the Highways Department, MTRCL submitted a report on the incident one day late on the grounds that the day before was a holiday. Did it overstep the mark in doing so? Moreover, MTRCL's report to the Government was so vague that it left many doubts unresolved. For example, it mentioned that a member of MTRCL's
resident site supervisory staff had noticed the removal of steel bars but he had neither taken any action against the contractor nor reported the incident to his supervisor. What exactly was the problem? Did he want to cover up for someone? Were the mid and senior level management inside MTRCL in the know? Furthermore, the contractor refused to meet MTRCL during the latter's investigation, but the Chairman of MTRCL, Frederick MA, actually admitted to reporters that he was at his wits' end with the contractor Leighton. Have they also crossed the line? Given its corrupt senior management, ineffective frontline supervision and slow response to crises, how can we believe that MTRCL is able to undertake mega projects and continue managing its entire operation?

In fact, as the largest shareholder of MTRCL, the Government holds nearly 75% of the shares. In other words, nobody but the people of Hong Kong are the largest shareholder of MTRCL. However, the Government's supervision of MTRCL has all along bordered on the non-existent, except for a toothless tiger that has turned MTRCL into the semblance of an independent kingdom never identifying itself as a public service provider. Priority is always accorded to the interests of shareholders, thus having the effect of consigning public interests to a rear position. For example, as far as fares are concerned, annual upward adjustments have all along been made without regard to public affordability. Although the Government has introduced the Fare Adjustment Mechanism which provides for both upward and downward adjustments in fares, in fact it will only increase and never reduce the fares, giving MTRCL carte blanche to keep making big money as a result. On the works front, as I have just said, in order to ensure commissioning on time, MTRCL is slipshod in the quality, process, and so on of the works, and has even outsourced its responsibilities for the works, inviting our suspicion about concealment of the contractor's wrongdoings. The investigation report is dotted with deliberate cover-ups, which seem to be defending the contractor. Simply put, all these make us feel that MTRCL is particularly good at seeking funding from the Legislative Council, but it will not earnestly undertake works supervision or management after receiving the funds. This is obviously a woeful ignorance of public safety and interests.

I think that the people of Hong Kong have endured the ordeal for many years and the Government has been lazy in supervision also for many years. Fast forward to today and I feel that this situation must be significantly changed. I hold that, in the short term, it is certainly necessary to step up the supervision of
MTRCL, require MTRCL to strengthen the project management notification system, and put in place a punishment mechanism, such as reducing project management fees or linking the service performance and quality of works supervision of MTRCL with the remunerations and bonuses of its Chairman and Chief Executive Officer, thereby pressing them to be truly responsible.

In the long run, I agree with the amendment proposed by Dr KWOK Ka-ki, namely that the Government should resume full control over the management of MTRCL, consider buying back all the remaining shares of MTRCL and directly running it as a public organization, so that the Government and the Legislative Council can directly monitor MTRCL's operation and the railway projects, determine reasonable fares having regard to the public's financial capabilities, and provide subsidies to low-income people. In fact, according to the listing particulars as of 30 June 2018, the current market value of MTRCL is more than $260 billion. As the Government itself has a shareholding of 75%, it just needs $60-odd billion to buy back all the remaining shares of MTRCL. Therefore, I consider that the Government can afford this initiative, which I believe is good for MTRCL and even better for public safety and interests. I look forward to the Government's careful consideration in this regard.

DR PRISCILLA LEUNG (in Cantonese): President, I speaking in support of Mr Michael TIEN's motion on "Restructuring the governance of MTR Corporation Limited". I believe that everyone knows why this motion has been proposed. Of course, it is because of the subsidence along the entire Shatin to Central Link ("SCL"), particularly at Hung Hom Station and To Kwa Wan Station, and the incident of four-line disruption experienced by a large number of people last month.

Indeed, I am a fan of MTRCL. I ride on MTR regularly. On the day when all the four railway lines were paralysed, I was affected as well, of course. I walked from Prince Edward to Kowloon Tong because the train I was on had stopped too and the road transport was completely paralysed. Therefore, I also agree with some colleagues that it is necessary to contemplate whether the current transport hub should be monopolized by MTRCL. There may be a genuine need to think about it, because in the case that these incidents happen again, we will become helpless.
In all fairness, the members of the public in Hong Kong are very patient, forgetful and forgiving. However, with the increased occurrence of transport paralysis, coupled with the botches on SCL, the absolute majority of people have no alternative but to request MTRCL to consider improving the entire governance structure. They have particularly asked the Government to consider whether the existing legislation, penalties, management structure, accountability mechanism and tendering situation are still appropriate in present-day circumstances. Is the system of decades ago completely outdated now? We should have a clear mindset that reform is necessary in the wake of a major incident, no matter in what respect, and if reform is necessary, we shall do it. This has been true from 40 years ago till today. For example, following the Lehman incident, the entire banking mechanism had to be reformed. This is inevitable. I definitely do not want such transport paralyses to be routinely burned into our collective memory.

I would like to first talk about the penalty mechanism. At present, if several railway lines are paralysed at the same time, only the longest one is taken into account. By my ballpark calculation, a fine of $1 million is imposed for a delay of at least 31 minutes, $2 million for one hour, and $5 million for four hours. In the past, namely in 2013, 2014 and 2017, the fines exceeded $20 million in total, proving that such paralysis had occurred many times.

Like ordinary members of the public, I sense that only the wearer knows where the shoe pinches. Although the Government is currently the largest shareholder of MTRCL, we should still think from a commercial perspective. To be honest, even though some of those in charge of the operation and the directors are my friends, I hold that the whole Board of Directors should definitely be subject to sanctions, such as deduction of their wages and bonuses, before they can feel the pain themselves. With so many incidents taking place in one year, they should get themselves overwhelmed by the deep pain suffered by members of the public. If their bonus is deducted for this reason, will they pay greater heed to the management in future?

Regarding the accountability mechanism, I would like to have a few words. I have a feeling that coincides with the current impression expressed, upon my asking them, by many trusted good friends in the engineering sector who do not oppose for the sake of opposition. They say that Leighton Contractors (Asia) Limited ("Leighton") is, in fact, not afraid of being blamed because the contract is super protective of it. Even though Leighton has made such an awful mess, the
Government and MTRCL have difficulties in bringing it to account. As Chairman MA said, it was so helpless. Why have they signed such a draconian contract? Where exactly is the legal responsibility?

In addition, engineers should definitely consider safety issues. I do not intend to repeat this point. Maybe, after hearing so much, we believe that these so-called "scandals" will not affect safety after commissioning, but we cannot ignore public perception, which is very important. I have also given advice to Chairman Frederick MA, whom I respect very much. In fact, he is a very kind-hearted person. However, in addition to problems of this sort, news has it that the Government intends to extend his appointment for three years. Thankfully, he is so smart as to stay in the post for only half a year. This situation is a no go. It is really resentful to have such news leaking out while you have found a man of such gravitas. Although I personally find this extension of half a year acceptable, the public may have doubts: Are there no other candidates in the Board of Directors? Why are there no "second in command" and "third in command" available to succeed him? Is there a chronic problem with MTRCL's governance structure? I think the Government cannot just say that this person is competent and able to solve problems. Has it considered the public's feelings? I think the Government should not shy away from considering these questions.

Regarding the tendering situation, is it currently so helpless that no one knows how to build a railway? I have also asked some friends in the engineering sector. They said no. In fact, the world has changed, and so many railways have been built. In the past, there was only Leighton. Nowadays, why can we not introduce competition? Therefore, I feel that the public do not quite get the point. Even though MTRCL explained that there are no safety issues, now that everyone has lost the trust in it, the price to pay is rather high. I hold that in the event of such crisis, MTRCL should first do something good through the Fare Adjustment Mechanism to show that it can truly fulfil its social responsibility with a genuine "fare adjustment" in either direction.

Secondly, regarding compensation, MTRCL has begun to take the first step, and I add my kudos to it. I have all along been calling for mediation instead of litigation. Some people in the affected areas have always complained before. Some have learned only from the current subsidence incident how to file complaints or seek assistance. It is very reasonable to go for mediation, because all parties can save litigation costs to compensate those with difficulties, so that
they can have their flat repaired and then sell it. In so doing, they get their grievance redressed and the crisis will not turn into a political bomb. Therefore, in my view, the authorities should definitely bear in mind that as MTRCL is the only important transport hub operator in Hong Kong, it is essential to consider political issues, rather than just engineering problems.

I hope that the Secretary understands clearly my speech this time and will introduce a breakthrough reform to MTRCL's governance structure. Thank you.

President, I so submit.

MR VINCENT CHENG (in Cantonese): President, I rise to speak in support of the motion on "Restructuring the governance of MTR Corporation Limited" today.

The MTR Corporation Limited ("MTRCL") has constructed and operates 11 railway lines for us. Whether the Tai Wai to Hung Hom Section of the Shatin to Central Link ("SCL") among them can commission service in the middle of next year is still uncertain. Nevertheless, at least seven possible railway projects are pending in Hong Kong in the days ahead. If they are materialized in the end, it is naturally expected that they will be entrusted to MTRCL. For this reason, Hong Kong people's reliance on and demand for MTRCL's services will definitely keep increasing throughout the time from the present to the future.

According to the statistics of the Transport Department in August, MTRCL carried as many as 5 440 000 passenger trips a year on average (including the Airport Express and the Light Rail), and this accounted for as much as 42% of all trips on public transport in the territory. From this, we can see that Hong Kong people's demand for railway services has been very keen all along.

What kind of service does MTRCL provide? In its web page, MTRCL states, "A SERVICE OF WORLD-CLASS QUALITY … one of the world's leading railways for safety, reliability, customer service and cost efficiency." However, I believe people have been very discontented about MTRCL's services these days. MTRCL has made many blunders in recent years, and I can at least give "four sins" as examples. Just now, various Members also mentioned many different problems.
The first sin is that MTRCL has increased its fares year after year with the rate of the latest fare increase being as much as 3.14% despite its bumper profit of $20 billion a year. This has given people a strong feeling of helplessness.

The second sin is that MTRCL has regarded service delay as a norm and treated the fine of a few million dollars or $20 million as nothing. After the recent onslaught of Typhoon Mangkhut, people expected MTRCL to provide services following the bus companies' announcement of service suspension. To their utter dismay, service delay occurred on the East Rail Line in New Territories East. Besides, during the commuting hours one day last month, four railways under MTRCL broke down simultaneously. Dr Priscilla LEUNG and I were affected like other people. Due to train service delay, employers were late for work for two or three hours, and the service delay was very outrageous. However, MTRCL only handed out a small favour of merely offering fare concession to people on a weekend. Did it think that this was already very generous? People honestly find it antagonizing to see that MTRCL behaves in the same way each time.

The third sin is the problems with the SCL project. The independent Commission of Inquiry led by Justice HARTMANN is now conducting an inquiry, and the Government has likewise appointed three experts to conduct a review, with a view to enhancing the management of the SCL project. If the specific proposals on enhancing works supervision to be put forth by them later on are desirable, I hope the Government and MTRCL can implement the proposals as soon as possible.

The fourth sin, one which is also the most displeasing and infuriating to me, is that MTRCL only wants to reap profits and refuses to offer any compensation. It has even oppressed small shop operators and ordinary people and sacrificed their interests very often. In the case of the SCL project, for example, I received requests for assistance from shop operators on Nam Kok Road in Kowloon City in November last year. They asserted that since 2014, MTRCL had fenced off the entire Nam Kok Road, so as to construct an exit for Sung Wong Toi Station. Despite the enclosure of the entire road section with wire mesh fences, the area has remained very dusty during those several years. As Members all know, Kowloon City is a district lined up with reputable restaurants, and it is a good place for food hunting to people. But the entire Nam Kok Road has become very deserted now, and some shop operators have
sustained a deficit of a few hundred thousand dollars a month. Members may recall that some shop operators there turned off their lights in protest on 27 November last year.

On this matter, I have contacted the Transport and Housing Bureau and MTRCL while also enquiring with the Lands Department. I have found that three shop operators have lodged five complaints, but all their complaints have been futile. Early this month, the shop owner in a latest case was denied of any compensation. The owner of the restaurant concerned is honestly very pitiable as he simply cannot sustain his business any longer. SCL will be completed in the middle of next year. But I am afraid that he will have to close down his restaurant by now.

President, according to the authorities' reply, 26 claims have been filed by shop operators and people under the Mass Transit Railway Ordinance through the Secretary for Transport and Housing for the damage to their interests during the five years when the SCL project is underway. But there has been only one victor over all these years. Member can guess who that victor is. I believe Members can tell the answer by mere conjecture: Only MTRCL has been the victor. Seeking compensation from MTRCL is—to sum up in just one word—difficult, very difficult actually.

Members may know that actually, not only shop operators have filed claims. There have been previous cases of injuries from falling off station escalators which come to an abrupt stop. District Council members like us have also received many such cases. But MTRCL has never agreed to offer any compensation. This has greatly fallen short of its attitude of "serving with heart and dedication" which it has boasted about and is definitely related to its governance culture.

President, I support a proposal in the original motion and amendments, the proposal of setting up an independent railway development department which is vested with the dedicated duty of handling railway development works in Hong Kong and directly accountable to the Secretary for Transport and Housing, instead of solely relying on the Highways Department to also take charge of it. The most important of all is to enhance the mechanisms for works management and notification.
Besides, I also agree with certain Members' assertion that the Government should appropriately increase market competition. To say the very least, it should initiate another comprehensive transport study, so as to also examine improvements to other public transport services such as buses. At present, due to the continued expansion of MTRCL's services, some bus routes have ceased operation one after another, leaving people with no other option. Can the Government give people more options?

The third point is to review MTRCL's fare mechanism. We already cannot afford to wait any longer. The Democratic Alliance for the Betterment and Progress of Hong Kong proposes to include a profit factor in the mechanism and peg its annual net profits directly to the relevant formula, so as to reduce the rate of fare increase based on MTRCL's net profits.

The fourth point is to affirm an accountability system. This point is likewise very important. In the future, if it is found after investigation that MTRCL should be held responsible for an incident involving substandard works, its project management fee or the remuneration for its management should be deducted. The two present cases involving SCL both stem from MTRCL's own blunders. But MTRCL can still receive a project management fee of $8 billion. I believe people will become infuriated upon hearing this figure and think that this is simply not an appropriate course of action. Even if the Government has already paid $6.6 billion to MTRCL so far, the Government should be allowed to get back the relevant sum if problems are found after assessment.

President, MTRCL's governance is in need of restructuring. And speaking of building subsidence along To Kwa Wan Station due to the SCL project, I agree to Dr Priscilla LEUNG's earlier assertion that we must expeditiously seek compensation for residents of buildings along SCL's To Kwa Wan Station and resolve problems for them, so as to put their mind at ease. MTRCL should also handle its governance problems seriously and conduct thorough assessment, with a view to improving its service quality.

President, I so submit.

MR CHRISTOPHER CHEUNG (in Cantonese): President, I rise to speak in support of Mr Michael TIEN's motion on "Restructuring the governance of MTR Corporation Limited". I give support mainly for two reasons. The first reason is out of consideration for the travel safety of the 7 million Hong Kong people.
The second reason is that I do not want to see the degeneration of railway projects into jerry-built projects as this may adversely affect visitors' positive impression of Hong Kong and in turn undermine tourism development.

First, I think that it is absolutely necessary for the Government to restructure the governance of the MTR Corporation Limited ("MTRCL"). Let me put aside those incidents which happened long time ago. MTRCL has been plagued by successive scandals over the past few months alone. Due to the recent simultaneous breakdown of four rail lines, hundreds of thousands of people were seriously affected during their trips and the commuting hours, and Hong Kong's international image has likewise been tarnished. Not long ago, scandalous works problems involving Hung Hom Station, To Kwa Wan Station and Exhibition Centre Station of the Shatin to Central Link ("SCL") were uncovered one after another, including water seepage, the cutting of steel bars, and non-conformance to building plans in the works process. It can be said that new problems can be found each time with greater severity.

The successive incidents are proof that MTRCL's works supervision, notification mechanism and even overall corporate governance have been plagued by various loopholes, and many of them have long since existed. Our refusal to squarely address such problems and urge the Government to restructure MTRCL's governance is no different from burying our heads in the sand and deceiving ourselves. The only result is that MTRCL's governance will keep deteriorating with more and more problems. I believe this is something people will hate to see.

As a common saying goes, "With greater expectation comes higher demand." MTRCL is not only an ordinary listed company. Domestically, MTRCL is vested with the important task of railway construction and operation in Hong Kong. Any problems with its governance will lead to a decline in the service quality in minor cases, such as crowdedness of train compartments and train delays, and affect people's journeys. In serious cases, it will give rise to major safety incidents or those works quality problems that have been found in the SCL project and jeopardize the travel safety of Hong Kong people.

As a saying goes, "No livelihood issue is trivial." On issues pertaining to people's travel safety, Members should not lose the slightest bit of guard. So, I think the Government's requirement of MTRCL's governance should be without any limit. Only this can enhance MTRCL's service quality and ensure people's travel safety.
President, whether MTRCL's governance is satisfactory concerns not only people's travel but also the image of Hong Kong's public transport. The expeditious and convenient railway services provided by MTRCL once commanded people's commendation. People even gave the thumbs-up especially after the introduction of Octopus card. Regrettably, the frequent train delays these days have aroused discontent among a growing number of people about MTRCL's services. And, the unveiling of problems with rail lines constructed and operated by MTRCL from time to time, such as cost overruns and works delays, has led to the escalation of public grievances. The recent successive problems, such as the simultaneous breakdown of four rail lines and the uncovering of the substandard SCL works, have even ripped people of their confidence in MTRCL.

MTRCL's services are deteriorating day after day. May I ask what grounds can be put forth by the Government for rejecting a review of MTRCL's governance? If the Government continues to give MTRCL a free hand and refuses to urge it to improve its corporate governance and enhance its service quality, I believe that shortly afterwards, "MTRCL" will degenerate into a synonym for "deplorable services" and "jerry-built projects". Do Members want to see this?

For all these reasons, I hope that in the face of the problem-ridden MTRCL, the Government will not merely use such words as "regrettable" and "disappointed", or ask people to show mutual understanding and mutual accommodation. Instead, it should conduct a comprehensive and serious review to ascertain the presence or otherwise of any inadequacies in the existing monitoring system and penalty mechanism for MTRCL. Subsequently, it should adopt truly effective measures for enhancing MTRCL's service quality. These are the responsibilities that the Government must discharge as the majority shareholder of MTRCL.

Finally, I hope that while MTRCL seeks to maximize its profits, it can also assume corporate social responsibilities and put people's travel safety and convenience as its top priority. I even hope that the MTRCL management can do some self-reflection while enjoying their substantial remunerations. Instead of putting up various excuses after problems occur, they should ask themselves whether they can face up to their remunerations without qualm, and whether they can live up to public expectation. Besides, MTRCL should conduct a serious
review of the inadequacies in areas such as its provision of services for people, corporate governance and works projects, and take timely rectifications. Only by taking remedial steps can MTRCL restore public confidence in it.

President, I so submit.

MR AU NOK-HIN (in Cantonese): President, before the summer recess, Members demanded the invocation of the Legislative Council (Powers and Privileges) Ordinance to investigate the incidents involving the Shatin to Central Link ("SCL") project, and the relevant discussion lasted for several weeks. However, the motion currently under discussion by this Council is different from the one proposed on that day in relation to the issues with SCL. The current one focuses on the systematic problem of corruption in governance of the MTR Corporation Limited ("MTRCL").

Indeed, each and every works scandal surrounding MTRCL reflected the prevalence of severe problems with its corporate governance. In the past few months, we have discussed the issues of delays in works and corner cutting in workmanship or materials. In addition, all the incidents, ranging from the earlier blunders in the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") project, to water leakage at some stations, to the recent blanket disruption of four railway lines, bore witness to a litany of problems in MTRCL.

I remember that when the public discussion reached its climax, the former Secretary for Transport and Housing, Anthony CHEUNG, wrote a book to voluntarily talk about two occasions of mental struggle about whether to resign during his term of office, and it happened that both were related to the XRL project, which involved MTRCL. Anthony CHEUNG looked back at an interlude of two years ago. To a certain extent, it could inspire the public to look back at the past and trace the history. I will later talk about how the development at the time has contributed to today's poor governance of MTRCL. By looking back at three critical points in time, my current speech seeks to bring to light when MTRCL began to get out of control and how it made mistakes one after another.

The first point in time was 2006, when the rail merger arrangement took place. At that time, the Government requested MTRCL and the Kowloon-Canton Railway Corporation ("KCRC") to engage in discussion on the basis of five parameters, before deciding whether to merge the two railway
systems. Among the parameters, the third one required the early resolution of interchange arrangements for the SCL project under planning at the time. It came to light that SCL was so planned as early as 2006. The fourth parameter required streamlining of the corporate management structure, improvement to the management of railway systems, and enhancement of overall corporate management.

I will talk about the fourth parameter later, but regarding the third parameter, some senior Members might remember that, before the rail merger, KCRC promised in its tender to solely finance the construction of SCL. By the time the Rail Merger Bill and the integrated Operating Agreement were scrutinized, the Government already hinted at adopting the concession approach to build SCL. After a storm of controversy, the conclusion was that the concession approach would be adopted for both XRL and SCL, and the Government would fund and entrust to MTRCL the planning and construction. Upon completion, both links would be operated by MTRCL, and any cost overruns would be borne by the Government. This is why the Government has to "foot the bill".

Mr CHAN Han-pan said earlier that discussing the rail merger again today is nothing but an attempt to sound wise after the event. In fact, the key to the rail merger lied in the Operating Agreement in question. As a result of omissions in the course of formulation of the Operating Agreement, lame-duck phenomena prevail at present, making it impossible for the Government to properly restrain MTRCL, and thus the impact is far-reaching. The Government's original intent is to ensure the quality and safety of railway service through the Operating Agreement, and monitor the design and construction of new railways, among others. However, MTRCL has become an utterly uncontrollable monster today.

The monopolization of an important part of Hong Kong people's daily life by means of the business model of granting public utilities the right to property development is entirely caused by the Operating Agreement and was foreshadowed by the passage of the Rail Merger Bill back then. In light of the commissioning of XRL, MTRCL has signed an amendment agreement to the Operating Agreement, but the people of Hong Kong have no way, despite their wish, to understand how the agreement guarantees the safety of trains. They have absolutely no choice but to rely on the Government to hold MTRCL to account in accordance with the agreement in the future.
The second point in time was 2014, when the XRL project was dogged by delays and runaway cost overruns. Anthony CHEUNG said that he had considered resigning in May that year. In the face of public opinion and the pressure to complete the works as scheduled, what did MTRCL do? Its Board of Directors established the Capital Works Committee and the Risk Committee in August to facilitate more in-depth and focused monitoring of construction progress of the XRL Hong Kong Section project and overall risk management of MTRCL. Then, we noticed that the Permanent Secretary of the Development Bureau had joined these two committees and, in October 2014, a new member Benjamin TANG Kwok-bun was appointed to the Risk Committee.

Why did they choose to appoint Benjamin TANG? It was because he was the former Director of Audit. Before joining the committee, he had investigated the maritime disaster off Lamma Island and submitted a report to the Chief Executive. On the committee, there were a senior government official dedicated to overseeing development and public works, and a former Director of Audit with extensive experience in investigation to monitor the XRL project. So, everyone should have felt at ease. However, viewed in retrospect today, four years afterwards, how in-depth and focused has the monitoring work been while the entire Board of Directors has spent so much time on it and eventually MTRCL is still beset by a succession of incidents today?

The third point in time was July 2016, when the Legislative Council Select Committee to inquire into the delay of the construction of XRL Hong Kong Section released a report and made six recommendations. How much exactly has MTRCL learned from it? The second recommendation in the report of the Select Committee indicated that MTRCL should improve its corporate governance. I quote paragraph 8.6 of the report as follows: "MTRCL should also ensure that reporting of such important matters is made to the Government timeously, fully and frankly in projects which involve public interest and/or require public funding or public resources."

Why was there such a paragraph in the report? It was because the former Chief Executive Officer of MTRCL, Jay WALDER, refused in November 2013 to let Anthony CHEUNG give an account to the Legislative Council about the delays in the XRL project, claiming that this approach could put more pressure on the contractor. However, the truth was that the Transport and Housing Bureau, the Highways Department and MTRCL were conspiring to cover up the delay of works. The same was true of the SCL project. Recently, the media once again
revealed that the Government was aware of problems with the SCL project as early as 2015. The press conference held by Highways Department in July this year was simply a sham. The only purpose of Carrie LAM's high-profile announcement about setting up a high-profile Commission of Inquiry was to prevent the Legislative Council from invoking the Legislative Council (Powers and Privileges) Ordinance to investigate the incident. The Government was already aware of the matter in 2015, but it has been concealed for a long time. There were three points in time at which the Government could have made improvements, but it did nothing.

Therefore, we see a myriad of problems. In response to the succession of blunders in the XRL and SCL projects, there is a strong voice of discontent in Hong Kong society asking every day when the Secretary will be held accountable and step down. If Secretary Frank CHAN believes that history will make its fair judgment, then I sincerely hope that he pays due regard to the issues we raised based on our observations in the past few months. Given that the Government has not seized the three historical time points before, how can it improve the governance of MTRCL? *(The buzzer sounded)*

**PRESIDENT** (in Cantonese): Mr AU, please stop speaking immediately.

**IR DR LO WAI-KWOK** (in Cantonese): President, the original motion moved by Mr Michael TIEN seeks to urge the SAR Government to adopt some measures to restructure the governance of the MTR Corporation Limited ("MTRCL"). As a general principle, I think Members from different political parties in this Council should not have much disagreement on this. The MTR is after all the backbone of our public transport system, with an average daily patronage of more than 4 million passengers. MTRCL's problems in such areas as service quality and supervision of works in recent years have aroused concern among many members of the public. The Hong Kong SAR Government as the majority shareholder of MTRCL undoubtedly has a responsibility of enhancing its supervision over MTRCL, so as to ensure the provision of convenient, efficient and safe railway services.

Some problems with the works of the Shatin to Central Link ("SCL") project undertaken by MTRCL, especially the incident involving steel reinforcement bars being cut short at the platform of Hung Hom Station which
has public safety implications, have aroused widespread concern in the community, pointing to the need for the Government to strengthen its role and functions as the majority shareholder of MTRCL, in order to bring about concrete improvements in such areas as supervision of works and corporate governance.

President, how should the entire supervisory framework be improved so as to enhance supervision by the community and transparency, thereby avoiding blunders and delays in works? In case of serious blunders or delays, how should they be properly addressed and the relevant information be timely disseminated to the public? These are the issues that the Government and MTRCL should review and examine thoroughly. As we all know, an independent Commission of Inquiry was appointed by the Chief Executive in Council on 10 July, with Mr Michael John HARTMANN appointed the Chairman and Commissioner of the Commission, and Professor Peter George HANSFORD, Professor of Construction and Infrastructure Policy at University College London, appointed the Commissioner. Formal hearings by the Commission of Inquiry have already commenced on 22 October.

With regard to the terms of reference of the Commission of Inquiry, it should of course first of all inquire into the facts and circumstances surrounding the concerns about public safety in respect of the diaphragm wall and platform slab construction works at the Hung Hom Station Extension under the SCL project. At the same time, another very precise, clear and important function of the Commission of Inquiry is to comprehensively review the relevant aspects of MTRCL's project management and supervision system, quality assurance and quality control system, risk management system, site supervision and control system and processes, system on reporting to the Government, system and processes for communication internally and with various stakeholders, etc.

The Commission of Inquiry will also examine the adequacy of the monitoring mechanisms adopted by the Transport and Housing Bureau and the Highways Department, and whether adequate control has been exercised by the Buildings Department over construction works undertaken in respect of railway facilities. Recommendations on the appropriate improvement measures will be made by the Commission of Inquiry in the light of its inquiry results, with a view to promoting public safety and ensuring the quality of construction works. With their sound professional knowledge and rich experience in inquiry work, I hope Mr HARTMANN and Prof Peter George HANSFORD will complete the work of
the Commission of Inquiry on schedule and put forth constructive recommendations, thereby enhancing MTRCL's systems on traceability and risk management in works supervision and processes.

President, with regard to the issue of how we should strengthen the supervision, control and reporting systems of MTRCL to improve its works supervision and governance, I have in fact put forward some proposals previously to the authorities concerned through different channels both inside and outside this Council. In my opinion, the Government should, firstly, appoint more senior engineering experts to the Board of MTRCL to assist in the supervision of the implementation of various works and their progress; and secondly, together with MTRCL, study the establishment of new mechanisms to enhance supervision of various works and strengthen their functions in the coordination and handling of major incidents. As the majority shareholder of MTRCL, the SAR Government should consider appointing more government representatives to the Board of MTRCL. Besides, current government representatives in the Board of MTRCL include the Secretary for Transport and Housing as well as the Secretary for Financial Services and the Treasury, but from the perspective of enhancing the effectiveness of corporate governance, permanent secretaries with specific responsibilities in related areas should instead be appointed to the Board. Moreover, the supervising role of the Highways Department and its technical support should be strengthened, and the reporting system should also be enhanced.

Nevertheless, I have repeatedly emphasized that although we should strive to respond to social aspirations and enhance supervision over MTRCL, we should avoid going to another extreme. For example, there are views in the community that measures should be taken to strengthen the supervision, control or reporting processes of MTRCL, and it is even suggested that MTRCL should report everything to the Government. People familiar with the operation of the sector consider this suggestion an overreaction, nothing more than a mere formality, which will only generate additional workload, hinder work progress, reduce the flexibility in the implementation of works, without much no concrete help to the safety and quality control of works.

Furthermore, Mr LUK Chung-hung, Mr CHAN Han-pan and Dr KWOK Ka-ki have coincidentally proposed in their respective amendments that a penalty mechanism should be introduced, under which remunerations and bonuses for the management of MTRCL should be deducted with reference to the service
performance and quality of works supervision of MTRCL. I consider the idea questionable because Hong Kong has all along upheld the principles of a free market economy, and given that MTRCL is a listed company, the aforementioned matter should more appropriately be decided by the Board of MTRCL or shareholders' meetings after discussions. Any external interventions will be undesirable. As for the proposal put forward by Dr KWOK Ka-ki in his amendment to buy back all the remaining shares of MTRCL so that the SAR Government and the Legislative Council can jointly monitor its overall operation, this is obviously unrealistic and not worth refuting.

President, I think that the SAR Government does need to respond to social aspirations by restructuring the governance of MTRCL in order to ensure the provision of convenient, efficient and safe railway services. We may take into account the proposals contained in Mr Michael TIEN's original motion and the amendments moved by several fellow colleagues, but it may not be appropriate to accept them in full, and their potential side effects should be particularly examined.

President, I so submit.

MR FRANKIE YICK (in Cantonese): President, the frequent increases in MTR fares, a spate of service disruptions, culminating in the breakdown of four MTR lines in mid-October, have aroused strong public discontent. Worse still, a number of scandals involving railway projects undertaken by the MTR Corporation Limited ("MTRCL") has made MTRCL the natural target of blame, which has also exposed MTRCL's inadequacies in works supervision. The Liberal Party agrees that there is a genuine need for MTRCL to reform its governance as soon as possible, especially in works supervision.

However, with regard to the incident of the cutting of steel reinforcement bars at Hung Hom Station of the Shatin to Central Link ("SCL"), the Chief Executive has already announced on 12 June the appointment of a Commission of Inquiry under the Commissions of Inquiry Ordinance. With Mr Justice HARTMANN appointed the Chairman of the Commission, it will inquire into the truth of the incident and make recommendations on the works supervision systems of MTRCL and the Government. As the Commission of Inquiry has already commenced its inquiry proceedings, and is expected to submit its report within six months to set out its views and recommendations on the overall
supervision and control in this respect, the Liberal Party considers it more realistic to put forward consolidated proposals on how to improve the governance of MTRCL in the light of the recommendations contained in the report to be completed by the Commission of Inquiry.

The Highways Department is responsible for monitoring construction works of all roads, bridges and tunnels in Hong Kong, and its Railway Development Office is tasked with overseeing the development of railway projects. Although the SCL project construction contract was awarded under a service concession approach, with the project funding provided by the Government and MTRCL entrusted to undertake the construction and operation of the railway line, the Government still has the responsibility to monitor the project implementation throughout the process. It has thus sought approval from this Council in 2009 for the creation of a supernumerary post of Chief Engineer to monitor the implementation of the SCL project by MTRCL.

It is the usual practice of the Highways Department to increase its manpower accordingly to cope with the workload of its Railway Development Office, and it will only be an unnecessary duplication to upgrade the existing Railway Development Office to an independent department directly responsible to the Transport and Housing Bureau. Moreover, unlike the Highways Department, the Transport and Housing Bureau, as a Policy Bureau, does not have the expertise in the engineering field, which will only make it even more difficult for the Bureau to perform its monitoring role effectively. On the contrary, the Government should appropriately increase the manpower of the Railway Development Office, thereby strengthening its supervision of railway projects.

A proposal has been put forward in the original motion for planning new development areas in tandem with their ancillary railway facilities, and this is exactly the concept of according priority to transport infrastructure, which the Liberal Party has always been advocating. The Government has always determined the need to gradually expand transport facilities and other ancillary livelihood facilities in the light of population density and the scale of community development. As a result, the ancillary transport facilities have lagged far behind and the residents of new development areas are like those living on an isolated island in a miserable state. Moreover, such an important consideration factor as the social costs arising from road traffic congestions has also been completely neglected.
Railway development can promote economic development, the high carrying capacity of railway can also facilitate daily commuting and expedite community development. Hence, the planning of railway facilities should tie closely with the development of new towns, and the Government should construct railway lines first, followed by residential developments and other ancillary community facilities in the vicinity of various railway stations.

It is proposed in the original motion that in order to rationalize the appointment of the Chairman and the Chief Executive Officer of MTRCL, one of these two highest persons-in-charge should have an engineering background, but the Liberal Party does not consider this necessary, since both of them are mainly responsible for the management of MTRCL. As for engineering problems, MTRCL already has management staff with engineering background and the relevant engineering experience, and it will only be the icing on the cake for its Chairman and Chief Executive Officer to have an engineering background. On the contrary, the Liberal Party is of the opinion that consideration may be given to appointing experienced persons with an engineering background as Non-executive Directors of the Board of MTRCL, so that they may offer appropriate professional advices on railway projects through their participation in the work of committees set up under the Board.

The Liberal Party concurs that MTRCL's requirements for supervision of the works of contractors should be raised, but with regard to the proposals set out in the original motion concerning how MTRCL should report the progress of construction works and raise its requirements for supervision of the works of contractors in the future, I am of the view that we have meddled in MTRCL's internal affairs by determining all these operational details in this motion debate. The Government should convey its suggestions for comprehensively improving MTRCL's works supervision system through the expanded Railway Development Office and the Board.

As for the request made in the original motion for resident site staff to conduct thorough on-site supervision, the Liberal Party considers this an unrealistic and impossible mission. Furthermore, as nothing comes for free, thorough on-site supervision requires a doubling of manpower and material. The resultant additional costs will eventually and certainly be transferred to members of the public. As a matter of fact, it will be impossible to conduct thorough on-site supervision for major infrastructure projects, and random checks should be strengthened for more stringent supervision.
President, the Liberal Party agrees that the governance of MTRCL should be improved, but given that recommendations will be made in this respect by the Commission of Inquiry, the Liberal Party is of the view that we should wait for the completion of the report before comprehensively studying how to enhance the governance of MTRCL, which we believe will be more to the point. Therefore, the Liberal Party will abstain from voting today on the motion and all amendments thereto.

President, I so submit.

MR MARTIN LIAO (in Cantonese): President, Hong Kong has well-developed public transport services which are patronized by 12.6 million passengers every day, with the utilization rate being the highest among the major cities in the globe. Among the various public transport services, Mass Transit Railway ("MTR") is the most patronized. In 2016, the average daily patronage of MTR was 4.7 million passenger trips, accounting for 37% of the total public transport passenger trips. It is estimated that in 2021, the average daily patronage of MTR will continue to increase to 5.1 million passenger trips, accounting for 39% of the total public transport passenger trips. In the public transport system of Hong Kong, railway development has always been regarded as the backbone. In order to cope with the needs of economic and social development in Hong Kong, a number of railway lines will still have to be planned and constructed. It is evident that railway ridership will only be on the rise.

However, is the quality of railway service also improving correspondingly? Has corporate governance been gradually improved? Has project monitoring been getting stringent? The MTR Corporation Limited ("MTRCL") has been emphasizing its primary objective of safety and has, on many occasions, boasted about the excellent safety performance of its railway network, the reducing number of reportable occurrences, and even its worldwide leading status in safety standard. But it is ironic that the recent spate of MTRCL incidents concerning the quality of railway construction works exposed have not only reflected that its railway safety may not be really leading in the world, but might have also given people a wrong perception possibly due to the fact that the incidents were not reported.

We all know that it is not the first time, and I believe it is also not possible to be the last time, that the Legislative Council discusses and reviews the service quality, corporate governance and project monitoring performance of MTRCL.
The latest rather serious review was conducted by the Select Committee to
Inquire into the Background of and Reasons for the Delay of the Construction of
the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail
Link set up by the Legislative Council during the last term. In regard to
MTRCL's performance in corporate governance, in the example concerning the
postponement of the commissioning date of the Hong Kong Section of the
Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") from 2015 to
2017, the MTRCL Board only knew about it after an announcement had been
made. This has already exposed the lack of effective governance on the part of
MTRCL.

The MTRCL Board subsequently set up the Capital Works Committee and
the Risk Committee, with a view to ensuring a high standard and high quality of
work of the management level, and enhancing the transparency and
communication work in project management. Nevertheless, according to the
management of MTRCL earlier on, following the establishment of the two
Committees, although great improvement has been made to the reports in writing,
many measures have been launched to monitor various works projects and
communication has also been encouraged by various working teams, they
acknowledge that it takes time after all to change the internal culture of
communication.

President, the internal communication of MTRCL involves the monitoring
of major works projects and it cannot shirk the responsibility simply under the
excuse that "it takes time". The two Committees have already been established
for four years. If they cannot immediately improve the internal culture of
communication, there will be recurrence of undesirable incidents. In one
example, the contractor of the To Kwa Wan Station of the Shatin to Central Link
cut short the reinforcement steel bars of the diaphragm wall without conforming
to the requirements in the plan and without reporting to the senior level. In
another example, after the MTRCL staff stationing at the construction site of the
Exhibition Centre Station had issued a Non-Conformance Report to the
contractor, they did not report to the management level and the contractor was
allowed to continue with the excavation work. Recently, the failure of the
signalling system of four MTR lines led to massive traffic chaos throughout
territory, which was not less serious than the train service disruption of the East
Rail Line after the onslaught of super typhoon Mangkhut in Hong Kong. The
above mentioned incidents do reflect the lack of capability of the MTRCL
management level in managing its core business of providing people with basic,
stable and safe public transport service.
As the majority shareholder of MTRCL, the Government definitely has the responsibility to ensure that the construction quality of the works project meets the requirements in the entrustment agreement. The Highways Department ("HD"), as the first line of defence for the Government, is responsible to monitor MTRCL. If HD tends to rely too much on or unreasonably trust MTRCL, or if its monitoring and verification consultant has put too much trust in MTRCL when reporting any issue which may have substantial impact on the works project, such as the progress, expenditure and safety of the project, it will be unable to take up a more proactive and positive role in monitoring. The delays of the XRL project have already reflected the ineffective monitoring of the Government. Therefore, in order to enhance monitoring, the Government cannot consider it as a routine, or put too much trust in MTRCL just like it did before 2015, but must implement substantive and serious monitoring.

Railway is an important public transport service which is monopolized by MTRCL, which controls important social resources and affects the livelihood of the people, social and economic development. Therefore, being the majority shareholder, the Government has the need to enhance its leading role in monitoring MTRCL and straighten out the management level through the MTRCL Board. In this connection, I expect that the Commission of Inquiry into the Diaphragm Wall and Platform Slab Construction Works at the Hung Hom Station Extension under the Shatin to Central Link Project led by the former Non-Permanent Judge Mr Michael John HARTMANN, which has already commenced the hearings, can also look into this issue and provide some recommendations for improvement.

President, I so submit.

MR TONY TSE (in Cantonese): President, compared with many overseas countries and regions, the railway service of Hong Kong is already quite good: it is fast, safe, convenient and on time. Over the years, the MTR Corporation Limited ("MTRCL") has received numerous accolades, both locally and overseas. But it is unfortunate that the project overruns and delays of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") a few years ago, the spate of problems related to the Shatin to Central Link ("SCL") project exposed earlier, and the service disruption of four railway lines simultaneously due to failure of the signalling system not long ago, have seriously undermined public confidence in MTRCL.
As regards whether the SCL incidents involve any lack of supervision, withholding of important information and thus someone should be held accountable, the statutory and independent Commission of Inquiry appointed by the Chief Executive has commenced its hearings to investigate thoroughly into the issues. Before the Commission of Inquiry publishes its report, the improvement proposals put forward by the Legislative Council in its debate on restructuring the governance of MTRCL are worth studying and following up by the Government and MTRCL.

I agree with a few proposals in the original motion, such as asking the Government to plan new development areas in tandem with their ancillary railway facilities. The Policy Address this year proposes the "Lantau Tomorrow Vision" which places emphasis on according priority to transport infrastructure development. The Government will study the construction of a major transport corridor to link up Tuen Mun, North Lantau, the artificial islands in the Central Waters and Hong Kong Island North, and I think this has responded to the proposal concerned.

In regard to asking MTRCL to review the criteria of its internal tendering system and not to overemphasize the principle of "the lowest bid wins", I totally agree with this proposal. While MTRCL has to conduct a review, the Government also has to further improve the tendering system for Public Works Programme projects. This includes putting more emphasis on the past performance, works quality, design creativity and technology innovation of tenderers, giving more opportunities to local talents, especially young professionals, and whenever possible, breaking down a project into smaller-scale ones so as to give more opportunities to small and medium enterprises, which will enhance competition and prevent monopolization.

However, I have reservations about the proposal of setting up an independent railway development department. In my view, one of the major problems is that the government departments concerned are short of manpower, particularly professionals who are genuinely familiar with railway works and possess rich experience. I do not think that the existing problems can simply be resolved by setting up a new department. Instead, the Government has to step up training its own professional team on railway development, deploy more government officers to directly participate in the planning, design, construction, supervision and verification work of various railway projects, and reduce over-reliance on MTRCL and external consultants for monitoring the projects on its behalf.
Concerning the requirement that either the Chairman or the Chief Executive Officer of MTRCL should have an engineering background, I also hold a different view. First of all, MTRCL has a wide scope of businesses, ranging from the construction of railways and stations to the operation of railway service, property development and management. Hence, it may not be necessary for the Chairman and the Chief Executive Officer of MTRCL to have an engineering background, but they can be professionals of other aspects like finance, law, administration and personnel management. As a matter of fact, the chairmen and chief executive officers of many large multinational enterprises are able to effectively manage the entire corporation even though they may not be the experts of a certain business of the corporations concerned.

At present, MTRCL has set up the Projects Division and the position of Projects Director to be responsible for the supervision and management of the works projects under MTRCL. We should not move the responsibility higher by requiring the Chief Executive Officer or even the Chairman of the corporation to directly manage the projects when the staff of the department concerned are unable to exercise their functions. However, I support the appointment of more independent non-executive directors with a background in engineering to the MTRCL Board, who can provide some independent views on the monitoring of projects.

Finally, some Members suggest that the bonus and the amount of director's fee of the MTRCL Chairman and the senior management should be deducted based on the number of major railway service disruptions. In my view, it is necessary for MTRCL to strike a balance, as on one hand, MTRCL is a listed company which has to be accountable to shareholders and make a reasonable return, and on the other hand, it is a public service company. Under the public transport policy of the Government, railway is made the backbone. Therefore, it is impossible for MTRCL to just focus on making profits, as it should also take care of public interests. I thus hope that the management of MTRCL, including the Chairman and the Chief Executive Officer, can fully understand the view that I just put forward and know how to balance public interests and the interests of shareholders.

President, I so submit.
MS YUNG HOI-YAN (in Cantonese): President, railway is a major transport mode in Hong Kong. The Government has made it clear that it will develop a transport system that uses railway as the backbone. I believe many people will choose MTR as their first choice of transport to work or school.

However, in recent years, there was frequent occurrence of MTR incidents. Several railway lines, including the East Rail Line used by many New Territories East residents, were affected frequently due to signalling failure, the straying of animals into track areas, falling of people onto the tracks by accident, etc. The train services were stalled a few minutes or the whole railway line came to a complete halt, and created much inconvenience to the New Territories residents.

Besides, there have been a series of recent incidents involving the large-scale MTR works projects. These include the serious cost overruns and delays of the works projects of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"), the suspected falsifications in the works projects of the Shatin to Central Link ("SCL") that we discussed earlier, the subsidence of railway stations caused by unauthorized alteration of layout plans and works projects, etc. The series of incidents have raised public concern over the problem of governance of the MTR Corporation Limited ("MTRCL").

Over the recent months, the public have encountered two serious railway incidents. The first one happened in September this year after a typhoon hit Hong Kong. The East Rail Line almost came to a complete halt. People living in the New Territories could not go to the urban districts. And then in October, a signalling failure resulted in a total breakdown of four railway lines during morning rush hours. The railway disruption in turn affected road traffic, causing traffic chaos in that whole morning. Many people can still vividly remember how awkward they on their way to work.

President, we simply cannot accept the large and small problems with the MTRCL railway services that take places every few days. We certainly do not want this to become the norm. The deterioration of the MTRCL railway services is directly related to its corporate governance. In order to improve its service performance and quality, MTRCL must enhance its corporate governance. I hold that the MTRCL management and the Government, who is the biggest shareholder of MTRCL, should be accountable. Regarding the performance of MTRCL on its governance, I believe we should our own judgment. How did the incumbent government representatives in the MTRCL Board, namely Secretary James Henry LAU, Secretary Frank CHAN, Permanent Secretary for
Development (Works) LAM Sai-hung and Commissioner for Transport Mable CHAN, monitor the railway corporation in the past? Have they pointed out the deteriorated service quality or made suggestions to MTRCL on behalf of the Government and public?

Besides, the former Secretary for Transport and Housing Prof Anthony CHEUNG expressed serious concern on behalf of the Government in May 2014 over delays in the works projects of XRL, saying that he would look into the project management and monitoring problems and launch measures to strengthen corporate governance of MTRCL, including nominating new members into the MTRCL Board. I wish to ask the Government how effective these measures have been in enhancing the corporate governance of MTRCL since their implementation in 2014. Today, we again discuss the governance problems of MTRCL. Does this reflect that the measures implemented by the Government in that year are ineffective? Will the Government tell us how to tackle this problem once and for all? I hope the public officer can reply to each of these questions.

President, MTRCL basically increases its ticket fares every year. Basically, it only increases the fares. Never has it reduced its fares. The public have to bear with the increasingly poor services of MTRCL. Many people have to take MTR because they have no other options. But this does not mean that MTRCL can be so domineering in disregard of the interests of the general public.

Aside from the two major problems I just mentioned, MTRCL has ignored or has been stalling on many other minor issues or livelihood issues. Many station facilities are yet to be improved and many of them are not user-friendly. I will talk about problems in Tai Wai. Many Tai Wai residents have relayed to me that some exits have escalators going upwards to ground level, but only provide stairways for going downwards. Many residents find this very inconvenient. Exit F which directly connects to Festival City only has a stairway and does not have facilities to assist wheelchair users. Elderly people and wheelchair users have to take a long bypass to arrive at the MTR platform, causing much inconvenience to them. Who created these governance issues and why these issues are not tackled for such a long time?

Moreover, installing automatic platform gates at East Rail Line stations is something I, and also District Council members and many community development officers, have been lobbying for. A series of accidents involving people falling off railway platforms in Fanling Station have aroused much public
concern. People ask for expediting the installation of platform gates. In October, I invited MTRCL to join me in a site visit to Fanling Station and learn about the latest progress on platform gate installation in East Rail Line. But they told me that MTRCL could only look into the installation after the commissioning of SCL. I very much query why it has to be so.

We also put a question on the East Rail Line this morning. The Secretary is unable to tell in his reply the commissioning time of SCL, whether it will be commissioned partially, what the possible time is and whether there is any timetable. What role is the Government playing in the governance of MTRCL? I very much hope that the Government can truly tell us the governance of MTRCL is effective and the measures it has to improve its present governance. I so submit.

MR WILSON OR (in Cantonese): President, Hong Kong has been implementing a "railway first" transport policy. According to the Hong Kong public transport planning of the Government, railway is a major transport mode. According to its 2017 full year results announced in March this year, the MTR Corporation Limited ("MTRCL") recorded a total patronage of 1.638 billion for its domestic railway services, showing that the public rely heavily on the railway system.

The service quality, corporate governance and works project monitoring of MTRCL in recent years are plagued with problems and far from satisfactory. A series of quality problems are found in the construction works of the Shatin to Central Link ("SCL"). Its corporate image is seriously tarnished. If I were to describe it, I will say that MTRCL has not reached its worst performance and the worse is yet to come. MTRCL has completely betrayed the public's trust in the corporation. The SAR Government is the majority shareholder of MTRCL and it has a major responsibility to monitor the railway corporation and ensure that the railway corporation has provided the public with the best and safest railway services, so as to serve as the major component in the infrastructure. The SAR Government must strive to find a way to restructure the governance of MTRCL, so as to improve its services and corporate image and restore public confidence in the railway corporation.

Many people know that MTRCL provides a complete line of services from railway construction, operation and maintenance, ticketing, shop rentals, property development, to overseas railway services. It covers an extensive range of business; and the biggest impact is its service disruptions during which
passengers (that is, the public) become helpless and the biggest victims. Their greatest concerns are ticketing issues and train services of MTRCL, such as train frequencies, number of service disruptions and train compartment crowdedness. Their worries often become real. The MTR fares and the train services often have the greatest impact on the public. But there has been a series of failure and serious delays with the MTR train services.

Let me show Members some frightening data. From October to December last year alone, MTRCL had 10 serious service disruptions of 31 minutes or more. On 16 October this year, the Tsuen Wan Line, Island Line, Kwun Tong Line and Tseung Kwan O Line experienced a signalling failure. Do Member still remember this four-line breakdown? I believe we still vividly remember it. The incident affected 3 million people in Hong Kong. Workers and students alike suffered. Secretary, Hong Kong was in a complete chaos at that time.

MTRCL has made handsome profits, but it only seeks to increase its fares but its services are regressing. Its services always lag behind. The problem with its system has remained unresolved for a long time. The ticket concessions it offers are petty favours which are a disguise for ripping off you. People have no choice but to accept it. We are supposed to enjoy the train service, but it turns into service delays. Many disputes and public grievances are thus created.

As the majority shareholder of MTRCL, the SAR Government should urge MTRCL to improve its service quality and request it to proactively lower its fares or provide more ticket concessions, so as to shoulder its social responsibility. And regarding serious train service disruptions caused by ageing of the MTR signalling system, I hold that the Government has the responsibility to urge MTRCL to regularly upgrade its signalling system to the latest version, so as to minimize impact on the public and avoid disruptions to people on their way to work. Secretary, Hong Kong people really love to work.

Aside from regularly upgrading the signalling system, I think MTRCL should also review how to enhance its platform facilities. Addressing the overcrowding problems at platforms has been a matter of great concern to me since I became a Kwun Tong District Council member and a Legislative Council Member of the Kowloon East constituency. Secretary, everyone knows that the population in Kwun Tong has been increasing, including transient population, working population and resident population. Our railway platform is very congested. I believe you have experienced how congested it is. The platform
is always packed with people during rush hours. People have to queue up to get into the MTR station. The Secretary should have seen it. It is common to see a line of people coiling up to the flyover.

In fact, Kwun Tong Station has not undergone any major changes since its commissioning in 1979. The redevelopment of the Kwun Tong Town Centre presents a golden opportunity for station enhancement. If MTRCL fails to grasp this opportunity to expand the platform and alleviate the congestion, it will end up being a disaster to Kwun Tong. I hope the Secretary can urge MTRCL to expand the platform of Kwun Tong Station and construct more facilities to improve these problems, rather than making small changes and minor maintenance.

Monitoring railway projects is the responsibility of MTRCL. It should bear in mind that it can outsource the construction projects, but it cannot outsource the monitoring responsibility. But MTRCL has been intentionally or unintentionally pretending to be ignorant and shirking its responsibility. President, its repeated shirking of responsibility has led to the problems in the SCL works projects which has been conducted without any supervision. The Government only woke up from its dream when the problems were discovered. What was laughable was that some public officers were unaware of the problems until reading the newspaper. Frankly, they cannot dodge the monitoring work.

President, the Government should be at the forefront and be down to earth. It should not let MTRCL do whatever it likes. The Government is duty-bound to play the monitoring role. If the Government fails to do so, it and the Secretary for Transport and Housing in particular should be held responsible. President, I very much hope that through this debate, the Secretary can tell us how to enhance the upcoming monitoring work and how to address the current individualistic, unorganized, incohesive and ineffective situation. I believe both Hong Kong people and I would like to see that the Government is willing to commit itself more. The Government should be shoulder its responsibility and play its due role. Thank you, President.

MR CHAN CHI-CHUEN (in Cantonese): President, the title of the motion moved by Mr Michael TIEN today is "Restructuring the governance of MTR Corporation Limited". In my view, if we do not fundamentally change the nature of the MTR Corporation Limited ("MTRCL"), we may not be able to achieve the objective despite the measures (1), (2), (3), (4), (5), (6) and (7)
meticulously recommended by Mr Michael TIEN which he urges the SAR Government to adopt. When discussing this topic, we have to understand the status quo of MTRCL.

Since MTRCL was listed, it became a listed company with 75% of its shares owned by the Government and the remaining 25% was owned by the public. The Government has the authority to appoint the Chairman and directors of MTRCL, but at the same time, MTRCL has to serve the interests of its shareholders. Therefore, while MTRCL has to serve passengers, it also has to take care of the interests of its shareholders. Only when MTRCL ensure an increase or a continuous increase of its net profits, can it make sure that its share price will not drop in order to protect the interests of its shareholders. We can thus understand that the priority of MTRCL may not necessarily be improvement of service quality but is actually the creation of profits for the boss of MTRCL, i.e. its shareholders. In regard to the creation of profits, there are not more than two ways: one is to increase income and the other is to control the growth rate of expenditure. Theoretically speaking, any measure which increases expenditure will not create more income or, in other words, will reduce profits. Based on the above analysis, for MTRCL whose priority is to pursue more profits, any reform which adds to the cost will be contradictory to the interests of its shareholders.

In launching these reforms, MTRCL will surely face a lot of obstacles. Take the example of the third proposal of Mr Michael TIEN which says, "MTRCL should regularly upgrade the signalling system to the latest version, rather than … on the ground of the cost being the prime factor of consideration". How can MTRCL, a listed company which goes for profit first, ignore the cost of upgrade the signalling system?

The fifth proposal of Mr Michael TIEN says, "MTRCL should study following the criteria … which draw greater reference from the past performance, cooperative attitude, accountability performance of tenderers, etc., rather than overstressing the principle of 'the lowest bid wins'". If MTRCL, a listed company, does not overemphasize the principle of "the lowest bid wins" in awarding a contract but select the contractor with higher tender price, how can MTRCL be accountable to its shareholders who are in pursuit of profits? If MTRCL announces that it will no longer adopt the principle of "the lowest bid wins" in selecting contractors or service investors, I believe its target share price will be adjusted downwards, possibly leading to a drop in its share price. Even
with the courage and support given by Secretary Frank CHAN, under the pressure of shareholders, the Chairman or the Chief Executive Officer who launches the reforms may not be able to hold the post for long.

As regards the fourth proposal of Mr Michael TIEN, it says "either of the Chairman and the Chief Executive Officer of MTRCL … should have an engineering background". But investors do not care much about whether they have an engineering background. They may only expect the Chairman of this listed company to know financial tricks and how to manoeuvre the figures on financial statements for creating some more profits, rather than being an engineering expert who knows nothing about finance.

In fact, we fully learn from MTRCL's contingency measures and remedial work in the recent spate of incidents that the priority of MTRCL is shareholders' interests. As for passengers, they are really miserable as they have been treated like trash by MTRCL. For example, in the incident when the service of four railway lines was disrupted simultaneously due to failure of the signalling system, in order to avoid paying a huge amount of fine, when the service of four railway lines was nearly paralysed, MTRCL still insisted upon the railway operation, and as a result, the public were not clear about what was going on at that time. If MTRCL had made an announcement about the incident earlier, people would not have entered the paid areas. After they had entered the paid areas, they were caught in a difficult position of whether to go out or not, and many passengers complained about it afterwards. Under public pressure, MTRCL announced that it would provide a concessionary arrangement as compensation which was, however, only offered on a weekend when people did not need to go to work on these two days. The public queried why this concessionary arrangement could not be offered on weekdays. Anyway, I believe people also know the answer as during weekdays, the amount of concessionary payment will be larger. From the meticulous calculation and design in the provision of concessions, we learn that MTRCL always give the first priority to shareholders' interests.

I surely find that many proposals of Mr Michael TIEN are very professional and positive, but it will be rather difficult to apply them to MTRCL which has already become a listed company and always give priority to shareholders' interests. In fact, since MTRCL was listed, its service quality has been declining. After the Kowloon-Canton Railway Corporation ("KCRC") was merged, the original KCRC network service started to deteriorate and there were more project delays and mistakes. These problems are naturally related to MTRCL as a listed company which is in pursuit of profits instead of giving
priority to service quality and project quality. I can assert that if Mr Michael TIEN was to replace Prof Frederick MA as Chairman of MTRCL, the result would not be very much different, because when he was sitting in that position, he would also have to look at those figures and have to take into account the interests of shareholders, otherwise, he would still have a miserable end. As regards project delays, cost overruns or numerous mistakes, they will not affect the management level. In fact, Prof Frederick MA can continue to be the Chairman of MTRCL—some people even say that Mrs Carrie LAM wants him to stay in for another year.

From the above analysis, we think that in order to implement the reform proposals of Mr Michael TIEN, we need to first buy back the shares of MTRCL—this has long been discussed—so that MTRCL can become a statutory institution fully owned by the Government. After that, the Government can launch its reform directly in a comprehensive manner. The pro-establishment camp may say that since the existing market value of MTRCL is over $200 billion, a large amount of public money will be needed to buy back the shares of MTRCL. But the fact is that only one-fourths of MTRCL shares are available for transactions and we only need to buy back the shares which are worth $60 billion. Even if we calculate at a premium of 50% over the price, it is only $90 billion. After buying back the shares with $90 billion, the Government can enjoy the annual profits of a few billion dollars or even over $10 billion. In other words, the cost can be recovered in a decade. We thus see that question lies not in money but in the willingness of the Government—of course, the Government is not willing to do that.

We can later ask Secretary Frank CHAN if the seven proposals of Mr Michael TIEN are passed, whether we can really urge the Government—no matter whether the announcement will be made by Secretary Frank CHAN or Mrs Carrie LAM—to require MTRCL to follow those seven proposals which will then be followed and fully implemented by MTRCL. But this will absolutely not happen. Therefore, in respect of Mr Michael TIEN's motion, the question does not lie in whether this motion is genuinely non-legally binding but in our lack of means to bind MTRCL. Only when the Government regains control of this company can the governance of MTRCL be thoroughly restructured. (The buzzer sounded)

PRESIDENT (in Cantonese): Mr CHAN, please stop speaking.
MR SHIU KA-CHUN (in Cantonese): President, I am now going to speak on the motion on "Restructuring the governance of MTR Corporation Limited" moved by Mr Michael TIEN.

Scandals associated with construction works of the MTR corporation Limited ("MTRCL") were successively exposed, ranging from inadequate thickness of structural walls, reinforcement steel bars at platforms being cut short, absence of supporting brackets, falsification of connection with couplers, unauthorized alteration of drawings and large-scale subsidence to repeated service disruptions during peak hours. There are many more plunders to add to the list and it is impossible to give an exhaustive list here. All of the above served to reveal the ineffective supervision of MTRCL and collapse of established social order in Hong Kong. The problem of ineffective governance does exist in both the Government as well as public organizations. Take for instance the incident in which the steel bars at Hung Hom Station of the Shatin to Central Link ("SCL") were cut short. The subcontractor concerned had tried to cover up faulty works by faking that the steel bars had been fully screwed into the couplers. The whole thing was baffling and hard to understand. MTRCL would not have made public the incident but thanks to persistent media disclosures day after day, making it impossible for MTRCL to avoid the issue any longer.

Therefore, it is imperative to revamp MTRCL's governance and the focus should be on how to avoid collusion between government and business sector and shielding the wrongdoers. The series of problems with MTRCL were not accidental, nor were they general problems of cost overruns and delays. They actually involved falsification, which amounted to fraud in nature. Apparently, the crux of the problem lies in ineffective internal monitoring mechanism, but the Government and MTRCL came to realize this too late. As the construction works involved special expertise, a multi-tier mechanism for quality control will generally be put in place in order to detect problems at an early stage so that remedial actions can be taken as early as possible.

As regards the various abnormalities mentioned above, who is the first to discover the problems associated with the works? And who decided to cover up the problems by deception? Of course, these are the matters which we should pursue to the end. Yet, it is somewhat puzzling that while staff of the subcontractor could see these problems which existed everywhere during their inspections, other supervisory staff remained unaware of these problems. How come the problems still remained in spite of the subcontractor's repeated efforts to
report them to those at higher levels? This was most terrifying and sent chills down one's spine. Why Hong Kong, a city used to take pride in its high level of integrity and fairness, has reduced to its current state? Today's government departments and public utilities seem to have forgotten the duties they owe to the public. Is it because they believe that "money talks"? The most unexpected thing is that the Chairman of MTRCL still stands tall following the revelation of the problems. Worse still, the Government daringly appointed Frederick MA, who has been criticized by the public, as the Chairman of MTRCL for another term of six months last Monday (19 November). Given the ineptitude of the Government which is neither able to initiate deterrent inquiry into the problems nor introduce an effective penalty mechanism, MTRCL has nothing to fear at all. Thus, it still makes no reports and never admits faults on its part.

Take a look at the pro-establishment camp then. They are still the same as before, that is, ruthless in words but tardy in actions. Though they yelled and gnashed their teeth when making severe criticism against MTRCL in their speeches, their real stance became clear during voting as they voted against the motion for establishing a select committee. It seems they worried that the pro-democracy camp would take the opportunity to attack the Government rather than aiming at safeguarding the safety of members of the public. And so they objected to initiating official inquiry into the matter by the Legislative Council regardless that it was against public opinion. Meanwhile, some Members deliberately talked nonsense or changed the subject by alleging that the subcontractor blew the whistle only because he was at loggerheads with the contractor. And some Members vilified the subcontractor for having made such alarming remarks due to his political stance.

MTRCL's governance scandals were exposed one after the other, reflecting that MTRCL has already become a "fearless" independent kingdom. Even the Government, its biggest shareholder, is unable to monitor the company's operation effectively. On the other hand, thanks to Hong Kong's distorted political system, the Government will always be let off as the seats in the city's legislature are mostly occupied by pro-establishment Members who will never pursue the faults of the part of the Government. In the absence of an accountability system, both MTRCL and the Government are gradually losing their sense of responsibility. And they can still live comfortably as long as they are brazen enough and willing to withstand all sorts of reproach from the public. Nevertheless, Hong Kong will be on the decline should the current situation persist.
Simply put, the messy situation is also an illustration of the decline of Hong Kong. We can see that public responsibility is becoming less and less cherished in Hong Kong. SCL incident indicated that MTRCL is desperate need of reform. Actually, with the imminent departure of Frederick MA, the Government should have seized the opportunity to appoint a vigorous person with vision as the new Chairman of MTRCL to carry out fundamental governance overhaul for MTRCL. Any reform requires consensus with other members of the management (in particular the Chief Executive Officer). After all, the Chairman and the Chief Executive Officer must be in step with each other, since incompatibility of temperament between the two will not do any good to the company, just like the case of the Chairman of the then Kowloon-Canton Railway Corporation Michael TIEN and the acting Chief Executive Officer Samuel LAI. The pair was made up of two persons of different styles: one was quick in actions but the other was slow. This is precisely why we do not see the need to ask Frederick MA to stay for six more months.

MTRCL have experienced various crises in recent years. Its future Chairman must lead the company to undergo an exhaustive overhaul upon succession to office if he does not wish to follow in his predecessor's footsteps, such as examining the shareholding system of MTRCL to find out if it has caused the company to take an approach that tilted towards profit-making while neglecting the company's corporate social responsibility, or whether its current communication and coordination frameworks with the Government can cope with the increasingly heavy infrastructure works. Given that "fires" are set everywhere, the annual remuneration of less than $2 million for the Chairman is by no means attractive to those business gurus. Frederick MA has been asked to stay for another six months despite his poor performance, this can be attributed to two possibilities. First, MA is shielded and favoured by the Government. Second, the Government simply cannot find a better candidate to fill the post.

The main cause of MTRCL's ineffective governance lies in that government officials tend to speak in defence of MTRCL whenever any problem crops up. Perhaps it is nothing more than a reflex action, but this tells us that they have neglected the responsibility of the Government as the regulator. Given this political reality of unfailing government support and protection from the seemingly angry pro-establishment Members, MTRCL's management can always get away with everything, which has spoiled them, and explained why Frederick MA has acted in such a conceited manner. Should MTRCL not change its imperious governance style, the quality of its works management will
only decline further. Consequently, Hong Kong people will be forced to shoulder unnecessary expenses thus incurred, whereas public safety will be at stake.

President, to get to the root of the problem, I think the best policy for the Government is to buy back MTRCL. Hence, the Government should expedite working out the agenda for buying back MTRCL for implementation of this policy as soon as practicable.

President, I so submit.

MR JEREMY TAM (in Cantonese): President, I thank the Member for moving the motion on "Restructuring the governance of MTR Corporation Limited" today. Having joined the Legislative Council for two years, I find that the MTR Corporation Limited ("MTRCL") keeps astounding us with unheard-of incidents which occur once every few months. As many Members have mentioned just now, successive scandals were exposed against the background of MTRCL's deep-rooted governance culture, including the incident in which the reinforcement steel bars at Hung Hom Station of the Shatin to Central Link ("SCL") were cut short, a layer of steel frame at Exhibition Centre Station was found missing—which indicated its total disregard of the lives of the workers—and there are buildings affected by subsidence, which is also an example of its disregard of the safety of residents living in the neighbourhood. Why such a state of affairs has come about?

President, it is stated in the Report of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link Independent Expert Panel ("the Report") released in 2014: "... individuals in key positions failing to communicate what they knew in respect of the significance of delays to XRL ... due to the culture within MTRCL that apparently discouraged the elevation of bad news without solutions ... failure in communication left senior officers in MTRCL and Government unsighted as to the true severity of delays." In fact, the manner in which Frederick MA made his infamous remarks, for example, "it is OK because I said so" and "it is no use even if I tell you because you will not understand", is a reflection of the culture within MTRCL. From this we know that this culture had existed before Frederick MA joined MTRCL in 2014, but the question is: why is this the case?
Moreover, the text quoted from the aforementioned report is quite interesting, which implies that bad news will not be reported upward unless MTRCL has come up with solutions. Nevertheless, no solution can be found in some cases. Does it mean that the problems will not be reported upward then? You see, this is precisely the crux of the problem: No solution, no upward reporting. Personally, I did have a first-hand experience of this.

If my memory serves me right, I was so fortunate to have the chance to work as an intern for MTRCL in 1996 or 1997. The company have a number of departments, among them is the Railway Extension Department, under which there is a small section responsible for environmental protection matters. I was attached to this small section in those days.

Why do I call it a small section? If I got it right, there were altogether four persons in that section back in 1996 or 1997, namely the manager (the most senior among us), the senior engineer, the secretary and myself. The section comprised the four of us only and no one else. Actually, just the four of us were tasked with handling the environmental protection matters concerning a new railway back then.

Here, I would like to share with you one thing which struck me the most. A project known as "508" which was located in Lai King Station. At that time, the Tung Chung Line and Airport Express Line were under construction. Some residents nearby complained to us and members of the District Council ("DC") also wrote to us, pointing out that MTRCL had expressly stated that Japanese-made silenced excavating machines would be used for the project. Photos were sent to us as well—unlike today, they did not send us digital photos, but the ones developed from films—and what we saw in the photos were only machines wrapped up in quilts so that the noise could be somewhat abated. Well, would that work? I doubt it. Fortunately, no overheating of the machines occurred probably because it was winter then.

Can you guess what my department's attitude was then? I asked to my supervisor how to handle the following matter: A DC member wrote us a letter, saying that our company had promised the DC that silenced equipment would be used for the project, but now only machines wrapped up in quilts were used. How could it be done this way? And my supervisor told me: "What do you expect? Actually, we did not specify in the contract that the contractor should use the designated type of machinery. We had to make the promise only because we wanted to secure the DC's approval for taking forward the project
then." I went on to ask what I should do and he told me to stall a little while by replying to them in slow-motion fashion that our company would look into the matter. The truth was, however, that part of works would be completed two months latter and the noise would be greatly reduced when the machines were removed from the site. There should have no more complaints by then. And this was how we addressed the problem at that time.

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

This was my impression of MTRCL in the 1990s and my memory of this experience is still vivid. Had I not worked in MTRCL as an intern for two or three months, I really could never imagine that such a sizable organization would have done something like this. Throughout the course of handling the matter, the most important consideration was avoid suspension of works. This was exactly what my boss told me at the time. How to avoid suspension of works? Well, the answer is "stalling". Would it result in any casualties? No. Was it in compliance with the environmental protection laws? Yes. What about the promise made to the residents and the DC members? It is irrelevant for that part of works would soon be completed. Avoiding suspension of works was the primary consideration. So this is the deep-rooted culture within MTRCL.

Why has the current incident in which reinforcement steel bars were cut short occurred? Honestly, can it be done by the general manager in person or is it possible that he signed on relevant documents to give approval for workers to do so? Certainly not. This should have been done by frontline workers. Yet, why did the frontline workers dare to do so? As I have mentioned just now, it might be due to MTRCL's deep-rooted governance culture, namely one should never allow suspension of works to take place. Thus, everything should be concealed in the first place to buy time for resolving the problem. Everything will be fine as long as the problem is resolved. And as time goes by, this state of affairs has developed. Hence, we are now doing the right thing in proposing reform of its governance. Although I still have no idea where to start with, but there must be something we can do, such as deducting the remuneration of members of MTRCL's senior management as punishment. Imposing fines on MTRCL is tantamount to punishing ourselves as taxpayers. Thus, the remuneration of its senior staff should be linked to the number of MTR service disruptions. The remuneration for MTRCL's Chief Executive Officer Lincoln
LEUNG in 2017 amounted to over $15 million, of which $4.5 million being the performance-based bonus—given his poor performance, is it justified to give him a bonus of $4.5 million?

Moreover, I also want to respond briefly to the Member's proposal of setting up an independent railway development department. It is actually not a bad idea but there is no need to add one more level of bureaucracy if reforming the existing organizational structure can serve the purpose of improving the current situation. Besides, I do worry that another independent department following a spin-off will only result in a worse situation, just as in the case of the establishment of the Innovation and Technology Bureau.

In conclusion, regarding this motion, I will support the amendments moved by Dr KWOK Ka-ki and Mr LAM Cheuk-ting. (The buzzer sounded)

DEPUTY PRESIDENT (in Cantonese): Mr TAM, your speaking time is up.

MR WU CHI-WAI (in Cantonese): Deputy President, the motion of "Restructuring the governance of MTR Corporation Limited" moved by Mr Michael TIEN is definitely worth pondering because it has been so apparent that the governance of the MTR Corporation Limited ("MTRCL") is problematic with scandals after scandals. However, I still want to share with you my views on MTRCL's problems.

First, let us take a look at some background information. The scope of MTRCL's business covers three major domains: First, pursuit of projects mainly by taking up government projects involving railway construction; second, operations and ticketing; and third, shopping mall management and property management (i.e. taking up the role similar to that of a property developer to engage in superstructure development), to be precise. Actually, most investors in the stock market do not care much about how much MTRCL's operating income is, they care more about how much land it has acquired from the Government, at what time it will commence construction of buildings and when the "results will be delivered".

Therefore, before proceeding to restructure the governance of MTRCL, I think it is necessary to clearly distinguish these three major domains in the first place to identify where the problems lie. For example, was there something
wrong with the management of the signalling system, ticketing, or business operation? In fact, many listed companies will spin off part of their business, especially the part apparently involving public interest. And so if the business concerned is spinned off, the Government can then take over. By doing so, the Government will be able to tackle the core problems effectively while avoiding conflicts arising from the buying back of shares of MTRCL. This is the first point.

Second, in respect of the process of construction works and related arrangements, although the works of MTRCL in the past might have caused much inconvenience or nuisance, members of the public at large were of the view that the company had managed to meet the targets in terms of overall effectiveness and quality of the projects. Broadly speaking, it was also able to complete the works concerned on schedule and within the costs approved. Yet, how come the construction of the Shatin to Central Link ("SCL") and the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") has turned out to be so much different? In fact, the crux of the problem lies in the Government's choice of entering into entrustment agreements with MTRCL. This approach is rather unusual because it seems as if the contractor is or is not accountable to MTRCL, while on the other hand, MTRCL's management seems to have or not have the power to supervise the contractor because and it still has to report to the engineers engaged by the Railway Development Office ("RDO"). Therefore, I opine that the crux of the entire problem of project management lies in the unclear demarcation of duties and powers among the parties involved.

In fact, MTRCL's problem of unclear demarcation of duties and powers has been expressly pointed out in the report on XRL's cost overruns released in 2014. And even the report of the independent expert panel appointed by MTRCL's Board has also made the point that some of MTRCL's decisions were affected by either the culture within the company or the problem of unclear demarcation of duties and powers. Besides, we had put to Philco WONG, the Projects Director of MTRCL, a question at the Council meeting: Was there any difference between MTRCL's own projects and the projects under entrustment agreements with the Government in management attitude and effectiveness? The answer was in the negative, of course. He told Members that there was no difference since they adopted the same standards and approaches of management. But then, why was there a big difference in the outcomes? What he said was that the South Island Line and West Island Line did not have any problems of cost overruns and delays. However, both SCL and XRL have run into cost overruns and delays.
Can the Government provide any answer to this critical question? Well, I have heard no answer at all. The Government is still inclined to believe that such problems were caused by the hard ground conditions that had hindered the progress of excavation works and the poor preliminary review report. Yet, the core of the problem lies in project management instead.

Therefore, I would like to bring up the points as follows. First, I think members of the public are most concerned about matters related to MTR operations, particularly the frequent signalling system failures which belongs to the domain of railway operations. The increase and decrease in ticket prices are also within the domain of railway operations. Since MTRCL's business covers three major domains, will the Government consider requiring MTRCL to spin off that part of business which is of greatest concern to the public, and hand back its management to the SAR Government? Or the Government will ultimately face another issue, namely buying back all shares of MTRCL. It is because MTRCL has a conflict of roles in that it is responsible for carrying out construction works and also property management. And so, should we focus on discussing the matters related to MTRCL's railway operations then, even if the Government buys back all its shares? This is the first point.

Second, will the Government please stop adopting entrustment agreements for railway projects and management since unclear demarcation of duties and powers will make it difficult to achieve effective management?

Thirdly, I do want to have a debate with Mr TIEN regarding his proposal of splitting RDO from the Highways Department to make it an independent railway development department dedicated to management of railway works. As a government office, If RDO is tasked to manage railway projects only, then I really wonder how the Government will not transfer its staff for good. Secretary Frank CHAN may probably say by then: "Our colleagues may get promotion one day and it is just impossible for them to stay in the same posts for good. Are they barred from getting promoted to posts of bureau secretaries or permanent secretaries, and all they can do is to handle only matters relating to railways? As this is simply impossible, practical conflicts will arise.

Besides, even if RDO becomes an independent department, it will still be subject to certain constraints in performing its jobs. It will not have the opportunity to gain a full understanding of the operation of frontline projects,
which was different from the case of the former Kowloon-Canton Railway Corporation which was responsible for every step of the works. It was responsible for management and problem-solving from the stage of construction to overall operation. And so the Government needs a team of experts to assist in the management and monitoring of MTRCL's operation in order to identify the problems. Nevertheless, it has not taken this step. Hence, spinning off a department offers no solution to the problem.

Thank you, Deputy President.

DR CHENG CHUNG-TAI (in Cantonese): Deputy President, I believe the older generation will remember the slogan of "MTR—A Railway For You". Deputy President, you should remember that, right? I am not saying that you are old, but as far as the key of this slogan is concerned, who was "you" referred to? Hong Kong people nowadays do not understand the slogan. They do not understand why the MTR is no longer a railway for Hong Kong people. If the true objective of the MTR Corporation Limited ("MTRCL") is to serve Hong Kong people, it will not be difficult for us to come up with a conclusion for today's motion debate on "Restructuring the governance of MTR Corporation Limited". What had caused a wave of incidents plaguing MTRCL, the Government, MTRCL, the Government and MTRCL, or the Hong Kong community? Certainly all of them are to blame.

However, I consider that the biggest problem definitely lies with the Government. Incidents have repeatedly occurred following the Shatin to Central Link ("SCL") incident and the commissioning of the West Kowloon Station. I do not know if Secretary Frank CHAN have watched the television newscast just now. "House of Dancing Water" took place again at the West Kowloon Station half an hour ago. It is the second time that the entire station is flooded.

Why do I consider the Government's attitude as well as its way of dealing with the incidents is debatable from the beginning of the incident to now? Recently, the public should be quite familiar with two remarks made by Secretary CHAN. First, when Secretary CHAN talked about SCL incident, he said he only learnt MTRCL's incident from the newscast. He should not have said that even if he was telling the truth. I am not asking him to lie, but as a senior Government official, as the Secretary for Transport and Housing, he should never have spoken to Hong Kong people in that way. The Hong Kong Government does not have a role in the governance of MTRCL. I am not saying that whether
he is incompetent or not, because this is a matter of wisdom. In his capacity as a senior government official, he is not supposed to learn from news reports the falsification problems in the SCL project undertaken by MTRCL, the company which operates the backbone of Hong Kong's entire transport system.

Besides, I am not sure if the Secretary knows that frontline staff or maintenance workers of MTRCL feel greatly aggrieved in the process and if he has taken their feelings into consideration. He told the legislature that the punitive system should not create pressure on maintenance or operations staff. Such remarks have made the public feel completely at a loss. Now I demand that a fine should be imposed on MTRCL, but will it cause any reduction in the remunerations of senior management of MTRCL? Of course not. As the fleece comes off the sheep's back, we are only inflicting a punishment in disguise on the people of Hong Kong.

Nevertheless, I am not sure if the Secretary is being sympathetic to the frontline staff of MTRCL or what by saying that no pressure should be created on them. The purpose for penalizing a person for doing something wrong is to create pressure on him. If the penalty will not create any pressure on someone at fault, why should he be penalized in the first place? Judged by the Secretary's first remark about learning the incident from the news reports or his second remark that no pressure should be created on MTRCL staff—not to mention the issue of his competence, the HKSAR Government has proved and demonstrated its lack of determination to turn around the present chaotic situation. Does he have the determination to deal with the matter?

Perhaps the Secretary opines that the bureaucratic system is too big to deal with. Yet I cannot see Carrie LAM has the determination to turn around the chaotic situation of Hong Kong, be it the offsetting arrangement under MPF scheme, the redistribution of traffic among the three tunnels. She said that the tolls of the Western Harbour Crossing would be adjusted and the Link REIT would be dealt with. She said in her election campaign that these problems would be addressed. But up till today, nothing has been done.

Deputy President, I have not strayed from the question by mentioning issues other than incidents of MTRCL. I am talking about problems in every aspect of the people's lives, including clothing, food, accommodation and transport. Instead of saying that there are problems with the system, bureaucratic system and culture, we actually have problems in every aspect of our lives, including clothing, food, accommodation and transport. In the past, they
chanted the slogan of "MTR—A Railway For You", but later on, some young people rewrote it "MTR—a guarantee for being late". Today, some people even changed it to "MTR—a guarantee for failure to get on".

We now have drawn conclusion regarding MTRCL's problems. The lack of determination on the Government to put MTRCL under control has resulted in the latter being under no supervision and becoming an "underground empire". For that reason, with regards to the motion proposed by Mr Michael TIEN, I would like to tell everyone frankly that I do not see any need for improvement or reform of any mechanism, the problem lies in whether the Government has the determination to monitor. As the majority shareholder of MTRCL with a shareholding of 76%, the Government always says that the rights and interests of the minority shareholders should not be undermined whenever problems with MTRCL crop up, and it has to consult the so-called senior management of MTRCL or its board of directors on every matters, so on and so forth. That is incomprehensible to the general public. As the Government holds 76% of the shares while minority shareholders hold only 24%, does it mean that every one of the 7 million people in Hong Kong should buy one share and become MTRCL's shareholder if we want to improve the current situation of MTRCL, so that the situation of MTRCL can be improved via the defence of legal rights by the minority shareholders? It should not be the case. As the majority shareholder, why should the Government not exercise governance of MTRCL and put it under control? The ultimate reason behind is the Government's feeble approach towards MTRCL. It even says that the whole community will regard railways be regarded as the backbone of Hong Kong's transport system. I do not understand and cannot envisage the future. In case the population grows in the New Territories West and the Government will rely on MTRCL to alleviate the pressure on the transport needs, then MTRCL will have bigger bargaining power to negotiate and contest with the Government.

However, Deputy President, in the end, things should not be like that. We should be clear that if MTR is a railway for Hong Kong people, MTRCL should have never operated like a developer with the mere purpose of paying dividends to its shareholders while neglecting the safety of the public (The buzzer sounded) … I so submit.

DEPUTY PRESIDENT (in Cantonese): Mr CHENG, your speaking time is up.
MS TANYA CHAN (in Cantonese): Deputy President, to discuss the governance issues of the MTR Corporation Limited ("MTRCL"), even a speech of half an hour's length is indeed not enough. It is evident that the larger MTRCL grows in size and the longer it operates, the more corrupt its governance becomes. Worse still, the situation is getting more and more acute.

We now see problems with the governance culture and, most importantly, the extremely arrogant attitude of MTRCL. Of course, when I became a Legislative Council Member the first time, I had already heard the Government describe how pitiful it was by saying that it would be bullied by MTRCL and its representatives attending the meeting would be cold-shouldered. I was skeptical at the time. Especially when the Shatin to Central Link ("SCL") and the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") got into such a mess and apparently the Government was kept in the dark, the Government seemed rather pitiful to me.

However, the Government has been faced with this situation for so many years. Even if really oppressed by MTRCL, it would actually get increasingly reliant on MTRCL and believe whatever information given by the latter. This was why the Government "had it coming". Do not forget that it should take care of the public, including their safety. Now the Government has made it a policy to use railway as the backbone of the entire transport system and grant MTRCL an overwhelmingly dominant role. I do not know if anyone has time to take a look at an agreement signed at the time of the rail merger. I strongly encourage everyone to do so. After reading it, you will know that all details, ranging from MTRCL's current financial obligations, to measures to deal with insufficient patronage, and even to arrangements for new lines, are actually set out in this merger agreement. An item therein is called "New Projects", under which there is "General". After a listen, you will come to know that the Government has to guarantee MTRCL will make money. Let me read it to Deputy President.

What is "General" about? "Subject to the MTR Ordinance, it is acknowledged that, when undertaking New Projects and/or operating New Railways, the Company"—of course, it would not be the Government, but MTRCL after the merger—"will require an appropriate commercial rate of return. The Government agrees that it will not require the Company to construct any New Project and/or operate any New Railway except in certain circumstances and provided that the parties agree on the commercial rate of return. The Government acknowledges that, in order for particular New Projects and/or New
Railways to make a commercial rate of return and in order for the Company to maintain its financial standing and profile, financial and other support for those New Projects and/or New Railways from the Government may be required. Precisely, this tells us that it is MTRCL who will surely make a profit, and we, as ordinary members of the public, will only end up out of pocket. Most notable for this effect is, of course, the Entrustment Agreement currently in my hand.

I have no idea how many Members have ever read the Entrustment Agreement, nor even am I certain whether the Secretary is willing to spare some time to thumb through it, given that last time Under Secretary SO gave uneducated answers to questions without having read it beforehand, and I already pointed this out at the last Subcommittee meeting. I think everyone knows that there are enormous problems with the current Entrustment Agreement. The greatest problem to be pointed out first is the delays and cost overruns of XRL. The expert panel led by Mr Justice HARTMANN has also pointed out in its report that the Entrustment Agreement is problematic. For new projects, there are two arrangements. One is the arrangement for extensions, such as South Island Line and West Island Line extensions, and the Entrustment Agreement is one of the two very arrangements, while there are still other possible ways.

It is evident that many terms and conditions of this Entrustment Agreement are very idiotic. In what sense are they idiotic? It is the Government that is very idiotic. For example, we have to pay MTRCL a project management fee, but when the Government needs to make a claim against MTRCL, the total amount of project management fee is the claim limit. In the case of the current SCL project, for example, we have to pay a large sum of money. However, I have not seen the Entrustment Agreement for SCL yet. The one in my hand and available for public viewing is only the Entrustment Agreement for the XRL project. Its annex sets out the quarterly project management fee payable by or agreed with the Government. Of course, after all these happenings, the project management fee of SCL is still payable. What problem will come up next? It turns out that the ultimate claim limit may be $7.9 billion. Can it be raised higher? Having read the terms and conditions therein, we know that if casualties are caused, the Government may claim for more.

However, why do we not believe that the Government will take action? We have further doubts. For one, can the Government outright stop payment immediately, or pay less? Is negotiation underway in this regard? Secondly, in
very simple terms, previously we noted that the problem-stricken contractor—everyone knows which one I am talking about—had been "suspended from the game" and the Development Bureau had already imposed punishment on it, but although the collateral deed in Appendix L thereto, signed between the Government and the contractor Leighton, has already stipulated that the Government can pursue further actions, the Government has not yet, even after so much delay … Deputy President, to raise just one point, I have already spoken for six minutes. Originally, I wanted to talk about the punishment mechanism, confusion of roles between MTRCL's Chairman and Chief Executive Officer ("CEO"), and so on. It turns out that the MTRCL's Chairman has not supervised its CEO, but instead helped him better line his pockets, and even glossed over the problems together with him. This is not the right way to work.

In the Board of MTRCL, there are government representatives, but the Government has not even figured out its own role. It just says whatever MTRCL asks it to say. Is it not outrageous? The Secretary told us that the information came from MTRCL as well as newspapers, but has he ever asked his own departments for it? Would it turn out that the departments also got information from MTRCL? Has he ever verified the information? What role does the Monitoring and Verification Consultant play? Notably, all issues have been glossed over by compromising principle and practicing favouritism. Such culture is unacceptable. This is exactly why the Government has become one of the perpetrators who help foster the culture of MTRCL's overwhelming dominance. I hope the Government will be mindful of the consequences of its actions. I so submit.

MR KENNETH LEUNG (in Cantonese): Deputy President, originally, I had no intention to speak on this motion in relation to the MTR Corporation Limited ("MTRCL") because our discussion over this topic has spanned over half a year and I have got bored and fed up with it. We have already criticized whatever should be criticized and two investigation committees have been set up. But, today's discussion focuses on the issue of corporate governance, I will examine what has gone wrong with MTRCL from this perspective. Certainly, the incidents, blunders and irregularities in connection with MTRCL over the past few months all stem from the problems in corporate governance. To examine these problems, the simplest way is to look at the composition of the board of directors and the governance structure.
The board of MTRCL consists of four non-executive directors (who are two Secretaries, one Permanent Secretary and the Commissioner for Transport, i.e. altogether four public officers), and also 14 independent non-executive directors, among whom we find our colleague, Mr Abraham SHEK. Frankly, as previously mentioned in my speech on a similar subject, there are problems in appointing public officers or civil servants as non-executive directors of a listed company. First, they really have no time to do the job; second, pardon me for saying so, they probably lack the relevant knowledge; and third, they have never dealt with the operations of a listed company.

Then, what is their responsibility? As a shareholder with a shareholding of 76% in MTRCL, the Government needs to appoint four persons to take up the responsibility concerned. These four persons may only be responsible for attending meetings, but I am not sure if they will personally attend every meeting because, as I can see in the previous report, they may participate in the meetings by way of teleconference sometimes. I have not looked into the articles of association of MTRCL, so I do not know whether the Bureau Directors or the Permanent Secretary can designate a representative to attend the meetings. If it is allowable, that means the designated officer will have to report to the Bureau Directors or the Permanent Secretary after the meetings. I am not belittling these officers, but they may be rather unfamiliar with the operation of a listed company indeed. Given that their working experience all comes from the civil service system, how can they possibly be familiar with the various business operations of a listed company? For this reason, it is basically a mistake to have these four persons, i.e. the accountability Bureau Directors and civil servants, on the board of directors.

Moreover, there are 14 independent non-executive directors on the board. Who are they? I am not going to name them one by one, but among them, there are retired senior civil servants, retired lawyers, retired accountants and retired surveyors. Sure enough, they have professional knowledge, but how many of them … Well, first, I am not talking about the Honourable Mr Abraham SHEK because he is really a great Member who has done a lot work in the Public Accounts Committee. Those independent non-executive directors whom I will mention hereafter are people other than Mr Abraham SHEK.

Alright, so, is this board of directors a club for retired senior officials, or a club for retired celebrities? Besides receiving directors' remuneration, what do these independent non-executive directors need to do? May I know if they just
sit there to receive their remuneration amounting to some hundreds of thousands dollars and provide some advice at their leisure? What are their functions? To whom are they accountable? Do the minority shareholders who own 25% of the shareholding have the power or the eligibility to appoint two to three independent non-executive directors for the protection of their interests?

May I ask the Government to tell me who, among these 14 persons, have the experience of operating underground railway, being in charge of works projects or managing a multinational company? While the positions of independent non-executive directors are often held by retirees, not all retirees are suitable candidate for this position. Deputy President, a retired civil servant is probably not suitable for holding this position. Please stop the practice of appointing a retired civil servant to this position whenever it is vacant. This is simply inappropriate.

Further, MTRCL has established several committees under its board of directors, namely, audit committee, nominations committee, remuneration committee, capital works committee, risk committee and corporate responsibility committee. Certainly, for the purpose of good governance, it is necessary to have these committees, but yet I do not understand why there is not … actually, I hope MTRCL will consider setting up two additional committees. Why is there not a credible tender committee or a legal/compliance committee at present? My suggestion is that MTRCL should consider setting up these two additional committees to deal with matters that are of a relatively special and specialized nature.

I then wish to spend 2 minutes and 20 seconds on another matter. Deputy President, MTRCL really neglects its core business. As we all see, its recurrent businesses which cover four main areas, viz. Hong Kong transport operations, Hong Kong station commercial businesses, Hong Kong property rental and management businesses, and Mainland of China and international railway, property rental and management subsidiaries.

Among them, Hong Kong transport operations, the business about which Hong Kong people are most concerned, only account for 33% of all its businesses, surprisingly. MTRCL has put all its energy and time into the expansion of its overseas businesses and property management. Property can, of course, supplement MTRCL's income—I am not going to explain any further
about this—but the problem is that MTRCL then has to manage station commercial businesses at the same time. Actually, whether there is one more or one less shop inside a station is something completely irrelevant to our concerns about the issues of train safety and punctuality. When MTRCL needs to attend to these many areas of businesses, how much energy will be left? Also, I think that the direction of MTRCL's development is quite vague. Though I very much appreciate MTRCL's performance in managing railways for other places overseas, I must reiterate that its most important responsibility is to serve Hong Kong people. Hence, I urge MTRCL to listen carefully: Do not consider yourself superb and invincible because you have established yourself in Sweden and the United Kingdom. It is highly likely that the reputation MTRCL established over these few decades will be ruined in one go owing to the scandal of the Shatin to Central Link and other incidents.

Deputy President, I so submit.

**MS CLAUDIA MO** (in Cantonese): The present discussion is quite laughable. Despite its title of "Restructuring the governance of MTR Corporation Limited", it turned out that Members simply expressed their views on other topics when they rose to speak on this motion. They said that the scandals about the MTR Corporation Limited ("MTRCL") never ceased and MTRCL raised its fares every year. They also remarked that MTRCL considered itself octopus-like, having as many tentacles as a real one does, yet none of which served Hong Kong people. We carried on with the discussion without referring much to the contents of the original motion. While no one cares about the contents of the original motion, I do see clearly that Mr Michael TIEN's motion is a call for restructuring the governance of MTRCL. The terms he used are: "strengthen", "improve", "urge", "raise", and "reform". Well, pardon me but these terms, these mainland terms, are really intolerable. Luckily, there is no such term as "optimize", oh, perhaps it is used but only that I have missed it only. To speak frankly, this kind of motions are proposed solely to allow us to have some discussions and chit-chat. There is never going to be any consensus. The giving of support will be based on friendship.

When it comes to the scandals of MTRCL, there is really a lengthy list and I cannot bother to go over it again when it has been read out loud and fluently by many Members already. It is really a mess. MTRCL itself is the greatest
oddity in Hong Kong. Apparently, the land they are using is a public resource granted or given at a minimal price to them by the Government for the construction of railways and things. However, they are actually not serving the public. MTRCL has 25% of its shareholding listed on the market and held by minority shareholders. What kind of a world is this? MTRCL bustles around but who should they actually serve? I think Carrie LAM probably has to ponder over this question also. Well, would you say that she considers Hong Kong people as that 75% … or that she puts great store by the boss in Beijing and the latter alone has a weighting of 25%?

Just now, Dr CHENG Chung-tai mentioned "MTR—A Railway For You", a slogan which was once very familiar to us. At one time, all of us really took pride in the railway service of MTRCL, but nowadays, who are its service targets? Is MTRCL serving the public or the interests of its minority shareholders? MTRCL has got these entangled, and consequently, we discuss its service quality, corporate governance and supervision of works under such ambiguous circumstances. Covering a wide array of items, the original motion is like a Christmas tree hung with ornaments here and there, and then amendments are further added by some Members.

I have a look at the first item proposed by Mr Michael TIEN, that is setting up an independent railway development department. To be honest, what does it mean by independent or non-independent? Railway development obviously is a kind of public service, so how can it be separated as an independent item? Should it be based on project type only? Then, it brings us back to what the minority shareholders of MTRCL will ask: will a works project go to the highest bidder? Will it be that only the most expensive, the best and the most famous will be used? They will find this not cost-effective. The professional accountant in the Legislative Council, Mr Kenneth LEUNG, just now also asked for the reason why MTRCL failed to set up a tender committee to allow people to take a good look at the tender documents received. Our discussion will come to a close here, but no explanation has ever been given at all regarding what we have mentioned, such as improving the internal tendering system and the project management notification system, and raising the requirements for supervision of the works. The settlement standard, for instance, seems to have been described as okay by Secretary Frank CHAN. He quoted MTRCL as saying that it was okay and that, in any case, buildings in the vicinity of the construction site would
slightly subside. Even if the subsidence level exceeds the general standard, there is no need to worry because the standard has been set fairly high to provide a large buffer. Even if the relevant standard is significantly lowered, there will be no problem at all. And even if the subsidence level goes beyond the standard the second time, there will not be any problem either. How shocking!

MTRCL is said to be a giant, as everyone knows. Many of us have not paid particular attention to the overseas development projects of MTRCL. Actually, it may not be politically correct to use the term "overseas" as many of the development projects of MTRCL are in Mainland China. How can Mainland China be described with such terms as "overseas" and "foreign"? All these are incorrect. MTRCL has numerous development projects in the Mainland and the question is … (Ms Claudia MO keeps coughing) I am really puffing for breath having spoken this long. You see, we have been discussing issues relating to MTRCL for such a long time. We have really talked ourselves out of breath. While MTRCL has development projects in Australia, Sweden and the United Kingdom, many Hong Kong people may be unaware of it and think that MTRCL is a company serving Hong Kong people anyway, just as the slogan goes, "MTR running for you". Not at all! MTRCL is reaping huge profits and its latest development project is located far away in Toronto, Canada. I find MTRCL really very busy. No wonder its governance over the railways in Hong Kong is riddled with scores of blunders. Nor is it surprising that there has been a succession of incidents, repeated occurrence of subsidence and the cutting of steel bars. Everything is a mess. Are these resulted from MTRCL's arrogance and hasty development?

Actually, what I want to discuss most is MTRCL's above-station property development. The Government requests MTRCL to construct public housing. Why does the Government need to make a request that way? MTRCL is owned by the Government in effect. Having a shareholding of 75% in MTRCL, the Government is the majority shareholder, but surprisingly, it still has to make a request that way, and then MTRCL continues to raise its fares every year. As all of us can see, internally, the governance of MTRCL is extremely complex; externally, its development is carried out in a haphazard fashion. So, how is the matter going to end? This really requires a prolonged discussion.
DR FERNANDO CHEUNG (in Cantonese): Deputy President, the rottenness and imperiousness of the MTR Corporation Limited ("MTRCL") were finally exposed in the Shatin to Central Link ("SCL") scandal, which was "the last straw on the camel's back", so to speak.

The incident has been exposed for about two months and there was a huge discrepancy in reports of different stages, and this clearly shows that someone had lied while someone kept telling lies to cover up previous lies until the truth finally was exposed. And so the Chief Executive decided to appoint a Commission of Inquiry to conduct investigation into the incident and make heads roll if need be. The Chairman of the MTRCL Frederick MA once remarked that "it is OK because I say so" which is still vivid in the minds of the public. His words reflect not only the spirit of the MTRCL but also the attitude of today's SAR Government.

The list of the MTRCL's problems is endless. The more serious incidents include the SCL scandal and the cost overruns and delays of the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") project. Moreover, it had repeatedly concealed incidents. Mr Abraham SHEK knows this very well because he has been on the Board of the MTRCL. Among the senior management of the (Jay Herbert WALDER) golden handshake MTRCL, it seems that members of the Board were the last to be informed of the serious delay of the XRL project. But despite this, the former Chief Executive of the MTRCL Jay Herbert WALDER, who had to step down early, was still given a golden handshake. These senior executives like him usually make over $10 million a year. When WALDER was given about $20 million when he left. This is the truth. Nevertheless, the MTRCL's operation has been supported by members of the public and public money over the years.

What the MTRCL struck me the most was something that happened many years ago. I, together with some incumbent as well as former Members of this Council, lobbied MTRCL to offer concessionary fares to persons with disabilities ("the PWDs"). And I trust that Mr Abraham SHEK does remember this. Actually, I had lobbied him then. The MTRCL was adamantly opposed to the idea. It gave us a simple reason: As a mass transit public transportation system, MTR was not meant for the PWDs and elderly people. This implied the
meaning that those people would pose hindrance to its service delivery, although it did not state expressly the true meaning. I came to realize from then on that the MTRCL is really so "awesome".

Moreover, it is true that the MTRCL can actually ride roughshod over everyone as far as railway construction is concerned. Wherever the project works is set to commence, the site in question must then be resumed. No one can stand in its way, not even God. Besides, the Mass Transit Railway By-laws are so harsh that passengers are forbidden from speaking foul language or even drinking water. I remember that we discussed the Fare Adjustment Mechanism ("FAM") during last two terms of the Legislative Council. As for the rail merger, the MTRCL was the sole winner because there was not any room for bargaining. The offer of concessionary fares to the elderly people and the PWDs was debated in this Council for many years. The Government subsequently commissioned the University of Hong Kong to conduct a research to find out the possible financial losses which would be incurred by the MTRCL or operators of other modes of transport if the offer was made. Yet, as shown in the research outcomes, no financial losses would be incurred. On the contrary, the offer would bring more revenues because the PWDs usually needed to be escorted by others when going out, meaning that they would travel together. The concessionary offer would help encourage them to go out more often. As a result, transport operators would have more revenues and more profits in effect. Despite such findings, the MTRCL still did not agree to do so. At last, it agreed to make the offer after the Government offered to provide subsidies equivalent to the discrepancies. In other words, the MTRCL did not need to spend a penny since the Government would provide full subsidies. Am I right, Secretary Frank CHAN? The Government spends several billions on public transport every year precisely for offering concessionary fares to the elderly people and PWDs. This is definitely a laudable initiative, but it also revealed the fact that the MTRCL is indeed too imperious. At the end of the day, the MTRCL is the winner. Despite its tens of billions of profits a year, the MTRCL can continue to introduce upward or downward adjustments to the fares—always upward and never downward for sure. Hence, I realize that the MTRCL is really awesome.

Besides making money from its railway operations, the MTRCL makes more money from its real estate projects. And the management of housing estates is also under its control, where the flat owners concerned are not allowed
to form owners' corporations. In addition, all the shopping malls are managed by itself and it makes a great fortune there. The more the MTRCL earns, the bigger its ambitiousness grows. Looking around the world, one will not find another railway operator that earns as much money as the MTRCL does. Is Hong Kong supposed to take pride in the MTRCL for its success, how do we dare to interfere with it governance? The MTRCL has performed so well that the rest of the world seeks to follow its example. It even made tenders for overseas projects to help other places build and manage railways, while the Mainland also wants it to help build a number of railways. How awesome! And so, how could it be possible that its governance has gone wrong, eh?

Deputy President, today's motion is moved by Mr Michael TIEN and there are also amendments proposed to the motion by other Members. However, my support is mainly given to Dr KWOK Ka-ki's amendment because he has mentioned in the last point the buying back of all the remaining shares of the MTRCL. What I have mentioned just now is a typical example of the direct conflicts which inevitably exist when a listed company has to juggle between maximizing its profits and running public services. Whoever is appointed to govern the MTRCL and no matter how desirable things are as Mr Abraham SHEK has fancied, the mission is still to maximize profit for the company. To this end, it is likely the company might cut corners and perform shoddy works. It might go as far as it could and even break the law as long as no one is watching. This is a very serious problem indeed. And so, I beg the Government to bring the MTRCL into public ownership by buying back all its shares!

I so submit.

MR CHARLES PETER MOK (in Cantonese): Deputy President, the nicknames given by the media to some companies or their descriptions of social phenomena are quite accurate sometimes. You may know that a press organization in Hong Kong likes to call an airliner the "DT Airline". Similarly, I think the MTR Corporation Limited ("MTRCL") can likewise be dubbed the "DT Railway Company". Why? Not so much because MTRCL is a railway company, but because "it suffers this or that 'due to' mismanagement". Actually, the incidents and problems which have occurred in recent years, such as cost overruns and works delays, are also due to mismanagement.
The issue under discussion today is likewise mismanagement. Certainly, persistent mismanagement is definitely a governance problem. Just now, many Members discussed governance problems from various angles, such as the duties of the MTRCL Chairman and also problems with its management, while also citing many other examples. I do not intend to repeat them. The point I am driving at is that the many recent operational problems, such as those involving the signalling system and works quality—as an engineer, Secretary Frank CHAN should know it very well—may actually be attributed to defective operational technology management.

Mr Michael TIEN's original motion raises the necessity of "urging MTRCL to regularly review its investment strategy of updating the signalling system". The reason may be that Mr Michael TIEN is more concerned about the investment and money aspects. But in my view, this is not the only area with problems. The original motion also says, "[I]n the past, repeated serious disruptions of MTR train services were caused by the ageing signalling system;"—this may be true—"hence, MTRCL should regularly upgrade the signalling system to the latest version, rather than refusing to upgrade the signalling system on the ground of the cost being the prime factor of consideration". It looks like this assertion is founded on the assumption that as long as the latest version of the signalling system is adopted, all problems can be solved.

But I wish to point out that defective management cannot simply be explained by the sole reason of refusing to spend money on system upgrade. Why do I say so? In the incident on 16 October, for example, MTRCL's four rail lines (including Tsuen Wan Line ("TWL"), Kwun Tong Line, Island Line and Tseung Kwan O Line) sustained signalling system failure simultaneously in the morning that day. Initially, MTRCL gave us an explanation. But later on, it changed its words. On 19 October, MTRCL asserted that as revealed by a computer data analysis, the incident should have nothing to do with the upgrade of TWL's signalling system, and it was instead caused by the failure of the sector computers connecting the signalling systems of the several rail lines to coordinate with one another in the course of data synchronization. As a result, the signalling systems became unstable. As they mentioned at a meeting of the relevant Panel, they will conduct testing of the new signalling system every night and switch from the new signalling system back to the existing signalling system. In other words, they will switch between the two signalling systems every night.
Frankly speaking, as Members should realize, to say that testing a massive system within a short time and also switching between new and old systems for functional testing "should have nothing to do with the incident" is actually an attempt to explain it away. I do think there is a connection between them.

The signalling system breakdown was caused by the malfunction of the internal data transmission network as a result of the latter's inability to synchronize voluminous data. According to a general explanation given by MTRCL, their preliminary view is that the sector computers were affected due to the computer programming and configuration involved. Deputy President, you also smile. People very often tend to make things incomprehensible to others. That way, people will feel that there must be problems with the computer system and think that all problems can be solved as long as the computer system is rebooted. Well, they also did so in the end. But I wish to point out that computer system problems are definitely not the sole cause of an incident, and a reboot alone cannot resolve it. The reason is rather that the governance structure is defective.

I wish to bring up one point. In recent years, many industry practitioners have pointed out two management modes—information technology management and operational technology management. In the past, personnel in the engineering department adopted one management mode, whereas information technology personnel in the computer department adopted the other. Various engineering companies, be they public utilities providing water, electricity and gas services, or operators of massive transportation systems, have adopted operational technology management all along. But with the increasing use of computerized systems these days, they have become out of tune with information technology management.

Just now, Mr Jeremy TAM raised one point, the point that many companies often refrained from reporting on problems before finding a solution. However, what does information technology management emphasize? It emphasizes instant, real-time and systematic supervision and the necessity of reporting on problems at once. Many companies in the industry I represent have invariably pointed out that owing precisely to the kind of "cultural conflict" between operational technology management and information technology management, many problems have often ensued.
But after problems have arisen, the Government and the pro-establishment camp will definitely defend MTRCL. I do not know if the Government considers its role to be a shareholder, a regulatory authority or MTRCL's representative that sides with it. Neither do I know in which capacity Secretary Frank CHAN will give a reply later on. Whether speaking of the management at various tiers or the Government's regulatory role, the entire management and regulation culture has often put the cart before the horse due to such problems. As the Government is not clear about its role, MTRCL likewise "suffers this or that due to mismanagement" in the end. So, the Government … (The buzzer sounded)

DEPUTY PRESIDENT (in Cantonese): Mr MOK, your speaking time is up.

MR ABRAHAM SHEK (in Cantonese): Deputy President, I have listened to Members' speeches during the whole afternoon. To begin with, I wish to thank Members for putting forth various views on the MTR Corporation Limited ("MTRCL"). I also declare that I am an independent non-executive director in MTRCL.

I wish to give a reply on a few points. MTRCL's history spans a few dozen years, and its rail lines carry 5 million passenger trips every day. Even the recent incidents cannot be taken to mean that its management or governance is plagued by problems. Instead, we should examine the question of whether its systems have become aged and also the cause of so many incidents. Mr TIEN's motion requests the setting up of a regulatory authority to restructure MTRCL. This is not a problem. But at present, listed companies are regulated by the Listing Rules. Any director with unsatisfactory performance should quit. Besides, Members should know that Hong Kong has already enacted the Companies Ordinance. Nevertheless, why do problems occur? Most interestingly, that proposal is put forth by Mr TIEN. Why should he do so? He has experience in managing railway companies. But at the time, 4,000 staff members signed a joint petition to demand his stepping down. Had his management been satisfactory, why would have those staff members demanded his stepping down? Nobody is more familiar with governance than him. His proposal is desirable, and we should learn from it.
Just now, several Members said categorically that the existing problems were not solely caused by defective governance. What is so special about MTRCL? The Government is the holder of over 70% of MTRCL's shares. Besides, MTRCL as a listed company should discharge its corporate social responsibilities. Despite its great power, it must also be accountable to small shareholders. This has caused some confusion to its role. Who should MTRCL serve? Its Board should only serve the shareholders, and no distinction should be drawn between major and small shareholders as they are invariably Hong Kong people. Investors are likewise shareholders, so are those everyday train commuters.

Speaking of the existing monitoring problems, especially those in the technical and engineering respects, Mr WU Chi-wai asked just now why we have not seen any similar problems in other works projects. He also asked why problems occurred only in the projects of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the Shatin to Central Link. I can say the reason is that nobody seems to be responsible for overseeing the Operating Agreement. Apparently, MTRCL and government officials are responsible for its management. But later on, nobody takes charge of its management. The independent Commission of Inquiry has pointed out very clearly that there are big problems in this respect, and I as a Board member also think so. The Government should conduct a proper review of the Operating Agreement.

Besides, can we find any similar problems with the rail lines constructed by ourselves? Let me give this answer to Mr WU Chi-wai: Maybe yes. But how are we supposed to do the best within our capability? How should we deal with problems?

Another point I wish to bring to people's attention is about jerry-built projects mentioned by Mr Christopher CHEUNG just now. Even though he is my party member, I can tell him that he is wrong. An important point about railway construction can be summed up in one phrase—"Safety is paramount." We will not adopt anything which is not safe. I have participated in railway construction since 1984. Among all Members present here, I am the only Member with a railway construction background. It is I, Mr Abraham SHEK, rather than Mr Michael TIEN, who have this background. I was the railways director back in 1984, and I had hands-on experience in running railways. What
does he know? While he was the Chairman of the Kowloon-Canton Railway Corporation, 4,000 staff members demanded his stepping down. He was the source of all major problems. If he had not done those things, the merger of the two railway companies would not have taken place and caused so many problems subsequently.

These days, people have been criticizing MTRCL for increasing its fares year after year. They should reprimand all those Members from the Democratic Alliance for the Betterment and Progress of Hong Kong and also the Democratic Party in the Legislative Council who supported the railway merger as they endorsed the mechanism for upward and downward fare adjustment. At the time, people were already told that train fares could only be increased instead of being reduced under the mechanism, except in times of economic downturn.

The objective of MTRCL's operation is serving people and offering affordable fares that fall within people's affordability. The existing fares are honestly quite high. And to residents of New Territories West who need to commute to urban districts by railway every day, train fares are really very high. How should we deal with this? Real estate projects should be used to subsidize railway operations, and this is the concept. Has this concept been distorted? The Secretary needs to ask the Board in order to understand this.

The restructuring of MTRCL should be based not only on the angle of a listed company but also the perspective of serving the community. We must operate railway services properly, so as to give people the feeling that MTRCL can give them confidence, rather than shaking their confidence. True, we must resolve the once-in-a-few-decades simultaneous breakdown of four rail lines; but then it is honestly very unfair to dismiss MTRCL’s works projects as jerry-built projects or criticize Frederick MA in a way that Dr Priscilla LEUNG just did. I will dispute the assertion that he should not hold the post of MTRCL's Board Chairman no matter what. Today, Dr Priscilla LEUNG argued that Frederick MA should not remain as MTRCL's Board Chairman. Actually, he has devoted substantial time to overhauling MTRCL's governance. So, I ask her to withdraw her remark.
DR HELENA WONG (in Cantonese): Deputy President, after listening to Mr SHEK's eloquent speech, we now know that he supports the Chairman of MTRCL in his capacity as a non-executive director of MTR Corporation Limited ("MTRCL"). He also said that there were also many problems with the railway company when Mr Michael TIEN was in charge of this company. This time around, the motion is about restructuring the governance of MTRCL.

In fact, Mr Abraham SHEK has been in the management of MTRCL for such a long time, he should know very well the current state of MTRCL. Just now I have been listening to Members' debate and I have also read the annual report provided by MTRCL. When I leafed through the annual report, I found its vision and corporate strategy. It seeks to enhance its corporate reputation, become the pride of Hong Kong and build global brand.

(THE PRESIDENT resumed the Chair)

In my youthful days, I used to feel proud of the MTR as I had witnessed its construction. Since MTRCL provided fast and punctual services, Hong Kong was able to solve the transport problem of such a crowded city through the mass transit railway system. However, now we started to see botches and ageing problems of the hardware. The problems arising from the upgrade of the signalling system have resulted in a breakdown of four rail lines. Then there was the incident of the Shatin to Central Link. Hung Hom Station's problems are under investigation now, while other problems in To Kwa Wan Station and Exhibition Station have subsequently cropped up. We begin to see a lot of these problems.

While the Government holds 75% of MTRCL's shares—just now Mr SHEK has mentioned that—when something bad happens to MTRCL, Mr Frank CHAN, the Secretary for Transport and Housing, says that he knows nothing about the incident. Even though the Secretary and Mr Abraham SHEK sit on the board of directors of MTRCL, he knows nothing about such incident. Is it because information could not be passed to the Secretary through layers of hierarchy, or somebody is trying to cover up the facts?
The annual report of MTRCL also stated that the company has to build a global brand. If the company performs well in Hong Kong, it may go global and that will help build a reputable global brand. However, as some incidents have taken place, I do not know how it can build this reputable brand. Furthermore, as to MTRCL's corporate strategy, it says that it aims at strengthening and growing the Hong Kong business. That includes expanding the network and growing non-fare businesses. Non-fare businesses certainly take up a major portion of its businesses, including advertisement and property businesses. Certainly, modernizing MTR and upgrading its signalling systems are also included. The third corporate strategy is the most formidable one. It aims at accelerating Mainland China and International Business growth, deepening presence in existing hubs, developing new hubs and exploring property development opportunities in hubs.

Just now the chairman of the Democratic Party, Mr WU Chi-wai, has said that when it comes to MTRCL's governance problem, we should be clear about the positioning of this listed company first. MTRCL has a wide scope of businesses. It also has an extensive corporate development strategy. Its scope of business covers the construction of railway projects, railway operations, train services, signalling system, property businesses, including property development projects above railway stations, management of shopping malls and residential properties, as well as overseas property development projects. For that reason, when the public buy the shares of MTRCL, on the surface, they seem to have bought the shares of a railway company, but in effect, they have also bought the shares of a property development company. Mr Abraham SHEK has been sitting on the board of MTRCL just because he represents the property sector.

For that reason, if a company has to deal with advertisement and property businesses in addition to railway operations, we should ponder on the question of how much effort it can make to maintain a satisfactory level of railway operations and services as well as railway project management. I believe we may put it in this way: Property business is now the major breadwinner of MTRCL. As to railway services, the company seems to be doing the jobs of a community officer by attending all the trivial matters in the district for constituents. On any given day, the company has to deal with matters involving more than 90 stations and 11 rail lines. The business is very busy as several million people use the railway services on a daily basis. In fact, railway services should be the major business
of MTRCL, but now MTRCL is just focusing on its major breadwinner—property business. Thanks to the remarkable development, MTRCL has now become a gigantic dragon. But will that make its regular business unclear? Will it devote huge amounts of time and energy to its property business at the expense of its regular business (trains operation and management of railway projects)? As the saying goes, "if your head is not big enough, do not put on such a big hat". This is what we often hear and say in Hong Kong.

Are the many governance problems of MTRCL today a consequence of putting on too big a hat? MTRCL does not only engage in a variety of businesses in Hong Kong, we also see its business development in recent years. As the company is aiming at breaking out of Hong Kong, it aims at going global and going north. It invests in underground railway and light rail projects in Shenzhen, Beijing, Tianjin, Hangzhou and Macao. It also has businesses in as far away as European countries such as the United Kingdom, Sweden as well as Australia. MTRCL does not only invest in railway projects, it also involves in property development projects in these places. For that reason, is it a Hong Kong-oriented company or is it tilting towards the global market? When it goes global, it starts to lose its way. It fails to provide the most basic services for the people of Hong Kong. This is the core problem with the governance of MTRCL. It has become a gigantic dragon.

China puts much emphasis on economic development and going global. There is nothing wrong with going global, but MTRCL has gone too fast without taking proper care its regular business in Hong Kong, how can it become Hong Kong's pride? How can it achieve the objective of building a global brand? Therefore, I consider that MTRCL needs a shakeup and revamp and to make clear the positioning of its corporate development.

MRS REGINA IP (in Cantonese): President, the MTR Corporation Limited ("MTRCL") was once a company that Hong Kong people were very proud of, and as I can recall, it was once awarded the title of Best Management Company by a leading business magazine in Asia, which was an achievement that Hong Kong people were truly proud of. However, we are very sad to see various problems today, such as the frequent railway incidents, cost overruns and delays
of a number of railway projects as well as the Shatin to Central Link ("SCL") construction scandals. In my opinion, the Government is to blame for all these problems.

First of all, the biggest mistake for the Government was following the policy of "subsidizing railway projects with the grant of land" adopted during the Hong Kong British era, under which railway companies were encouraged to engage in property developments, so that the Government could save a lot by not having to spend a large sum of money on railway construction. Hence, as pointed out by some Members just now, MTRCL is in effect a real estate company, a huge real estate and property management company, which has to deal with many things on top of railway matters.

Secondly, it is also a mistake to make MTRCL a listed company. Faced with budget deficits, the Financial Secretary sold 23% of MTRCL shares in June 2000, resulting in the company being in a state of conflicting roles. Although the Government is still the majority shareholder of MTRCL with a shareholding of over 70%, things are after all different in comparison with the Airport Authority, which is wholly owned by the Government. To my knowledge, as MTRCL is a listed company, government representatives attending Board meetings of MTRCL were often defeated in voting by the directors representing shareholders' interests, because the sole purpose of the latter was the maximization of profits. Therefore, members of the public question the reasons for not constructing a coastal railway between Tuen Mun and Tsuen Wan and not extending the Island Line to Siu Sai Wan. Although engineering problems are part of the reasons, the main reason for not taking them forward is that they are not commercially viable after calculations. The move-in of residents is the prerequisite for the construction of railways, which is a complete opposite to the practice on the Mainland where railways are built first before there are enough passengers.

Another mistake is the merger of the two railway corporations in 2007, which has led to the oligopoly in railway operations today. Besides, the Government suddenly announced in 2007 the implementation of 10 major infrastructure projects, including the construction of a number of railway lines such as the South Island Line (East), SCL and the local section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, which has put MTRCL under a heavy burden of work all of a sudden. Another error, in my opinion, is
the wrong development direction, under which the business development of MTRCL has become too diversified, and apart from railway operations, it has also engaged in too many different businesses, thus failing to focus on the development of its core business, that is, the construction, operation and management of railway lines. As MTRCL has engaged in too many different businesses, its business scope is too big and diversified.

For the people of Hong Kong, railway operations are the bread and butter of MTRCL so as to serve the general public here. However, MTRCL has engaged in the development of a lot of overseas businesses, as well as the provision of consultant services for 24 countries and places in China, Taiwan, Asia, Australia, the Middle East, Europe, etc. It is most ridiculous that MTRCL has been engaged to provide consultant services on railway alignment and signalling systems for railway projects in Europe, when numerous accidents involving its signalling systems have occurred in Hong Kong. Furthermore, services are also provided by MTRCL for a number of metro systems on the Mainland, including the Shanghai Metro, Beijing Metro, Shenzhen Metro, Hangzhou Metro, Shenyang Metro, as well as the Macao Light Rapid Transit System. MTRCL has also been awarded the concession to operate the Crossrail train service across London under the brand name of Elizabeth Line, which will span a 118 km route, and metropolitan rail services in Australia.

MTRCL has even established the MTR Academy. With regard to the MTR Academy, I have to specifically put a question to the Secretary as to the amount of resources needed for running the Academy. It is said that the mere remuneration for the President of the MTR Academy will amount to $8 million, but I do not think he is not just responsible for managing the Academy, and there must be some other duties assigned to him. The MTR Academy was established by MTRCL as its wholly owned subsidiary, and it has launched quite a number of training courses, but what can they achieve? As it is learnt that all teaching staff of the Academy are serving engineers of MTRCL, I wonder how they can concentrate on their engineer jobs when they have to wear so many different hats at the same time.

As pointed out by some fellow colleagues just now, as MTRCL is a listed company, it has to make as much money as possible through property development activities, including speculation in car parking spaces. MTRCL
has divested its carparking facilities along various railway lines in 2013, including all car parking spaces in Riverpark in Shatin, as well as Park Avenue and Central Park in the Olympic Station. Among them, a parking space in Riverpark was sold for up to $1.8 million, a record high in the selling price of car parking spaces in the New Territories. Therefore, MTRCL is also a company engaging in property speculation. All these have made it impossible for MTRCL to focus its attention on railway operations and construction, which Hong Kong people are most concerned about.

Although some fellow colleagues in this Council often suggest that the Government should buy back the 23% of MTRCL shares, I do not consider this necessary. I have been told by some economists that the Government need not buy back the shares, but it must have determination to shoulder its responsibility and turn the 23% of MTRCL shares to preference shares at shareholders' meetings convened by the Board. By doing so, share dividends will be paid to holders of these shares but the shares carry no voting rights at all, which is tantamount to making MTRCL a company wholly owned by the Government which will then enjoy full decision-making rights. However, I understand that the Government may not be willing to do so because once the Government takes over all the responsibilities, the Secretary will not be able to escape his responsibility and blame MTRCL for not doing well. All of the four government officials who are now sitting on the Board of MTRCL, as well as a former Deputy Commissioner for Transport, will then be held accountable.

Given the above, I think we should first of all rectify MTRCL's problem of conflicting roles, and reinstate its primary role as a public transport company. Furthermore, I agree that MTRCL needs a big shakeup, but I do not support the idea of setting up an independent railway development department. Mr Michael TIEN proposed to set up a railway development department, which is nothing more than a redeployment of the same group of officers from different government departments, such as the Electrical and Mechanical Services Department, Civil Engineering and Development Department, Buildings Department and Highways Department, to perform the relevant duties. This will not be able to genuinely improve the governance problem.

I therefore hope that the Government would seriously consider how it should address the problem with MTRCL which, as a listed company, has put money above everything. I also hope that the Government will identify suitable
talents as early as possible and split the Transport and Housing Bureau, so that the senior government officials concerned may *(The buzzer sounded)* … concentrate on the management of transport matters.

**PRESIDENT** (in Cantonese): Mrs Regina IP, please stop speaking.

**MR CHU HOI-DICK** (in Cantonese): President, first, I wish to respond to Mr Michael TIEN. He said he was happy as the Government had heeded his view and proposed to build a new railway line connecting the New Territories West and the city in the course of building an artificial island in Lantau East, which is something he has been advocating all along. He said earlier that if the Government rejected his view, he would vote against all development projects in the New Territories West. He cited the development of Kam Tin South as an example and said that he had voted against it. I have checked the records of the Finance Committee and Public Works Subcommittee. Since he was absent from the voting process of the two meetings, he has therefore not voted against it. This is my first point.

Besides, now Mr TIEN keeps on saying that as residents in the New Territories West want to have a railway line connecting urban areas directly, therefore he has to support the trillion dollar East Lantau development project. I consider that we should never casually accept such an idea because it is something which will lead residents in the New Territories West to a wrong path.

Secondly, today the MTR Corporation Limited ("MTRCL") came under a barrage of fierce criticism from many Members for various problems, but these Members turned cowardly when it came to the investigation of MTRCL. Members may have forgotten that recently, we had quite a number of opportunities to invoke the Legislative Council (Powers and Privileges) Ordinance to inquire into the Government and MTRCL and to look into the inextricably intertwined relationship between MTRCL and its main contractors which we cannot see clearly all along. Yet, these Members turned cowardly by voting against the motions concerned. Now while we are debating this non-binding motion, Members criticized loudly, but I hope Members will unleash strong verbal criticism only and turn cowardly when it comes to investigation.
Thirdly, I consider Mrs IP's has put the right focus on the issue. Instead of proposing trivial recommendations for rectifications to the structure of MTRCL like what Mr Michael TIEN has done, I consider that we had better look back at the direction that the Government has led MTRCL or the former Mass Transit Railway Corporation ("MTRC") or the former Kowloon-Canton Railway Corporation ("KCRC") to over the last 20 to 30 years. Just now Mrs IP talked about negligence of regular business by Mr TIEN, I have no comment on that, but I can see three major development trends.

The first is the privatization of MTRC. The second is the merger between MTRC and KCRC in 2007. The third is the overall public transport policy which is based on a railway-oriented concept. As far as the results of three major public transport policies are concerned, according to the data recorded between 2008 and 2018, Hong Kong's population has grown by 6%, but MTRCL's patronage has increased from 3.5 million passenger trips a day to 5 million passenger trips a day. When Hong Kong's population has grown by 6%, the daily passenger trips of MTRCL have increased by 42%. Where did these passengers come from?

First, the "railway-oriented" policy has attracted a lot of residents who previously relied on public light buses ("PLBs") and public buses to switch to railways. Second, in the same period, the annual number of visitors to Hong Kong has increased from 30 million to the present 60 million, representing a daily number of more than 100 000. We can see a picture from these two points. First, the tourism policy has resulted in a significant increase in the number of people using public transport services. Second, the "railway-oriented" policy has resulted in an influx of passengers who previously used other mode of transport to MTRCL service. As a result, MTRCL has to bite off more than it can chew. Certainly, it is also because MTRCL has neglected its regular business and turned its attention to other businesses. We could envisage that as MTRCL has to deal with a variety of issues in a board meeting, while railway operations only account for 30% of its business; how could MTRCL be not distracted to other things? In view of these three major development trends, we can see that three major problems should be reviewed.

First, should MTRCL be publicly owned or privatized? Or should we adopt Mrs IP's approach, that is, minority shareholders are entitled to dividends only? The Government should consider this issue seriously. Should the
Government control the right of development and operations of a railway company?

Second, should competition be introduced for Hong Kong's railway service, or should the current dominance of one railway company be maintained? Competition means that between MTRC and KCRC in the past. It also means: Should railway development projects be assigned to MTRCL as default? Or should we invite railway operators from all over the world to bid for Hong Kong's railway projects? If Hong Kong's MTRCL can participate in overseas railway projects, why can overseas railway companies not be allowed to come to Hong Kong and participate in Hong Kong's railway construction projects? Where there is competition, there is progress.

Third, should it be "railway-oriented", or should we rethink if we should allow various modes of transport to explore their respective room for development, instead of asking MTRCL to bite off more than it can chew? The public will only have higher expectations if the Government keeps on increasing the burden of MTRCL, and in turn, people will get more furious about the pain and agony caused by MTRCL's blunders.

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

(No Member indicated a wish to speak)

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, just now, some 20 Members spoke on the motion proposed by Mr Michael TIEN and the amendments put forward by Mr LUK Chung-hung, Mr CHAN Han-pan, Dr KWOK Ka-ki and Mr LAM Cheuk-ting. Once again, I would like to thank Members for their views.

Regarding some of the questions and suggestions put forward by Members, I have already made my reply in my speech earlier. President, please allow me not to repeat them. The MTR Corporation Limited ("MTRCL") plays a very important role in Hong Kong's public transport system. In this context, we understand that MTRCL, being a mass transit system with an enormous carrying
capacity, and of great speed and high efficiency, is vital to people's daily travel and carries people's expectations on its shoulders. Therefore, from the service disruptions in its daily operation to the blunders in its quality control of the railway projects, all these have inevitably caused public disappointment at MTRCL.

To sum up, the main ideas of the speeches just made by the 20-odd Members just now all centred on the governance structure of MTRCL, including the functions of the board of directors, the division of responsibilities between the board of directors and the senior executives, and the powers and responsibilities of its committees. Secondly, the points they raised also involve project management and daily operational performance, which cover internal communication, the reporting to the management and making public announcements, supervision and management of tendering, and the penalty mechanism under circumstances where any blunder or disruption occurs. Certainly, Members have also discussed matters such as corporate social responsibilities, fare adjustment and whether MTRCL must look after public interests.

As a matter of fact, over the years, MTRCL has devoted a lot of resources to community services, but in the end, its image of indifference to people's well-being still prevails. This is surely a case that warrants reflection. The relevant discussion has also touched on issues such as the Government's role, the monitoring system, the need for tightening statutory supervision, and even the appropriateness of the entrustment agreement on new construction projects. In this connection, I hope we can have a thorough discussion later and I will also relay the relevant views to the board of directors of MTRCL faithfully.

Concerning the functions of the board of directors and the performance the Government representatives, here I must make a clarification as some Members raised questions about the membership of the board of directors and the Government representatives just now. I hope Members will understand that the composition and the functions of the board of directors of MTRCL are in compliance with the Companies Ordinance as well as the regulations governing listed companies, and the independent directors also have the duty to discharge their functions. As we observed during our investigation into the Shatin to Central Link ("SCL") incident, the entire board of directors had been kept in the
dark. So I hope all of you can be reasonable and fair while passing your comments. Also, the Government representatives have also dutifully fulfilled their roles, fully expressed their views and monitored MTRCL's performance throughout.

Apart from governance structure, the Public Transport Strategy Study has also been covered in the discussion just now and some Members have talked about conducting a comprehensive transport study. Here, I would like to elucidate that a comprehensive transport study actually involves many aspects and different means of public transport. In the past, we announced the Railway Development Strategy 2014 in 2014, and released the results of the Public Transport Strategy Study in 2017; and we are currently arranging for the "Strategic Studies on Railways and Major Roads beyond 2030". On the whole, the arrangement is that relevant studies on public transport will be conducted in due course and we consider it a more suitable and more desirable approach to transport development.

Of course, as some Members mentioned just now, with an increased population in new development areas after their development, there will be a corresponding increase in the demand for transport services. Here, I wish to make a clear statement. As clearly stated in the 2018 Policy Address of the Chief Executive, the Government will not be complacent and will proactively create capacity through a "transport first" strategy, developing the public transport and enhancing its safety and service quality so that the public can travel conveniently. While some Members spoke about using railways as the backbone, the prerequisite for it is a public transport-based system with railways, buses, minibuses, taxis, trams and ferries performing their roles properly to provide people with quality service. Every day, there are 12 million passenger trips made on public transport, among which some 7 million are made on buses, minibuses, taxis, trams and ferries. So, "railway hegemony", as they call it, is simply an incorrect assertion.

What is more, in the discussion a moment ago, the question of whether the Government was a colluding party to the cover-up was also raised. Regarding this point, I must make a clarification: The Government cannot agree with such assertion and I can never agree with it also. The entire governing team has
always been forthright in handling matters relating to MTRCL, including the delays in some of its operations and the blunders in the management of its works projects. There is absolutely no cover-up or concealment of facts.

For the speeches and suggestions earlier made by the 20-odd Members, I have listened humbly to them and will relay them to the board of directors of MTRCL accurately. Since there are investigations going on in full swing by the Commission of Inquiry, the Expert Adviser Team, the Buildings Department and the Police, the Government will study the outcome and the recommendations of the aforesaid investigations thoroughly and in detail, together with the views of the Legislative Council. As I previously mentioned, before we can take all these into consideration, the Government will respond to Members' views by instructing MTRCL to improve its internal and external governance structures comprehensively and extensively. That will involve improving its mechanism for notifying the Government, the Legislative Council and the general public of the latest information, and its performance in railway construction and operation, so as to continue to provide people with quality railway service and restore public confidence.

Just as a number of Members stated, MTRCL had been the pride of Hong Kong people in the past. It is thus my sincere hope that while expressing their views, criticisms and suggestions, Members will, at the same time, be supportive of and encouraging towards the staff of MTRCL, so as to make MTRCL our pride again.

Thank you, President.

**PRESIDENT** (in Cantonese): As Mr LUK Chung-hung is not present, this Council will not deal with his amendment. I now call upon Mr CHAN Han-pan to move his amendment. Will Members go to page 5 of the Script.

**PRESIDENT** (in Cantonese): Mr CHAN Han-pan, you may move your amendment.
MR CHAN HAN-PAN (in Cantonese): President, I move that Mr Michael TIEN's motion on "Restructuring the governance of MTR Corporation Limited" be amended.

The amendment moved by Mr CHAN Han-pan (See the marked-up version at Annex 1)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr CHAN Han-pan be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Tony TSE rose to claim a division.

PRESIDENT (in Cantonese): Mr Tony TSE has claimed a division. The division bell will ring for five minutes.

(While the division bell was ringing, Mr LUK Chung-hung returned to the Chamber)

(Mr LUK Chung-hung indicated his intention to speak)

PRESIDENT (in Cantonese): Mr LUK Chung-hung, what is your point?
MR LUK CHUNG-HUNG (in Cantonese): President, you have not asked me to move my amendment just now.

PRESIDENT (in Cantonese): I have already declared that I would not deal with your amendment since you were not present in the Chamber.

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

(Mr Abraham SHEK raised his hand in indication)

PRESIDENT (in Cantonese): Mr Abraham SHEK, what is your point?

MR ABRAHAM SHEK (in Cantonese): President, I would like to make a declaration. I am the non-executive director of the MTR Corporation Limited.

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

PRESIDENT (in Cantonese): I think that among the Members returned by functional constituencies, 28 are present, 7 are in favour of the amendment, 2 against it and 18 abstained; while among the Members returned by geographical constituencies through direct elections, 28 are present, 10 are in favour of the amendment and 18 abstained. Since the question is not agreed by a majority of each of the two groups of Members present …

(Ms Starry LEE indicated her intention to speak)

PRESIDENT (in Cantonese): Ms Starry LEE, what is your point?
MS STARRY LEE (in Cantonese): President, my voting intent is that I support Mr CHAN Han-pan's amendment. Please put in record my voting intent.

PRESIDENT (in Cantonese): Alright, your voting intent will be put in record.

Functional Constituencies:

Mr WONG Ting-kwong, Ms Starry LEE, Mr Steven HO, Mr Christopher CHEUNG, Mr HO Kai-ming, Mr Holden CHOW, Mr LUK Chung-hung and Mr LAU Kwok-fan voted for the amendment.

Mr Frankie YICK voted against the amendment.

Mr LEUNG Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Prof Joseph LEE, Mr Jeffrey LAM, Mr CHAN Kin-por, Mr YIU Si-wing, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr SHIU Ka-chun, Dr Pierre CHAN, Mr CHAN Chun-yi, Mr KWONG Chun-yu and Mr Tony TSE abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr CHAN Han-pan, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Mr Wilson OR, Mr CHEUNG Kwok-kwan and Mr Vincent CHENG voted for the amendment.

Mrs Regina IP, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Ms YUNG Hoi-yan, Ms Tanya CHAN, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin abstained.
THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 8 were in favour of the amendment, 1 against it and 18 abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 10 were in favour of the amendment and 18 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MS STARRY LEE (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Restructuring the governance of MTR Corporation Limited" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Restructuring the governance of MTR Corporation Limited" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.
PRESIDENT (in Cantonese): Dr KWOK Ka-ki, you may move your amendment.

DR KWOK KA-KI (in Cantonese): President, I move that Mr Michael TIEN's motion be amended.

The amendment moved by Dr KWOK Ka-ki (See the marked-up version at Annex 2)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Dr KWOK Ka-ki be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Dr KWOK Ka-ki rose to claim a division.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki has claimed a division. The division bell will ring for one minute.

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

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

Mr LEUNG Yiu-chung, Mr Charles Peter MOK, Mr Dennis KWOK, Mr HO Kai-ming, Mr SHIU Ka-chun, Dr Pierre CHAN and Mr LUK Chung-hung voted for the amendment.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr CHAN Kin-por, Mr YIU Si-wing, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok, Mr CHAN Chun-ying and Mr Tony TSE voted against the amendment.

Mr Tommy CHEUNG, Prof Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr Steven HO, Mr Frankie YICK, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr POON Siu-ping, Mr Holden CHOW, Mr LAU Kwok-fan and Mr KWONG Chun-yu abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr WONG Kwok-kin, Ms Claudia MO, Mr CHAN Chi-chuen, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Mr Alvin YEUNG, Mr CHU Hoi-dick, Ms Tanya CHAN, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin voted for the amendment.

Dr Priscilla LEUNG, Mrs Regina IP, Mr Michael TIEN and Ms YUNG Hoi-yan voted against the amendment.

Mr CHAN Hak-kan, Mr WU Chi-wai, Mr CHAN Han-pan, Dr Helena WONG, Dr Elizabeth QUAT, Mr Andrew WAN, Mr LAM Cheuk-ting, Mr Wilson OR, Mr CHEUNG Kwok-kwan and Mr Vincent CHENG abstained.
THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 7 were in favour of the amendment, 8 against it and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 14 were in favour of the amendment, 4 against it and 10 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, you may move your amendment.

MR LAM CHEUK-TING (in Cantonese): President, I move that Mr Michael TIEN's motion be amended.

The amendment moved by Mr LAM Cheuk-ting (See the marked-up version at Annex 3)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr LAM Cheuk-ting be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Hak-kan rose to claim a division.
PRESIDENT (in Cantonese): Mr CHAN Hak-kan has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr LEUNG Yiu-chung, Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr HO Kai-ming, Mr SHIU Ka-chun, Dr Pierre CHAN, Mr LUK Chung-hung, Mr KWONG Chun-yu and Mr Tony TSE voted for the amendment.

Mr Abraham SHEK voted against the amendment.

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr Holden CHOW, Mr CHAN Chun-ying and Mr LAU Kwok-fan abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr WONG Kwok-kin, Mrs Regina IP, Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Chi-chuen, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr LAM Cheuk-ting, Ms YUNG Hoi-yan, Ms Tanya CHAN, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin voted for the amendment.
Mr Michael TIEN voted against the amendment.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr CHAN Han-pan, Dr Elizabeth QUAT, Mr CHU Hoi-dick, Mr Wilson OR, Mr CHEUNG Kwok-kwan and Mr Vincent CHENG abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 12 were in favour of the amendment, 1 against it and 14 abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 19 were in favour of the amendment, 1 against it and 8 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Michael TIEN, you still have 58 seconds to reply. Then, the debate will come to a close.

MR MICHAEL TIEN (in Cantonese): President, Secretary, judging from the fact that many Members have abstained from voting on the amendment moved by Mr CHAN Han-pan just now, I guess that my motion may be on the verge of being voted down as well. I believe that the most unacceptable part of my motion to the Bureau is my proposal of setting up an independent railway development department. The Secretary always says that the problems are the internal affairs of the MTR Corporation Limited ("MTRCL") and should thus be dealt with by itself, the Government should refrain from intervention. But I just want to tell him that I was the former chairman of a railway company and I had attempted to introduce reforms during my chairmanship but ended up being thwarted. As a matter of fact, whoever is invited to join the MTRCL's Board or appointed as its chairman, he can never materialize reforms at lower levels without the supervision of an independent government official. And so the role of the head of the proposed railway development department is rather important in that he will sit on the MTRCL's Board on behalf of the Government. In this case, he can assume the supervisory role and properly perform his duties in the Board. As the saying goes: "The established regime may last for as long as it can be but not those working under it." If the Government still does not set up
an independent railway development department to oversee the overall operation of MTRCL and continues to place it under the Highways Department, nothing will ever be achieved.  *(The buzzer sounded)*

**PRESIDENT** (in Cantonese): Mr TIEN, please stop speaking.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Michael TIEN be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr Michael TIEN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Michael TIEN has claimed a division. The division bell will ring for one minute.

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

**PRESIDENT** (in Cantonese): Mr Gary FAN, do you wish to cast your vote?

(Mr Gary FAN cast his vote)

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

Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Christopher CHEUNG, Mr HO Kai-ming, Mr Holden CHOW, Dr Pierre CHAN, Mr LUK Chung-hung and Mr LAU Kwok-fan voted for the motion.

Mr LEUNG Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Prof Joseph LEE, Mr Jeffrey LAM, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr SHIU Ka-chun, Mr CHAN Chun-ying, Mr KWONG Chun-yu and Mr Tony TSE abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Michael TIEN, Mr CHAN Han-pan, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Mr Wilson OR, Mr CHEUNG Kwok-kwan and Mr Vincent CHENG voted for the motion.

Mrs Regina IP, Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Ms YUNG Hoi-yan, Ms Tanya CHAN, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 10 were in favour of the motion and 18 abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 11 were in favour of the motion and 17 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.
SUSPENSION OF MEETING

PRESIDENT (in Cantonese): Since I think the Council might not be able to complete the proceedings of the next motion proposed by Mr CHAN Chi-chuen within the remaining meeting time of the meeting, I decide to deal with his motion tomorrow morning to facilitate a full debate on the motion upon consulting Mr CHAN Chi-chuen. I now suspend the meeting until 9:00 am tomorrow.

*Suspended accordingly at 7:14 pm.*
Annex 1

The marked-up version of the amendment moved by Mr CHAN Han-pan (Translation)

That the existing 11 railways in Hong Kong were built and are operated by the MTR Corporation Limited (‘MTRCL’) has built and operates 11 railways in Hong Kong, and in the future, seven new railway projects will most likely be assigned to MTRCL; the people of Hong Kong heavily rely on the railway system as a mode of transport, but in recent years, there have been strong views in society on the service quality, corporate governance and supervision of works of MTRCL, as in the series of incidents relating to the quality of railway construction works exposed recently; the Hong Kong SAR Government as the majority shareholder of MTRCL has a major responsibility of monitoring MTRCL in providing to the public the safest railway services and infrastructure of the best quality; in this connection, this Council urges the SAR Government to adopt the following measures to restructure the governance of MTRCL to improve its services and corporate image, and restore public confidence in MTRCL:

1) holding MTRCL accountable for the incidents relating to the quality of railway construction works—according to the Service Concession Agreement signed between MTRCL and the SAR Government, project management costs are payable to MTRCL for project management and supervision, but the poor performance of MTRCL in supervision of railway construction works and notification of incidents has failed to meet public expectations; MTRCL, having an unshirkable responsibility in the relevant incidents, must take the blame for such faults, including reduction in project management costs and deduction of remunerations and bonuses for the management;

(2) setting up an independent railway development department—given that at present, a railway from planning to construction involves various government departments, including the Electrical and Mechanical Services Department, the Civil Engineering and Development Department, the Buildings Department and the Highways Department, resulting in fragmentation of responsibilities and inefficiency; besides, responsible for all the works of roads,
tunnels, bridges, etc. in Hong Kong, the Highways Department can hardly attend to everything at the same time, thus giving rise to problems in the regulation of railways; hence, the SAR Government should set up an independent railway development department dedicated to railway works and directly responsible to the Secretary for Transport and Housing, **so as to make planning for the Hong Kong railway development blueprint more effectively, conduct forward-looking and strategic studies, and effect coordination among relevant departments, thereby taking forward the implementation of various railway projects**;

(2)(3) planning new development areas in tandem with their ancillary railway facilities—in planning some of the new development areas in the past, since the SAR Government did not concurrently consider ancillary transport facilities, serious traffic problems arose in such areas, and the SAR Government then constructed railways in a rush, thus causing the works quality to fall; hence, new development areas and ancillary railway facilities should be planned in tandem in order to prevent the quality of railway projects from being affected by very tight work schedules;

(3)(4) urging MTRCL to regularly review its investment strategy of updating the signalling system and upgrade station facilities—in the past, repeated serious disruptions of MTR train services were caused by the ageing signalling system; hence, MTRCL should regularly upgrade the signalling system to the latest version, rather than refusing to upgrade the signalling system on the ground of the cost being the prime factor of consideration, so as to ensure provision of stable and reliable public transport services to passengers, and regularly improve the station facilities;

(4) rationalizing the appointment of the Chairman and the Chief Executive Officer of MTRCL—to cope with the foreseeable railway projects, either of the Chairman and the Chief Executive Officer of MTRCL, being the two highest persons in charge, should have an engineering background to facilitate monitoring of the works progress at the highest level;
supervising MTRCL in reviewing the criteria of its internal tendering system—when drawing up the criteria of its internal tendering system, MTRCL should study following the criteria of the tendering system of the SAR Government which draw greater reference from the past performance, cooperative attitude, accountability performance of tenderers, etc., rather than overstressing the principle of 'the lowest bid wins' and the number of times the tenderers were awarded railway projects in the past as priority considerations, so as to avoid monopolization;

requiring MTRCL to strengthen the project management notification system—MTRCL should draw up specific and transparent notification criteria and make improvements on two levels: on the first level, requiring frontline site staff to report to the management in higher ranks the site conditions, including but not limited to issuing to contractors non-conformance notices/reports for any work that does not comply with plans and works requirements, and on the second level, reporting to the Government all construction problems in respect of repeated mistakes without rectification, delays in resolving such problems and suspected violations of statutory requirements; and

raising MTRCL's requirements for supervision of the works of contractors—MTRCL should draw reference from the requirements of the SAR Government in supervising public works, including considering the introduction of the Contractor Management Handbook for public works to conduct regular assessments on the quality, progress and safety of works, environmental protection, management and attitude of the persons-in-charge of projects, subcontracting of works, performance of procurement, etc., and requiring resident site staff to conduct thorough on-site supervision, thereby effecting more stringent supervision of railway projects; and

strengthening the corporate social responsibility of MTRCL—despite the occurrence of quite a number of incidents of serious disruptions of railway services in recent years, MTRCL has still raised the fares despite having made handsome profits, and the proposed fare concessions are also inadequate, thus causing discontent in society; hence, the SAR Government should step up
urging MTRCL to improve its service quality, and request MTRCL to take the initiative to lower the fares and offer more fare concessions, as well as incorporating a profit factor into the existing MTR Fare Adjustment Mechanism, thus making dedicated efforts to pass on the benefits to society and build up a positive image.

Note: Mr CHAN Han-pan's amendment is marked in bold and italic type or with deletion line.
Annex 2

The marked-up version of the amendment moved by Dr KWOK Ka-ki (Translation)

That the railway network in Hong Kong is extensive in coverage; the MTR Corporation Limited ('MTRCL') has built and operates 11 railways in Hong Kong, and in the future, seven new railway projects will most likely be assigned to MTRCL; since the Hong Kong SAR Government adopts the transport policy of using the railing-based network as the mainstay complemented by bus services, the people of Hong Kong heavily rely on the railway system as a mode of transport, but in recent years, there have been strong views in society on the fares, service quality, corporate governance and supervision of works of MTRCL; the Hong Kong SAR Government as the majority shareholder of MTRCL has a major responsibility of monitoring MTRCL in providing to the public the safest railway services and infrastructure of the best quality, and at the same time, it is also duty-bound to facilitate the public in using railway services at reasonable fares; in this connection, this Council urges the SAR Government to adopt the following measures to restructure the governance of MTRCL to restore public confidence in MTRCL:

1) setting up an independent railway development department—given that at present, a railway from planning to construction involves various government departments, including the Electrical and Mechanical Services Department, the Civil Engineering and Development Department, the Buildings Department and the Highways Department, resulting in fragmentation of responsibilities and inefficiency; besides, responsible for all the works of roads, tunnels, bridges, etc. in Hong Kong, the Highways Department can hardly attend to everything at the same time, thus giving rise to problems in the regulation of railways; hence, the SAR Government should set up an independent railway development department dedicated to railway works and directly responsible to the Secretary for Transport and Housing;

1) reforming the Railway Development Office under the Highways Department—the SAR Government should expeditiously implement the recommendations in the Report of the Hong Kong
Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link Independent Expert Panel on enhancing the role of the Railway Development Office as the project client, including strengthening its monitoring and verification functions, and establishing a mechanism to facilitate intervention by the SAR Government in handling railway works problems;

(2) planning new development areas in tandem with their ancillary railway facilities—in planning some of the new development areas in the past, since the SAR Government did not concurrently consider ancillary transport facilities, serious traffic problems arose in such areas, and the SAR Government then constructed railways in a rush, thus causing the works quality to fall as in the case of Tung Chung the population of which has now exceeded 100,000, but given that the works of Tung Chung West Extension and Tung Chung East Station have still not commenced, residents need to travel to and from Tung Chung Station on feeder transport; besides, various large development areas in Kowloon East will be completed one after another, but given that the works of the East Kowloon Line have not commenced either, residents in the mid-levels in Kowloon East cannot but rely on the existing inconvenient feeder transport with a high usage rate to travel to and from the nearby MTR stations; hence, new development areas and ancillary railway facilities should be planned in tandem in order to prevent the quality of railway projects from being affected by very tight work schedules failure of the transport facilities in such areas to cope with population growth, thus causing inconvenience to residents; moreover, in light of the rapid population growth in New Territories West, the SAR Government should immediately conduct a study on building another railway connecting New Territories West with the urban area to resolve the lack of public transport in the area;

(3) urging MTRCL to regularly review its investment strategy of updating the signalling system—in the past, repeated serious disruptions of MTR train services were caused by not only the failure of the train system and other hardware ancillary facilities to catch up with the demand of the population but also the ageing signalling system; hence, MTRCL should regularly upgrade the
signalling system to the latest version, rather than refusing to upgrade the signalling system on the ground of the cost being the prime factor of consideration, so as to ensure provision of stable and reliable public transport services to passengers;

(4) rationalizing the appointment and responsibilities of the Chairman and the Chief Executive Officer of MTRCL—to cope with the foreseeable railway projects, either of the Chairman and the Chief Executive Officer of MTRCL, being the two highest persons-in-charge, should have an engineering background to facilitate monitoring of the works progress at the highest level; moreover, the SAR Government should prescribe open and transparent penalties for MTRCL, linking the service performance and quality of works supervision of MTRCL with the remunerations of its Chairman and Chief Executive Officer such that they shall bear due responsibilities for the railway system and works projects;

(5) supervising MTRCL in reviewing the criteria of its internal tendering system—when drawing up the criteria of its internal tendering system, MTRCL should study following the criteria of the tendering system of the SAR Government which draw greater reference from the past performance, cooperative attitude, accountability performance of tenderers, etc., rather than overstressing the principle of 'the lowest bid wins' and the number of times the tenderers were awarded railway projects in the past as priority considerations, so as to avoid reductions in bidding prices by works companies for the sake of winning tenders, subsequently leading to endless cost overruns in the projects, as well as monopolization;

(6) requiring MTRCL to strengthen the project management notification system—MTRCL should draw up specific and transparent notification criteria and make improvements on two levels: on the first level, requiring frontline site staff to report to the management in higher ranks the site conditions, including but not limited to issuing to contractors non-conformance notices/reports for any work that does not comply with plans and works requirements, and on the second level, reporting to the Government all construction problems in respect of repeated mistakes without rectification, delays in
resolving such problems and suspected violations of statutory requirements; and the SAR Government should expeditiously implement the recommendations in the Report of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link Independent Expert Panel on thoroughly rectifying the project management system and internal culture of MTRCL, as well as comprehensively reforming the project reporting system;

(7) raising MTRCL's requirements for supervision of the works of contractors—MTRCL should draw reference from the requirements of the SAR Government in supervising public works, including considering the introduction of the Contractor Management Handbook for public works to conduct regular assessments on the quality, progress and safety of works, environmental protection, management and attitude of the persons-in-charge of projects, subcontracting of works, performance of procurement, etc., and requiring resident site staff to conduct thorough on-site supervision, thereby effecting more stringent supervision of railway projects; and

(8) conducting a study on buying back all the remaining shares of MTRCL—although the SAR Government currently holds 75.17% of the shares of MTRCL, MTRCL often cares for the interests of other shareholders and neglects the use of railway as the backbone of the public transport system, people's affordability of fares and its social responsibility; hence, the SAR Government should buy back all the remaining 24.83% of the shares of MTRCL so that the SAR Government and the Legislative Council can jointly monitor its overall operation, future development, various railway projects and determination of reasonable fares.

Note: Dr KWOK Ka-ki's amendment is marked in bold and italic type or with deletion line.
Annex 3

The marked-up version of the amendment moved by Mr LAM Cheuk-ting (Translation)

That the MTR Corporation Limited ('MTRCL') has built and operates 11 railways in Hong Kong, and in the future, seven new railway projects will most likely be assigned to MTRCL; the people of Hong Kong heavily rely on the railway system as a mode of transport, but in recent years, there have been strong views in society on the service quality, corporate governance and supervision of works of MTRCL; incidents of steel reinforcement bars being cut short, a layer of steel reinforcement bars in a structural wall being shaved thin and I-beams not being installed in compliance with requirements have been exposed in railway construction projects recently, causing Hong Kong people to feel very disappointed with MTRCL; the Hong Kong SAR Government as the majority shareholder of MTRCL has a major responsibility of monitoring MTRCL in providing to the public the safest railway services and infrastructure of the best quality; in this connection, this Council urges the SAR Government to adopt the following measures to restructure the governance of MTRCL to restore public confidence in MTRCL:

(1) **setting up an independent railway development department**

**increasing the manpower of the Highways Department**—given that at present, a railway from planning to construction involves various government departments, including the Electrical and Mechanical Services Department, the Civil Engineering and Development Department, the Buildings Department and the Highways Department, resulting in fragmentation of responsibilities and inefficiency; besides, responsible for all the works of roads, tunnels, bridges, etc. in Hong Kong, the Highways Department can hardly attend to everything at the same time, thus giving rise to problems in the regulation of railways; hence, the SAR Government should set up an independent railway development department dedicated to railway works and directly responsible to the Secretary for Transport and Housing the Transport and Housing Bureau should enhance its coordination of work among departments and increase the manpower of the Highways Department dedicated to monitoring
railway projects in order to step up surprise inspections, with a view to ensuring that the relevant works are executed in compliance with requirements;

(2) planning new development areas in tandem with their ancillary railway facilities in planning some of the new development areas in the past, since the SAR Government did not concurrently consider ancillary transport facilities, serious traffic problems arose in such areas, and the SAR Government then constructed railways in a rush, thus causing the works quality to fall; hence, new development areas and new towns in the New Territories as early as possible—ancillary railway facilities in new development areas and ancillary railway facilities new towns in the New Territories should be planned in tandem as early as possible, especially railway systems in the New Territories connecting with urban areas, in order to prevent the quality of railway projects from being affected by very tight work schedules;

(3) urging MTRCL to regularly review its investment strategy ensure completion of the works of updating the signalling system—in the past, repeated serious disruptions of MTR train services were caused by the ageing signalling system; hence, MTRCL should regularly upgrade the signalling system to the latest version, rather than refusing to upgrade the signalling system on the ground of the cost being the prime factor of consideration on schedule—MTRCL will gradually complete the replacement of signalling systems in the coming few years and the SAR Government must step up its supervision of the relevant works, so as to ensure provision of commissioning of the new signalling systems of various MTRCL lines on schedule, thereby providing higher train frequencies and more stable and reliable public transport services to passengers;

(4) rationalizing the appointment of the Chairman and the Chief Executive Officer of MTRCL requiring MTRCL to appoint independent non-executive directors having an engineering background—to cope with the foreseeable railway projects, either of the Chairman and the Chief Executive Officer of MTRCL, being the two highest persons in charge, should have MTRCL should appoint
more persons having an engineering background and international experts as independent non-executive directors to facilitate their monitoring of the works progress and quality at the highest level;

(5) supervising MTRCL in reviewing the criteria of its internal tendering system—when drawing up the criteria of its internal tendering system, MTRCL should study following the criteria of the tendering system of the SAR Government which draw greater reference from the past performance, cooperative attitude, accountability performance of tenderers, etc., rather than overstressing the principle of 'the lowest bid wins' and the number of times the tenderers were awarded railway projects in the past as priority considerations, so as to avoid monopolization; moreover, terms should be added to works contracts to require contractors and subcontractors to, at the request of MTRCL, inform the public of problems in construction works that are of concern to society;

(6) requiring MTRCL to strengthen the project management notification system—MTRCL should draw up specific and transparent notification criteria and make improvements on two levels: on the first level, requiring frontline site staff to report to the management in higher ranks the site conditions, including but not limited to issuing to contractors non-conformance notices/reports for any work that does not comply with plans and works requirements, and on the second level, reporting to the Government all construction problems in respect of repeated mistakes without rectification, delays in resolving such problems and suspected violations of statutory requirements, and mandating making of reports to the top echelon of the Government when the works involve problems such as falsification, public safety and corruption; and

(7) raising MTRCL's requirements for supervision of the works of contractors—MTRCL should draw reference from the requirements of the SAR Government in supervising public works, including considering the introduction of the Contractor Management Handbook for public works to conduct regular assessments on the quality, progress and safety of works, environmental protection, management and attitude of the persons-in-charge of projects, subcontracting of works, performance of procurement, etc., and
requiring resident site staff to conduct thorough on-site supervision, *as well as studying overseas advanced monitoring experience and reviewing from time to time the system of works monitoring*, thereby effecting more stringent supervision of railway projects.

*Note:* Mr LAM Cheuk-ting's amendment is marked in *bold and italic type* or with deletion line.