

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 5 December 2018

The Council met at half-past Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE CLAUDIA MO

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

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

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

THE HONOURABLE WU CHI-WAI, M.H.

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

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

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, 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 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.

THE HONOURABLE CHAN HOI-YAN

MEMBERS ABSENT:

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE HOLDEN CHOW HO-DING

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.M., G.B.S.,
J.P.

CHIEF SECRETARY FOR ADMINISTRATION

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

DR DAVID CHUNG WAI-KEUNG, J.P.
UNDER SECRETARY FOR INNOVATION AND TECHNOLOGY, AND
SECRETARY FOR INNOVATION AND TECHNOLOGY

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

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

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

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

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

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

MR CASPAR TSUI YING-WAI, J.P.
UNDER SECRETARY FOR LABOUR AND WELFARE

DR RAYMOND SO WAI-MAN, B.B.S., J.P.
UNDER SECRETARY FOR TRANSPORT AND HOUSING

CLERKS IN ATTENDANCE:

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MS ANITA SIT, ASSISTANT SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL

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

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

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Road Tunnels (Government) (Amendment) (No. 2) Regulation 2018.....	237/2018
Tsing Ma Control Area (Tolls, Fees and Charges) (Amendment) Regulation 2018	238/2018
Tsing Sha Control Area (Tolls, Fees and Charges) (Amendment) Regulation 2018	239/2018
Fugitive Offenders (France) Order	240/2018

Other Papers

- No. 45 — Independent Police Complaints Council Report 2017/18
(including Financial statements and Independent auditor's report)
- No. 46 — Report of changes made to the approved Estimates of
Expenditure during the second quarter of 2018-19
Public Finance Ordinance : Section 8

Report No. 6/18-19 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Impacts on Hong Kong of a report recently published by the United States-China Economic and Security Review Commission

1. **MR WU CHI-WAI** (in Cantonese): *The United States-China Economic and Security Review Commission, created by the United States ("US") Congress, has alleged in a report published last month that the Central Authorities have been running counter to the promise of implementing "one country, two systems" and "a high degree of autonomy" in the Hong Kong Special Administrative Region ("SAR"). The Commission has therefore recommended that the Congress direct the Department of Commerce and other relevant government agencies to prepare a report to examine and assess the adequacy of the US export control policy for dual-use technology as it relates to the treatment of Hong Kong and China as two customs areas. Moreover, it has been reported that the Mainland authorities are building a nationwide video surveillance network called "Skynet", and some countries in Europe and America have recently ceased issuing licences for exporting components critical for the network to Hong Kong for re-export to the Mainland. In this connection, will the Government inform this Council:*

- (1) *whether it has gained an understanding if the coverage of the aforesaid dual-use technology includes the items listed in the two lists as set out in Schedule 1 to the Import and Export (Strategic Commodities) Regulations, components related to Skynet, as well as the software and data necessary for the development of a smart city;*
- (2) *whether it has assessed, in the event that the US authorities tighten the control on export to Hong Kong, cease to treat Hong Kong as a separate customs area or repeal the Hong Kong Policy Act, the impacts of these three changes of different levels on Hong Kong in those aspects such as its development of innovation and technology as well as into a smart city, and the immigration treatments for Hong Kong residents when entering the US for visits or studies; of the Government's measures to mitigate such impacts; and*

- (3) *whether it will request the Central People's Government to once again instruct the offices set up in Hong Kong by the Central Authorities to strictly comply with the stipulation that they may not interfere in the affairs which SAR administers on its own as provided under Article 22 of the Basic Law, with a view to making the US authorities believe that the Central Authorities have all along honoured its promise of implementing "one country, two systems" and "a high degree of autonomy" in SAR, and thus continue to treat Hong Kong as a separate customs area, such that Hong Kong can leverage its distinctive edge in the Guangdong-Hong Kong-Macao Bay Area which has a condition of "one country, two systems and three customs areas"?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Mr WU Chi-wai for his main question. Since the return to the Motherland, the Hong Kong Special Administrative Region ("HKSAR") has been exercising "Hong Kong people administering Hong Kong" and "a high degree of autonomy" in strict accordance with the Basic Law. The "one country, two systems" principle has been fully and successfully implemented.

Article 116 of the Basic Law provides that HKSAR is a separate customs territory. Pursuant to Article 151 of the Basic Law, Hong Kong may, using the name "Hong Kong, China", participate in international organizations, such as the World Trade Organization ("WTO") and the Asia-Pacific Economic Cooperation, as a separate member and maintain economic and trade relationships with the other 163 members of WTO. Hong Kong's unique status and advantages under "one country, two systems", a right conferred on SAR by the Motherland through the Basic Law, have all along been widely recognized and respected by the international community, allowing Hong Kong to establish mutually beneficial collaboration relationship with economies around the world at bilateral and multilateral international trade and economic levels. Following the forging of a free trade agreement ("FTA") and an investment agreement between Hong Kong and the 10 Member States of the Association of Southeast Asian Nations last November, the recent conclusion of our negotiations on an FTA and an investment agreement with Australia on 15 November this year is another testimony of the successful implementation of "one country, two systems".

Through substantive bilateral relations, officials' mutual visits and participation in international conferences, as well as the efforts of the overseas Economic and Trade Offices, the HKSAR Government has been explaining to countries around the world the successful implementation of "one country, two systems" since our return to the Motherland, promoting Hong Kong's unique status under the Basic Law and "one country, two systems" as well as our own various advantages, and exploring room for mutual collaboration. For example, I led a delegation to visit Washington DC, the United States this September, during which I met with the United States government officials, members of the Congress, think tanks as well as the business community, and explained clearly Hong Kong's unique status under the Basic Law, as well as Hong Kong's important role in helping our global trading partners in developing markets.

The United States-China Economic and Security Review Commission ("USCC") mentioned in Mr WU's main question is appointed by the bipartisan leaders of the United States Congress and does not comprise members of the United States Congress. As its name suggests, the aim of USCC is to monitor and investigate the national security implications of the bilateral trade and economic relationship between the United States and China. USCC has been submitting annual reports to the United States Congress since 2000. As I understand, the USCC report is not a report by the Congress or the United States Administration. Its contents reflect not the position of the United States Congress or the United States Administration but the views of USCC.

In addition to comments on United States-China relations, the USCC report published last month also mentions the situation in Hong Kong. In respect of the paragraph on trade control, USCC points out that Hong Kong is an important partner of the United States in ensuring robust protection against unauthorized shipments of controlled items from the United States to the Mainland. Indeed, the HKSAR Government has always been enforcing import and export trade controls according to the laws of Hong Kong, and such efforts have been recognized and respected by our trading partners. Hong Kong will continue to maintain our robust trade control system in accordance with the law and continue to work closely with the United States and other trading partners.

Hong Kong's trade and economic relationship with the United States is mutually beneficial. Since Hong Kong's return to the Motherland, the United States has continued to maintain and expand economic and trade ties with Hong Kong based on our unique status.

In terms of individual economies, in 2017 the United States was Hong Kong's second largest merchandise trading partner in the world, while Hong Kong was the ninth largest export market of the United States. According to statistics of the United States, the United States has been enjoying the highest trade surplus with Hong Kong among its global trading partners, valued at US\$34.5 billion in 2017. I firmly believe that it is in the mutual interest of the United States and Hong Kong to maintain and promote our bilateral relations. The HKSAR Government will continue to enhance Hong Kong's economic and trade ties with the United States.

President, I must stress that Hong Kong implements "one country, two systems" in accordance with the Basic Law in order to safeguard the rights of our country and SAR. It is also the important cornerstone of the successful economic and trade development in SAR since our return to the Motherland. The HKSAR Government will, as always, respect, abide by and uphold "one country, two systems".

(Mr WU Chi-wai stood up, intending to raise a supplementary question)

PRESIDENT (in Cantonese): Mr WU Chi-wai, please hold on. Will Members please set their mobile phones to silent mode because just now there were continuous noises from mobile phones. Will Members please respect the meeting. Mr WU, please ask your supplementary question.

MR WU CHI-WAI (in Cantonese): *The Government's main reply utterly did not answer the specific question raised by me. Does it thus show that the Government obviously wishes to evade mentioning the impacts of the USCC report? If this report is not important and inflicts no impact, the Chief Executive would not have issued statements on two occasions in response, and the business sector in Hong Kong would not have been so anxious.*

Basically, my main question was asked from a most pragmatic angle in view of the Government's need to assess the worst scenario and make the best preparations. That is why I have asked the relevant details. Now the industrial and commercial sectors, and even the scientific research and academic circles are concerned about the impacts which may be brought by this report. They asked what "dual-use technology" actually refers to in this report. Does the

Government not have the responsibility to make enquiries with the American authorities and then give an account to society on what "dual-use technology" mentioned in the report actually is?

Not only is the pro-democracy camp concerned about the question raised by me. Many Members of the industrial and commercial sectors and the pro-establishment camp here also feel worried. A responsible government is duty-bound to assess the worst scenario and make the best preparations. Hence, my supplementary question is as follows. Can the Secretary tell Members and the public whether the Government has conducted any assessment or has not carried out any at all? If not, will the Government do so and make it known to the public so that in the event of any change in the American policy, we will know how to respond?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): First of all, I can give a more specific response to part (1) of Mr WU's main question. But a tricky point is that Mr WU mentioned the "Skynet" project in his question, and in our control measures, i.e. the Importation and Exportation (Strategic Commodities) Regulations, the lists of numerous controlled articles contained in the Schedules are not in the form of general lists of products. If Mr WU feels concerned, as stated in this USCC report, whether it will affect trans-shipment of dual-use goods imported into Hong Kong, firstly, as I have mentioned in the main reply, USCC agreed in the very same report that Hong Kong is an important partner able to assist the United States in protection against trans-shipment of controlled items imported into Hong Kong.

Secondly, trans-shipment of goods imported into Hong Kong requires an export licence. There is thus no cause for Mr WU's concern, i.e. any change in the American policy will affect shipment of this type of goods to Hong Kong.

Thirdly, the import and export control system maintained by Hong Kong has all along been beneficial to both Hong Kong and the exporter countries. It is mutually beneficial. At the moment we do not see any signs of change in this system. Certainly, we know USCC has made such a recommendation, and the developments in relation to this recommendation will depend mainly on the stance adopted by the American Government itself.

MR WU CHI-WAI (in Cantonese): *President, the Secretary still has not answered my question. Does the Bureau or the Government actually hold that there is no need to conduct any assessment?*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the reply given by me just now is also part of my assessment. As I said in the main reply, the trade between the United States and Hong Kong includes the technology products mentioned just now. This is also mutually beneficial. We can hardly make any assumption here about what the United States will do. Despite this latest report, I do not see any change in the existing policy. My assessment is that given the mutual benefits, this import and export relationship is founded on the mutual interest between Hong Kong and the United States.

DR HELENA WONG (in Cantonese): *President, I have observed a phenomenon and wish to protest against it. That is, questions raised by Members here are often not answered by the public officers who would only evade questions or beat about the bush.*

I wish to ask a further question to make it clear. Part (3) of Mr WU Chi-wai's main question asks whether the Government will request the Central Government to strictly comply with the stipulation of making no interference in the affairs which HKSAR administers on its own as provided in Article 22 of the Basic Law. Will the Government do so?

The report of the United States mentions that they find Hong Kong gradually becoming like Mainland China. When Hong Kong is not much different from Mainland China, how can it possibly keep its status as a special and separate customs territory? Even though the Basic Law has explicitly stipulated that Hong Kong is a separate customs territory, other people's perception is that Hong Kong has already changed. We certainly have the same feeling because Hong Kong has become increasingly Mainlandized. Our freedom of speech and freedom to participate in elections have come under threat. May I ask the Secretary whether the Government will relay Hongkongers' worries to the Central Government or the Liaison Office of the

Central People's Government in HKSAR? Please ask them not to turn Hong Kong into Mainland China. Now it is even mentioned that the Constitution of China is entirely applicable to Hong Kong. As such, how will there be "one country, two systems" anymore?

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as I have clearly stated in the main reply, in respect of maintaining "one country, two systems", "Hong Kong people administering Hong Kong" and maintaining the system of "one country, two systems" in accordance with our own laws, the HKSAR Government, the Central Government and Hong Kong society have all along recognized and abided by such principles. In this connection, I do not find it necessary to make the request mentioned by Dr Helena WONG just now.

Certainly, different organizations, countries and places may advance different opinions on Hong Kong's systems based on their own interests or stance, but I believe the Government should adhere to one principle, that is, the respect that the governance of Hong Kong should be left to Hong Kong. For this reason, I do not think any other government needs to make any comment in this aspect. Back to the core of Mr WU Chi-wai's main question. If anyone has queries about our trade control system, the Government is certainly duty-bound to make clarifications and correct any misunderstandings. This is what we have been doing.

MR ALVIN YEUNG (in Cantonese): *The Secretary said in the last few lines of paragraph 4 of the main reply that this report is not a report by the United States Congress or Administration. Its contents reflect not the position of the United States Congress or the United States Administration but the views of the USCC members who are not Congressmen.*

May I ask whether the Secretary knows that the USCC members who wrote this report were appointed on bipartisan consent, namely the Democrats and the Republicans in the United States? So far no one, including members of the Democratic Party and the Republican Party in the United States, have voiced any objection to the report written by these members. If the Secretary considers this

report insignificant, is the HKSAR Government now suggesting to Hongkongers that this report can be brushed aside?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I have stated one fact in the main reply. USCC, which wrote this report, was appointed by the bipartisan leaders of the Congress, and the USCC members are not members of the Congress. I have also stated that USCC has been submitting annual reports to the United States Congress since 2000. However, as we all know, the American Government will also submit other reports to the Congress on its own situations. Hence, I have just stated the fact.

Nevertheless, as replied by me just now, if any other organization or government has advanced a different view or comment on Hong Kong, we will make clarifications by way of stating the fact. If there is any bias, we must point out the mistake as a matter of course.

MR DENNIS KWOK (in Cantonese): *President, yesterday, speaking on my visit to the United States, the Chief Executive said that she herself is the most authoritative representative of Hong Kong. But I wish to tell her that authoritativeness is not the only thing which matters in this world. Rather, we have to tell the truth and talk with reasons. The truth is that the incident of Causeway Bay Books did happen; the truth is that the National People's Congress keeps making interpretations of the Basic Law; the truth is that the Hong Kong Government keeps disqualifying Members and election candidates and expelling journalists. It is not that other people will not learn about these matters if we do not mention them. In extending the invitation to me to visit the United States, the organizer already hoped that I would speak on all these issues.*

May I ask the Secretary, now that so many things have happened, how we can really convince the international community and the United States with facts that "one country, two systems" remains robust without declining, while the rule of law and freedoms of Hongkongers have not been eroded? I consider this the crucial point. The point is not about who is the most authoritative. Rather, it lies in who can genuinely present the facts and convincingly explain the current situation of Hong Kong. It is true that now Hong Kong still enjoys judicial independence with a sound legal system, but we have seen a huge challenge. In the Secretary's view, how can we forcefully convince the international community?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I believe Mr Dennis KWOK and I share one view, i.e. the fact is the best illustration. Hence, we hope everyone, Members or individuals, will stick to the fact on other international occasions, especially when explaining certain situations of Hong Kong. Certainly, when various things have happened in society, people from different political parties or with different political stances may take different attitudes. The Government will definitely act on the basis of facts. For example, regarding incidents in Hong Kong arousing international concern, we stress whether such incidents are handled on the strength of the powers vested in us by our laws and the Constitution. All along, I believe that Hong Kong, a free and open place, often draws great attention from places around the world. In particular, international and local media will publish different reports on a lot of issues. Sometimes these reports may be underpinned by their stances as a matter of priority, but still the fact should be respected. The Government must always correct misunderstandings according to the facts. All along, especially in economic and trade matters, we have adopted this approach. Otherwise, Hong Kong would not have gained the respect of others, be it in international conferences or overall external relations, during these 20 years since the reunification. Certainly, everyone or every organization will have their own stance. In this regard, we can only make our best efforts in doing explaining.

MR LUK CHUNG-HUNG (in Cantonese): *President, I have always emphasized that the so-called report of USCC is a kind of political fraud involving coercion and intimidation, such as abolishing Hong Kong's status as a separate customs territory. But as we all know, this status as a separate customs territory is actually affirmed by the Basic Law and internationally recognized. Moreover, it has been proven for years. In my view, the pretext for such political fraud is in fact attributable to Members of the opposition camp who keep visiting the United States to bad-mouth the actual situation of Hong Kong. As a matter of fact, the opposition camp—especially advocates of Hong Kong independence and self-determination—have been challenging the bottom line of national sovereignty and "one country, two systems". But of course they will not talk to the Americans about these, thus misleading the Americans ...*

PRESIDENT (in Cantonese): Mr LUK Chung-hung, please come to your supplementary question direct.

MR LUK CHUNG-HUNG (in Cantonese): ... *harbouring illegal propositions and actions. May I ask the Secretary and the President that under the present circumstances—of course, I do not think this is something we should be over-worried about. Such political fraud is merely a bluffing tactic of the Donald TRUMP Government, but we do need to work in a forward-looking manner—whether different markets will be explored more proactively to reduce our reliance on the American economy? Because the United States is currently our second largest trading partner. President, I wish to ask what relevant policy the Government has for exploring bigger markets.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, regarding the supplementary question raised by Mr LUK, no matter how the political situation or the relationship between China or Hong Kong and the United States is, Hong Kong's external relationship is never based on a single country, target or market. For this reason, the development of economic and trade ties and domains is the work we have been doing.

PRESIDENT (in Cantonese): Second question.

Response to a report of the United States Congress

2. **DR CHENG CHUNG-TAI** (in Cantonese): *The United States-China Economic and Security Review Commission, created by the United States ("US") Congress, published a report last month, alleging that Beijing's encroachment on the rule of law and freedom of speech in the Hong Kong Special Administrative Region has brought an ongoing decline in the territory's rule of law. The Commission therefore called for examining and assessing the adequacy of US export control policy for dual-use technology as it relates to the treatment of Hong Kong and China as two customs areas. In response, the Chief Executive criticized that the report had made unfounded accusations and applied a double standard, and had even put on "tinted glasses" when scrutinizing the relationship between Hong Kong and the Central Authorities. In this connection, will the Government inform this Council:*

- (1) *given that the Sino-US trade conflicts persist, whether it has assessed if the Chief Executive's response to the aforesaid report will deepen the suspicions of the US authorities about Hong Kong;*

- (2) *whether it will withhold the legislative work for implementing the National Anthem Law of the People's Republic of China and Article 23 of the Basic Law, so as to avoid the US authorities' cessation to treat Hong Kong as a separate customs area from Mainland China on account of Hong Kong having lost its unique characteristics; and*
- (3) *whether it has assessed if substantial economic losses will be brought to Hong Kong in the event that the US Congress repeals the Hong Kong Policy Act; if it has assessed and the outcome is in the affirmative, of the counter-measures of the Government?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Dr CHENG for his main question. As my reply to the question by Mr WU Chi-wai has also responded to most part of the question raised by the Dr CHENG Chung-tai, I am not going to repeat such response in detail here.

In brief, since the return to the Motherland, the Hong Kong Special Administrative Region ("HKSAR") has been exercising "Hong Kong people administering Hong Kong" and a high degree of autonomy in strict accordance with the Basic Law. The "one country, two systems" principle has been fully and successfully implemented. Through actively making good use of the opportunities in the international arena conferred on HKSAR by Articles 116 and 151 of the Basic Law, adherence to the relevant laws and systems and international cooperation, we consolidate our status in international trade and economic arena. Hong Kong's unique status under the Basic Law and "one country, two systems" and our own various advantages allow Hong Kong to establish mutually beneficial collaboration relationship with countries around the world at bilateral and multilateral international trade and economic levels, demonstrating the successful implementation of "one country, two systems". Moreover, the continual strengthening of Hong Kong's trade and economic links with the region and the world reflects the acceptance of and respect for Hong Kong's unique advantages.

When any institution of other countries, regardless of whether it represents its government, has made biased or unfounded remarks on the situation of Hong Kong, the HKSAR Government will make clarifications in accordance with facts.

Hong Kong's trade and economic relationship with the United States is mutually beneficial. Since Hong Kong's return to the Motherland, the United States has continued to maintain and expand economic and trade ties with Hong Kong based on our unique status. It is in the United States' and Hong Kong's mutual interest to maintain and promote our bilateral relations. The HKSAR Government will continue to maintain and consolidate Hong Kong's trade and economic ties with the United States, and continue to develop bilateral trade and economic relations on the basis of mutual respect and cooperation.

Regarding the local legislation of the Law of the People's Republic of China on the National Anthem ("National Anthem Law") mentioned in the question, the National Anthem Law has come into force nationwide since 1 October 2017. The Standing Committee of the National People's Congress adopted the decision to add the National Anthem Law to Annex III to the Basic Law in November 2017. According to Article 18(2) of the Basic Law, the national laws listed in Annex III to the Basic Law shall be applied locally by way of promulgation or legislation by HKSAR. It is thus the responsibility of the HKSAR Government to implement the National Anthem Law locally. HKSAR will implement the National Anthem Law by local legislation. This approach is consistent with the "one country, two systems" principle, and is also consistent with the implementation of the Law of the People's Republic of China on the National Flag and the Law of the People's Republic of China on the National Emblem, both of which have been adapted and implemented in Hong Kong by the National Flag and National Emblem Ordinance. The HKSAR Government is now working on the local legislation to implement the National Anthem Law, and will present the National Anthem Bill to the Legislative Council for scrutiny as soon as possible after the drafting has been completed. Our legislative principle is to maintain the purpose and intent of the National Anthem Law to fully reflect its spirit and to preserve the dignity of the national anthem, so that our citizens would respect the national anthem, whilst taking into account our common law system and the actual circumstances in Hong Kong.

As for the legislation for Article 23 of the Basic Law, the HKSAR Government has the constitutional responsibility to legislate for Article 23 of the Basic Law in order to safeguard national security. The Chief Executive has stated publicly for a number of times that the Government will carefully consider all relevant factors, act prudently and continue its efforts to create a favourable social environment for the legislative work. The Government will listen to public views earnestly and explore ways to enable Hong Kong society to respond positively to this constitutional requirement on HKSAR.

The bilateral trade and economic relationship between Hong Kong and the United States is based on mutual benefits and mutual respect. Hong Kong's relation with the United States and the global trade and economic system is also based on the unique trade and economic status conferred on HKSAR under the Basic Law, but not on the unilateral trade and economic policy of any trading partner. The HKSAR Government will, as always, strive to make good use of the aforementioned advantages and conditions to establish Hong Kong's position in the global trade and economic environment.

DR CHENG CHUNG-TAI (in Cantonese): *I do not think the Government has given a direct reply to my main question, nor do I consider it appropriate for the Secretary Commerce and Economic Development to answer this question. My main question obviously focuses on the social and political aspects, which are markedly different from the oral question raised by me some time ago. Regarding the situation of Hong Kong today, the authorities of the United States and the international community obviously consider the economic, political and social aspects are indivisible and interconnected. Hence, I hope the Government will stop playing the ostrich or acting like a bad loser. On the one hand, the authorities make money from trading with European countries and the United States, and yet on the other, it continues to human rights and freedom of society and people of Hong Kong ...*

PRESIDENT (in Cantonese): Dr CHENG Chung-tai, please come to your supplementary question direct.

DR CHENG CHUNG-TAI (in Cantonese): *Hence, I hope the Government will give a direct response. It should seriously review the direction of administration it adopted in the past of favouring and relying on Beijing, which has caused the international community as a whole losing their trust and has affected their confidence in Hong Kong's independent status.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, first of all, I do not agree with the proposition advanced by Dr CHENG Chung-tai just now. It has been 20 years since Hong Kong's return to the Motherland. Development in all aspects is pursued in accordance with the

authority conferred on us under the Basic Law by the State and with a view to highlighting the advantages of Hong Kong under the "two systems", for both aspects are important.

Though certain issues mentioned in the main question of Dr CHENG are not related to the Policy Bureau under my purview, such as the National Anthem Law and Article 23 of the Basic Law, I have given a reply, too. I think we may have different views on the development of Hong Kong, yet on the whole, we should pass fair comments on the implementation of "one country, two systems".

MR TONY TSE (in Cantonese): *President, Dr CHENG Chung-tai claimed that the comments of the Chief Executive would deepen the suspicions of the United States Government about Hong Kong and request that the legislative work for implementing the National Anthem Law and the Article 23 of the Basic Law be withheld. I am not surprised by such a request. President, if Members still remember, Dr CHENG once turned national flags and regional flags upside down in the Chamber of this Council, which fully reflected his attitude towards his own country.*

In the relevant report, the United States mentions incidents relating to the Hong Kong National Party and the DQ (disqualification) of elected Members. Yet, I think these incidents are problematic in terms of compliance with the Basic Law and the Constitution of the People's Republic of China ("the Constitution"), which are provoked by advocates of "Hong Kong independence" and "self-determination". In this connection, I would like to ask the SAR Government one question. Though the current practice of the authorities is acting in accordance with law, will the Secretary consider how best to explain the case to the United States and the international community so that they will not continue examining Hong Kong through "tinted glasses"? At the same time, the authorities should ensure various parties know full well that advocating "Hong Kong Independence" and "self-determination" is absolutely contrary the Basic Law and the Constitution.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Mr TSE for his supplementary question. First, since Hong Kong is a cosmopolitan city, various places and countries will have their own views on Hong Kong based on their different standpoints. The effort

of officials of the Hong Kong Government and even the all-out effort of 7 million people in Hong Kong may not necessarily change their views. Hence, more often than not, we have to act on the basis of facts.

As Mr TSE mentioned just now, on issues in Hong Kong arousing concern of external parties, such as the problem of "Hong Kong independence", have we handled these issues in accordance with the Constitution and laws of Hong Kong? In fact, when I meet with government officials overseas, or when members of overseas political parties visit Hong Kong and when we come across these issues, I will remind them that they have to consider the attitude of the Government, that is, whether it is purely implementing administrative measures or acting on certain legal bases, such as the Societies Ordinance, the Immigration Ordinance, or the Import and Export Ordinance within my purview.

If countries around the world consider that the rule of law is one of the cornerstones of Hong Kong, these measures implemented according to law and the tasks we are authorized to undertake according to the Basic Law are the clearest proof that Hong Kong is a place where we act in accordance with law. We understand that we have to continue working in this aspect. More often than not, when Members or other citizens go overseas to explain and promote issues in this connection or do lobbying, I would advise them to be cautious and must use facts as the basis.

DR ELIZABETH QUAT (in Cantonese): *President, we all know that the United States consider China its greatest competitor, so it will exhaust all means and tactics to curb the economic and technology development of society as a whole in China. Hong Kong as a special administrative region will be used as a bargaining chip by the United States. I think this is inevitable. Moreover, they will definitely use the media, Congressmen and reports to bad-mouth Hong Kong. Yet, it is lamentable that certain people and Members from the opposition camp have become the chess pieces of the United States and collaborate with it in putting on this show to undermine the interest of our country and Hong Kong.*

These people and Members do negative promotion about Hong Kong from time to time. This time, they have taken the opportunity to twist the knife, as in the case of Dr CHENG Chung-tai requesting to withhold the legislative work for implementing the National Anthem Law and Article 23 of the Basic Law. The two issues are definitely irrelevant, yet they insist on linking them together.

May I ask the Government whether it has assessed this practice of the United States comprehensively and think of better strategies to develop more new markets for the business sector of Hong Kong with a view to coping with the challenges and making up for losses we may suffer in business in future?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I thank Dr QUAT for her views. First, regardless of what comments we are facing, we will definitely uphold "one country, two systems" in Hong Kong, and in my purview in particular, capitalize on Hong Kong's unique status under Articles 116 and 151 of the Basic Law. Many a time, Hong Kong is regarded as important to foreign trading partners not merely because of our trading ties but also our unique status which enables them to enter a larger regional market. Hence, we will continue our work in this aspect.

Apart from stating facts and reasoning, we will conduct the relevant work through government overseas offices, overseas visits conducted by government officials and the reception of overseas government officials and Congressmen visiting Hong Kong. I know that different political parties and groupings of the Legislative Council are also doing similar work. I have been told by visiting government officials and Congressmen that they have heard different views through the legislature. At one time, a visiting United States Congressional delegation said that they had met with nine Members from different political parties and groupings and heard a diversity of views. I believe these efforts should be made.

Certainly, we may have different stances, yet I hope everyone will respect the authority conferred on us, Hong Kong's principle of acting in accordance with law and the spirit of "one country, two systems" which we always observe strictly.

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

DR ELIZABETH QUAT (in Cantonese): *The Secretary has not answered whether the authorities have thought up good strategies in supporting the business sector of Hong Kong in developing new markets.*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as I mentioned in my earlier reply to Mr LUK Chung-hung, all along, we are not serving one single market. At present, Mainland China is our largest trading partner. If the Association of Southeast Asian Nations ("ASEAN") is regarded as a single trading community, ASEAN is the second; the European Union is the third; the United States is the fourth and Japan is the fifth. We will continue to work on this. Be it in good times or during times of trade conflicts between the United States and China recently, we will continue the relevant work.

As I have mentioned in the main reply of the first question, in the midst of the strained trading relationship between both shores of the Pacific Ocean, we can draw on our own advantages, which is the status conferred on Hong Kong by Articles 116 and 151 of the Basic Law, to forge free trade agreements with some major trading partners, such as Australia and the 10 Member States of ASEAN, and expand our market further as Dr QUAT mentioned just now.

MR CHU HOI-DICK (in Cantonese): *President, the Secretary mentions in the main reply that if governments of other countries have made unfounded or biased remarks on the situation of Hong Kong, the SAR Government will make clarifications based on facts.*

I would like to see if the Secretary would take this opportunity to clarify the point relating to law enforcement involving strategic commodities as mentioned on the webpage of the Customs and Excise Department ("C&ED"), where there were 231 investigation cases and 33 prosecution cases in 2017. May I ask whether these cases include cases involving the trans-shipment of controlled dual-use commodities of the United States to the Mainland?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I do not have the relevant information on hand. Yet, according to the trade control regime of Hong Kong, controlled commodities which are military commodities or dual-use commodities are subject to the regulation of schedules to the relevant legislation and a licence is required for

import into Hong Kong. If the commodities have to be re-exported to other countries or places, an export licence is required.

It is an offence to not obtain an export licence, and C&ED will take enforcement action according to the law. According to the existing law, the trans-shipment of commodities concerned to other places without an export licence is an offence, and this is not confined to any specific places. If my memory has not failed me, when these commodities are shipped out of Hong Kong without an export licence, prosecution will be initiated.

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

MR CHU HOI-DICK (in Cantonese): *I would like the Secretary to confirm one point. Is it that he does not know if there are cases involving the trans-shipment of dual-use commodities imported from the United States to China which had been impounded by C&ED for investigation, or is it that he does not have the relevant figures on hand now?*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I do not have the information concerning the cases cited by Mr CHU on hand. Yet, regulations on this are definitely in place. It is evident that our system is not location-oriented and we act in accordance with the law. Any commodities shipped out of Hong Kong to the Mainland or other places without an export licence will be liable to prosecution. It is so in the past and in the future.

DR KWOK KA-KI (in Cantonese): *President, I notice that the Commerce and Economic Development Bureau has done what it should do in handling trade issues between China and the United States. Regrettably, after the United States-China Economic and Security Review Commission had published its report last month, the responses from the supervisors of the Secretary, that is, Carrie*

LAM and Matthew CHEUNG, surprised us. They criticized the report of the United States Congress as unfounded, which prompted the Consul General of the United States in Hong Kong to meet with journalists the following day and present some figures, giving Carrie LAM a slap in the face.

I notice that in the recent trade negotiations between China and the United States, other countries consider that China is now on its knees. Dr CHENG Chung-tai has mentioned the legislative work on implementing Article 23 of the Basic Law in his question. In fact, the report has given a detailed account on how this will affect "one country, two systems". The report has also mentioned the Mallet incident and the disqualification (DQ) of Members. It is pointed out that if legislation is enacted for the implementation of Article 23 of the Basic Law in Hong Kong, "one country, two systems", "Hong Kong people ruling Hong Kong" and "high degree of autonomy" will no longer exist, and this will prompt the United States to consider abolishing Hong Kong's status as a separate customs territory.

My supplementary is straightforward. Since the Secretary is the government official in charge of commerce and economic affairs, will he exert his best to persuade the SAR Government, including Carrie LAM, to stop all reckless acts, including the enactment of legislation for Article 23 of the Basic Law? Moreover, will the Secretary offer advice to Members whose brains have been paralyzed by leftism, such as Members from the Hong Kong Federation of Trade Unions ("FTU"), as they criticized the United States and said that they do not care about trading with the United States? From our point of view, these remarks are also harmful to Hong Kong.

Will the Secretary act responsibly by advising these Members with leftism-paralyzed brains and the SAR not to hurt Hong Kong, so that Hong Kong may have a slim chance of survival and keep going in economic development?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I will not join Dr KWOK in criticizing or accusing other Members.

I have to reiterate that Hong Kong's external relations will definitely involve situations in various aspects such as politics and economy. Yet, the key lies in the foundation of our relations with other trading partners. As I have

pointed out in my earlier reply, Hong Kong cannot rely on a single trading partner. Also, we cannot hastily accept unreasonable or biased accusations because a specific trading partner is large or because of the interest at stake.

I agree with the Chief Executive and the Chief Secretary for Administration that in the face of certain unfounded and biased remarks about Hong Kong, we must correct them, particularly when it is related to constitutional issues. Moreover, Hong Kong's current relations with the United States and other places are built not merely on mutual economic benefits but the unique rights conferred on Hong Kong under the Basic Law. As I have cited repeatedly in the main replies to the two questions, the rights are conferred by Articles 116 and 151 of the Basic Law, where the State allows Hong Kong to participate in international conferences and to establish and maintain bilateral relations in the capacity of "Hong Kong, China".

Certainly, to do a proper job of the work in this aspect, we have to rectify the misunderstandings of other people, groups and governments about Hong Kong, or their insufficient understanding and incorrect perceptions. In this connection, I think the attitude of the Government remains unchanged, that is, we must base on facts and safeguard the power conferred on Hong Kong by the Constitution and law. We will continue to work in accordance with this principle.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, which part of your supplementary question has not been answered?

DR KWOK KA-KI (in Cantonese): *My supplementary question is clear, that is, whether he as the Secretary will advise the SAR Government, including Carrie LAM, to stop acting recklessly, particularly in the legislative work for implementing Article 23 of the Basic Law. Does the reply of the Secretary imply that he will not give such advice?*

PRESIDENT (in Cantonese): You have already stated which part of your supplementary question that has not been answered. Secretary, do you have anything to add?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I cannot agree with the accusation made by Dr KWOK Ka-ki just now.

MR PAUL TSE (in Cantonese): *President, to get a clearer picture of the incident, I understand that the relevant report has only mentioned the examination of the so-called dual-use technology commodities.*

According to my understanding, Cap 60G of the Laws of Hong Kong is about import and export control. As the Secretary explained earlier, this involves the arrangement set out in Schedules 1, 2, 3 and 4 to the Import and Export (Strategic Commodities) Regulation. May I know whether there are other categories apart from military commodities and dual-use commodities? What is the definition of dual-use commodities? In the current situation of Hong Kong, what percentage does dual-use commodities account for in the GDP of Hong Kong every year, be it with the United States or other places around the world? Without the import and export transactions of these commodities, what will be the consequence? To avoid causing the misunderstanding among the public that all commodities will be affected, will the Secretary state clearly what are regarded as dual-use commodities and what is their importance to Hong Kong?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Mr TSE for his supplementary question. Basically, controlled commodities are classified into several categories, among which is the one of pure military commodities. Members may recall examples concerning military supplies in the past. According to the relevant laws, the import and export of these military supplies without an import or export licence will be liable to prosecution and the commodities may be confiscated. The military vehicle incident in the past is an example.

On the other hand, there are cases where the technology of certain commodities is designed for military development initially and converted to civil use later, such as certain communication equipment, calculation equipment or nuclear equipment. In fact, many of these types of equipment can be used for military purposes and civil purposes. Moreover, many commodities which used to be developed for military purposes have subsequently seen wide application in the community. In brief, these include several categories of commodities: electronic products, nuclear products and chemical products, and so on, covering

an extensive scope. For this reason, it will be relatively difficult to make a general estimate as Hong Kong is a large trans-shipment harbour handling a large volume of supplies of this category.

Yet, we adopt a simple principle. If the relevant commodity is on the list of controlled commodities commonly recognized by the international community, that commodity will be subject to the regulation of the Ordinance mentioned by Mr TSE just now in Hong Kong, and an import or export licence is required for the commodity. If the export licence of the relevant commodity states that the commodity can only be used in Hong Kong and use in other places is prohibited, the trans-shipment of the commodity to other places will require a relevant export licence. Our enforcement is founded on this principle. The smooth conduct of import and export of technology in this aspect in Hong Kong all along should be credited to the implementation of this set of control measures.

MR PAUL TSE (in Cantonese): *My question is straightforward. If the authorities do not know what commodities are fundamentally or precisely regarded as dual-use commodities, how can the authorities exercise control? If the authorities know what these commodities are, even though the scope of coverage may be extensive, the authorities should know the percentage which these commodities account for in the GDP of Hong Kong and they should know the relevant figures?*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the difficulty lies in the technicality of the relevant lists of controlled commodities. Since Mr TSE is a member of the legal sector, he may have noticed this point, too. Hence, it is very difficult for us to make an estimate. When I gave my reply to Mr WU Chi-wai's question earlier, I also said that this is the reason preventing us from making an estimate in general. Take mobile phones as an example. We do not impose control on mobile phones or computers but the various components. Given the design of the lists, we can hardly work out a figure generally. This is the difficulty we face in making an estimate.

PRESIDENT (in Cantonese): Third question.

Re-launching the Buy-or-Rent Option and the Tenants Purchase Scheme

3. **MR LAU KWOK-FAN** (in Cantonese): *President, the Hong Kong Housing Authority ("HA") launched the Tenants Purchase Scheme ("TPS") in 1998 for tenants of selected public rental housing ("PRH") estates to buy the flats in which they lived at a discounted price. Although HA terminated TPS in August 2005, existing and new tenants of TPS estates may still buy the flats in which they live. On the other hand, HA implemented the Buy-or-Rent Option ("BRO") from 1999 to 2003 for prospective PRH tenants to choose between renting or buying the flats in designated housing blocks. In this connection, will the Government inform this Council:*

- (1) given that at present, tenants of TPS estates may buy the flats in which they live, why tenants of BRO blocks may not do so;*
- (2) as a number of tenants of BRO blocks have indicated that upon their moving in, some staff members of the Housing Department gave a verbal undertaking that they might in future buy the flats in which they lived, whether the Government will honour the undertaking; if so, of the details; if not, the reasons for that; and*
- (3) whether it will re-launch BRO and TPS, so as to rebuild the home ownership ladder for the grass roots; if so, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the Hong Kong Housing Authority ("HA") launched the Tenants Purchase Scheme ("TPS") in 1998 for public rental housing ("PRH") tenants to buy the units they lived in at a discounted price, thereby helping achieve the then policy objective of attaining a home ownership rate of 70% in Hong Kong in ten years' time. In 1999, HA launched the Buy or Rent Option ("BRO") to provide an additional option for prospective PRH tenants, enabling them to move up the ladder to home ownership without the interim stage of PRH. Under BRO, HA would select suitable building(s) in public housing estates for sale, with sale units co-locating in one single location to facilitate building management. Remaining buildings in the estate were used as rental units.

Arising from the Government's announcement of the re-positioned housing policies in November 2002, HA decided to halt the provision of Home Ownership Scheme ("HOS") flats and other subsidized sale flats ("SSFs") in 2003. BRO was ceased at the same time. In line with the then overall strategy of withdrawing from direct provision of SSFs, HA also decided to cease the sale of PRH units after launching Phase 6B of TPS in August 2005.

The co-existence of flat owners and HA's tenants in TPS estates has created many problems in estate management and maintenance. HA's estate management policies cannot be fully implemented in TPS estates. As a result, PRH tenants living in TPS estates and those living in non-TPS estates are subject to different management regimes. At present, HA can only regulate misdeeds committed in the rental units of TPS estates, while misdeeds committed in common areas (such as littering, burning wax, etc.) cannot be regulated by the Marking Scheme for Estate Management Enforcement as such areas fall under the management of the Owners' Corporation. Owing to the mixed tenure in TPS estates, the Housing Department ("HD") can neither effectively carry out maintenance works (such as ceiling seepage, pipes leakage, etc.) which involve both sold and rental units within the same block. There have been discussions on whether TPS should be re-launched during the public consultation on Long Term Housing Strategy ("LTHS"). Taking into account the above considerations, the LTHS Steering Committee also considered it not advisable to re-launch TPS.

BRO and TPS are two different schemes, with different arrangements and target groups. Under BRO, as all sale units are located in individual buildings which are separate from PRH blocks, management problems encountered in TPS estates due to co-existence of flat owners and HA's tenants in the same building would not exist. If HA allows individual PRH tenants living in BRO estates to purchase the PRH units they are living in, since not all tenants are willing or have the ability to purchase the units, it is likely to replicate the situations in TPS estates. This is undesirable.

According to our records, HD did not give any undertaking that tenants living in BRO estates may purchase the PRH units they are living in. On the other hand, sitting tenants of the 39 TPS estates can still opt to purchase the PRH units they are living in. However, HA has no intention of launching TPS in other PRH estates.

The Chief Executive pointed out in the 2017 Policy Address that the housing policy of the current-term Government comprises four elements. First, housing is not a simple commodity; while maintaining respect for a free market economy, the Government has an indispensable role to play in this area. Second, the Government will focus on home-ownership, and strive to build a housing ladder to rekindle the hope of families in different income brackets to become homeowners. Third, the Government will focus on supply and increase the supply of housing based on LTHS. Fourth, when new supply is not yet available, the Government will optimize existing housing resources to help families awaiting PRH and residents in poor living conditions.

Increasing supply of public housing, and rekindling hopes of families in different income brackets for home ownership are important components of the housing policy. The Government has been striving to consummate the housing ladder by providing SSFs for low to middle-income families to achieve home ownership. Opportunities are provided for PRH tenants who have improved their financial conditions to achieve home ownership, thereby vacating their PRH units for allocation to those waiting for PRH. The Government will continue to identify suitable sites and support HA and the Hong Kong Housing Society ("HKHS") to implement HOS and other SSFs projects. According to the forecasts as at September 2018, in the five-year period from 2018-2019 to 2022-2023, the estimated total production of HA and HKHS' SSFs is about 26 300 units, excluding Green Form Subsidised Home Ownership Scheme ("GSH") flats. Comparing the above projected production of SSFs for the five-year period starting from 2018-2019 with that of the previous four five-year periods, the projected production shows a steady increase.

Tenants living in other PRH units with aspirations for home ownership can apply for the purchase of newly-completed HOS/GSH flats launched by HA, as well as newly-completed SSFs launched by HKHS, using Green Form ("GF") status. They may also purchase HA/HKHS' SSFs with premium unpaid in the Secondary Market. The next GSH project at Cheung Sha Wan, involving some 2 500 flats, will be launched later this month. It will provide additional home ownership opportunities for GF applicants.

MR LAU KWOK-FAN (in Cantonese): *President, having heard the reply given by the Secretary just now, I found that this is a situation of both sides sticking to their own claims because when residents initially moved into BRO units, HD staff*

really told them that those were BRO housing estates and if they found them suitable, they could also buy them. A large number of residents can bear witness to this point. I also hope that the Secretary can provide all documents concerning BRO after the meeting for my examination.

Nevertheless, I also wish to ask a supplementary question. The Secretary mentioned just now that mixed tenure creates problems. Assuming that the great majority of residents living in BRO blocks want to buy their units, can the Secretary or the SAR Government set a threshold, that is, once a certain percentage is reached, consideration can be given to re-launching the sale of units in BRO blocks?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr LAU for his supplementary question. Concerning the BRO arrangement, we have examined all records but the undertaking mentioned by Mr LAU could not be found. As regards the future, be it to members of the public living in PRH, those waiting for public housing or those intending to buy HOS units, the current-term Government has provided many avenues and options, for example, the GSH flats mentioned by us just now, which are intended for purchase by PRH residents of GF status, and HOS flats are also available for purchase by people of White Form status.

On top of these two categories of the home ownership ladder, a new initiative was also introduced, namely, the "Starter Homes" Pilot Scheme for Hong Kong Residents. The overall arrangement is founded on the policy kernel of home ownership. Therefore, if members of the public aspire to home ownership, depending on their financial means, I hope that they can consider the three aforementioned arrangements. Of course, members of the public living in TPS estates can consider buying the units they live in now. According to our records, in the 39 TPS estates, basically, more than 75% of the units have been purchased by the public and the remaining 25% (that is, some 40 000 units) are still available for purchase by members of the public living in them.

As regards new tenants moving into TPS estates, they can also enjoy special discounts in the first and second years. If they choose to make purchases in the first year, if my memory is correct, they can enjoy a discount of more than 30%. This is for Mr LAU's information. In this regard, if members of the public are interested, they can also think about this.

MR WILSON OR (in Cantonese): *President, first, I will declare my interest as I am an owner in a TPS estate. I am disappointed by the response given by the Secretary just now. In fact, after TPS, that is, the sale of public housing units, was halted in August 2005, there has been a strong demand in society, and Honourable colleagues of the Democratic Alliance for the Betterment and Progress of Hong Kong and various political parties and groupings in the Legislative Council have also requested and lobbied for the resumption of the sale of public housing units. Unfortunately, the Government has shut the gate and turned a deaf ear to them, citing many problems but I think all these problems can be solved. In fact, the sale of public housing units will enable HA to achieve two goals at the same time, that is, it can respond to the goal of focusing on home ownership set by the Chief Executive and more units can also be made available in response to the present shortage of public housing.*

If the Government is really unwilling to sell public housing units anymore, may I ask the Secretary if he can ensure that in the future, the construction of subsidized housing, in particular, public housing, can really meet the actual demand at present? We have to know that in the next few years, the supply of public housing will see a sudden slide. I hope very much that the Secretary can tell me, firstly, if the sale of public housing units can actually be re-launched and secondly, if public housing units are not put on sale, how he will respond to the situation of a sudden slide in supply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr OR for his supplementary question. On the future supply of public housing, earlier on, we have given an account to the community through some papers. We estimate that in the five-year period starting from 2018-2019, the total number of PRH and SSFs provided by HA and HKHS will reach 100 800 units, that is, an average of 20 000 units per year. Of course, this still falls short of the goal set by LTHS, which is to provide 280 000 public housing units in a decade, or an average of 28 000 units per year. We hope that the legislature knows about this clearly. While we are striving to find land to build PRH and SSFs, we have encountered a bottleneck in housing and land supply. In this regard, we have done our level best. Over the past many years, we have rezoned 210 sites as residential sites and also successfully rezoned some of the lands for public housing purposes. In this regard, we will continue to work hard.

As regards public housing, in the future, we hope to expedite the process and to also receive support from the legislature and the community, in particular, we hope that we can receive greater support in the process of consultation at the district level. In the process of construction, colleagues of HD will exert their utmost to compress the process of and time spent on design, planning and even construction. At present, after completing the relevant legal procedures and planning, apart from the tender procedures which take about half a year, the construction of a public housing estate takes on average about three and a half years. We are also doing our utmost, in the hope of building public housing as quickly as possible for the public's occupation.

MR PAUL TSE (in Cantonese): *President, public housing in Hong Kong comes in many names. In 1998, there was TPS, in 1999, there was BRO and many of the names sound very nice and are easy to remember, for example, GSH, the White Form Secondary Market Scheme ("WSM"), and so on, to make it easy for the public to remember. However, on the clauses and terms carried in each scheme, if members of the public do not pay attention to the remarks made by the policy officials concerned or representatives of the public frequently, they may not be fully aware of them all.*

The Secretary also pointed out in his main reply or supplementary reply just now that according to the records, HD had not made the undertaking to the public that they could choose to buy the units under BRO. May I know if there is any overlapping in the 39 housing estates covered by BRO and TPS? Is the number greater than the one given? If there is overlapping, in the process of dealing with the public and handling transactions, were some staff members or other representatives of HD involved in verbally explaining the clauses, rather than relying entirely on words and printed materials when explaining the clauses, thus creating some misunderstanding among the public, like the one mentioned in the main question?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr TSE for his opinion and supplementary question. Basically, there is no overlapping in the housing estates covered by BRO and TPS now under discussion. They cover different housing estates. Mr TSE has thought about this matter very thoroughly. Although we could not find any undertaking made in black and white by any colleague in the records, did any

individual mention it in the process? The present situation is that we are talking about a scheme introduced before 2000 and we can make verifications based only on the records and documents. This being so, we cannot find any evidence indicating the existence of the relevant undertaking.

As regards whether or not there is any misunderstanding in verbal communication, it is impossible for us to verify this now. We can only use our documents, files, records of meetings and our arrangements when selling the units as the basis.

MR PAUL TSE (in Cantonese): *I thank the Secretary for his reply. However, given that there are indeed many such cases and there may even be more cases of members of the public being misled at that time, evidence and criteria of what degree are required to make the authorities consider looking into whether or not such instances really occurred in the transactions at that time? If such instances did occur, what remedial measures will be taken?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr TSE for his follow-up question. Since currently we cannot find sufficient evidence indicating that such instances occurred, I believe the discussion on remedial measures is not appropriate. I also wish to take this opportunity to inform members of the public intent on buying their own homes that with the current-term Government's focus on home ownership, which is one of the four elements of our housing policy, the current-term Government has introduced GSH, the regularization of WSM, HOS and schemes for local first-time homebuyers, and also allocated land to HKHS for the redevelopment of housing estates. They are all designed to provide PRH and home ownership options to the public. I believe that if the public is interested in purchasing SSFs, they can pay attention to these new residential developments. Of course, it is also possible to buy the existing units in the secondary market through WSM. In this connection, according to our records, there are some units with premiums paid under TPS offered for sale in the public market. In view of this, it is also possible to buy SSFs for which premiums have been paid in the secondary market.

MR LAU KWOK-FAN (in Cantonese): *Having heard the round of replies given by the Secretary just now, I feel really dissatisfied, so I have to ask a supplementary question. The Secretary said that the mixed tenure under TPS is not very appropriate but in fact, the situation under BRO is no different from that under TPS in any way. It also involves mixed tenure, only that the heads of household in one building are all owners but those in other buildings are all tenants. At the same time, owners' corporations were set up in the housing estates and all tenants are also managed by the management committees of the owners' corporations. Has it ever occurred to the Secretary that the treatment given to the tenants under BRO actually may not be the same as that received by the tenants of other public housing estates; rather, it is more similar to that under TPS as the mode is also that of mixed tenure? In spite of this, from back in those years to the present, why has HA all along applied double standards and decided to let only tenants under TPS buy their units, whereas tenants under BRO are not allowed to do so? This is unfair. Moreover, the Government's practice has deprived them of the right to choose. When they moved into the housing estates concerned, it never occurred to them that there would be such a difference in treatment. May I ask the Secretary if tenants under BRO are getting a raw deal?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr LAU for his supplementary question. Back then, the arrangement under BRO was very clear. We chose to sell all the units in the same building in the same housing estate and the public could decide on their own whether or not to buy them. If they are willing to buy them, they could buy the units in a particular building, so basically, if they chose to make purchases in those years, all the units in the whole building were sold out and no more vacant units are available for sale. As regards the housing estates under TPS, since the units for rent and for sale back then were mixed together in the same housing estate, the present situation of about three quarters of units having been sold and the remaining quarter of units still being rented in the 39 TPS estates has arisen.

Therefore, from the time before 2000 to the present, the experience gained over a period of 10-odd to 20 years suggests that the presence of tenants and property owners in the same public housing estate poses great difficulty to management and even the financing related to maintenance. We are being pragmatic and have made the decision according to experience, so I hope the

general public can understand this. The decision made by us was not based solely on theory, rather, it was made after summing up almost 20 years of experience.

PRESIDENT (in Cantonese): Fourth question.

The Liberal Studies subject under the senior secondary curriculum

4. **MRS REGINA IP** (in Cantonese): *President, the Liberal Studies ("LS") subject, which has been offered since 2009 under the senior secondary curriculum, is one of the four core subjects ("compulsory subjects") in the Hong Kong Diploma of Secondary Education Examination ("HKDSEE"). There have all along been controversies on issues of the LS subject such as curriculum, mode of assessment and its retention or otherwise. Moreover, it is learnt that in the admission of students, universities do not give priority consideration or extra credits to the results of the LS subject, and that a number of universities have announced that from the next academic year onwards, they will no longer set the "3322 results" (which include attaining level 2 or above in the LS subject in HKDSEE) as the minimum entrance requirements. It has been reported that the Bachelor's degree and Diploma in Education programmes which tie in with the LS subject will cease operation in the next academic year. In this connection, will the Government inform this Council:*

- (1) *whether it will consider changing the LS subject from a compulsory subject to an elective one, so that students may freely choose whether or not to take the subject; if so, of the details; if not, the reasons for that, and whether it will change the grading of this subject from the current seven-level scale to a two-level scale of "pass" and "fail" so as to reduce students' pressure in preparing for the examination; if so, of the details; if not, the reasons for that;*
- (2) *whether it will reform the curriculum of the LS subject, including the incorporation of more modules on classic literature and theories of natural sciences, so as to nurture students' critical thinking skills; and*

- (3) *whether it will reform the mode of assessment for the LS subject so as to avoid unduly focusing on assessing students' language proficiency; if so, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Cantonese): President, Liberal Studies, which is designed as a cross-curricular subject, aims to broaden students' knowledge base and horizons through the study of a wide range of issues, so as to enable them to make connections with and integrate the knowledge across different disciplines. Liberal Studies also helps students develop positive values and attitudes towards life, so that students can become informed and responsible citizens of society, our country and the world. Since 2009, Liberal Studies has become one of the four core subjects of the senior secondary curriculum.

The general entrance requirements of bachelor degree programmes of tertiary institutions are set at the level of 3322 in the four core subjects, including Level 3 in Chinese Language and English Language and Level 2 in Mathematics and Liberal Studies, plus Level 2 or 3 in one or two specified/unspecified elective subject(s) (depending on the requirements of individual academic departments or programmes). The general entrance requirements have been endorsed by the sector before adoption. The relevant requirements have not been changed up till now. The special admission arrangements mentioned by various universities recently are in line with the flexibilities provided under the merit-based admission principle to cater for individual exceptional cases, and should not be seen as an alteration of the general entrance requirements. Besides, some programmes offered by local universities, such as those related to social sciences, do give extra weighting to Liberal Studies.

As for teacher education, there is sufficient provision of Liberal Studies teachers in the school sector at present and this will continue to be the case in the foreseeable future. The Education Bureau has been keeping in view the changes in the number of training places of relevant teacher education programmes. After taking into account various factors such as the school-aged population trend as well as the supply and demand of teachers, the Education Bureau will propose to the Universities Grants Committee different programmes to universities offering teacher education to ensure that the manpower training for various subjects (including Liberal Studies) will closely align with the learning needs of students and the development needs of schools.

Regarding the question of Mrs Regina IP, our consolidated reply is as follows:

At the time of planning the senior secondary curriculum under the New Academic Structure, Liberal Studies had been adopted as a core subject, as it can play a unique role in the new senior secondary curriculum. Liberal Studies enables students to make connections with and integrate the concepts and knowledge across different disciplines; and see things in multiple perspectives. It also enables students to investigate issues that cannot be covered by single discipline subjects, such as personal development and Chinese culture, so as to address the bias towards discipline subjects in the previous senior secondary curriculum, and to provide students with cross-curricular learning opportunities. Liberal Studies becoming a core subject under the Senior Secondary Academic Structure was the result of extensive discussion, and gained the public support before its implementation.

To enhance students' understanding of themselves, their society, their nation, the natural and human world from multiple perspectives, the Liberal Studies curriculum comprises three Areas of Study, namely "Self and Personal Development", "Society and Culture" and "Science, Technology and the Environment". The topics selected for each module under these three Areas of Study are important issues to the students and society and suitable for students at senior secondary level to study. For instance, the topic on the "impact of globalization" has great significance for students to understand themselves, their society and the world as well as make connections across different fields of knowledge and broaden their horizons.

Regarding public assessment, the public examination for Liberal Studies was designed in accordance with the Curriculum and Assessment Guide. The whole examination consists of two papers: the data-response questions in Paper 1 mainly assess candidates' abilities such as identification, application and analysis of given data; the extended-response questions in Paper 2 assess various higher-order thinking skills through source materials which may arouse discussion. Candidates are required to substantiate arguments from multiple perspectives and draw logical inferences when exploring the questions raised, in order to demonstrate various higher-order thinking skills such as critical thinking, creativity, comparison, synthesis, evaluation, problem solving and communicating in a systematic manner. Same as the assessment requirements

of the public examinations for other non-language subjects, those for Liberal Studies mainly concern application of the relevant knowledge, concepts and thinking skills acquired from the subject, instead of language and writing skills. From the perspective of assessment, Liberal Studies is not different from other core subjects and therefore, the five-level reporting of results has been adopted.

Implemented in 2009, the Senior Secondary Academic Structure has been in operation for nearly 10 years. To keep pace with rapid social and global changes, the whole school curriculum, including but not limited to Liberal Studies, has to be renewed timely in order to equip our students with the knowledge, skills, values and attitudes necessary for them to take on future opportunities and challenges, and achieve the goal of promoting whole-person development and life-long learning.

In this connection, the Education Bureau set up the Task Force on Review of School Curriculum ("the Task Force"), which comprises experienced educators, academics, professionals and representatives of the business sector. Under the principle of "Led by Professionals", the Task Force is responsible for holistically reviewing the primary and secondary curricula, so that the school curricula at the primary and secondary levels can be rigorous and forward-looking in enhancing students' capacity to learn and fostering the values and qualities desired for students of the 21st century to meet future challenges as well as the needs of society. The Task Force hopes to, through refining the curriculum design, create space and opportunities for students' whole-person development, so as to better cater for students' diverse abilities, interests, needs and aspirations.

The Task Force is conducting a review on the school curriculum framework and assessment as a whole, without any predetermined position on individual or overall curriculum arrangements. In the course of the review, it will approach different stakeholders where necessary and collect views extensively in an open-minded manner. The Task Force is expected to make directional recommendations to the Government by end-2019.

Upon receiving the report of the Task Force, the Education Bureau will study the recommendations in detail. By then, if there are any recommendations from the Task Force on the curricula or assessment of individual subjects, the Education Bureau will conduct detailed discussions and take follow-up actions

with the sector in accordance with the established mechanism through the existing advisory structure/bodies such as the Curriculum Development Council and the Hong Kong Examinations and Assessment Authority.

MRS REGINA IP (in Cantonese): *President, I am very disappointed with the main reply of the Secretary for Education. Despite the high-sounding objectives of Liberal Studies, which include helping students make connections with and integrate the concepts and knowledge across different disciplines, see things in multiple perspectives, and so on, the Secretary should understand that with regard to this subject, the Bureau has refused to accept even textbooks and reference books for review. So, there is no textbook for this subject and students can only rely on teachers' teaching or download information for learning and yet, the Secretary was talking about helping students develop critical thinking skills. But Secretary, from some incidents that occurred recently we can see that not only are students devoid of all-round knowledge, but they even lack common sense. Dust explosion, for example, has occurred before at the Formosa Fun Coast water park in Taiwan, resulting in many young people sustaining burn injuries, and in recent years, there was in Hong Kong a case of dust explosion occurring while some young people were playing in a subdivided room in an industrial building, claiming the lives of three post-90s youngsters, and yet, there were still university students triggering a dust explosion while playing in the students' dormitory, causing injuries to a number of youngsters. It shows that they do not even have common sense, let alone all-around knowledge. Does the Secretary admit that the implementation of this subject is a fiasco?*

SECRETARY FOR EDUCATION (in Cantonese): President, for every subject implemented by us, there is certainly room for improvement in the education context. Regarding the implementation of Liberal Studies, as I said in the main reply, our objectives are to nurture students' ability to integrate the knowledge and concepts across different disciplines and help them develop correct values and independent analytical ability, which, from our observations, are precisely needed by society now.

If we cannot better the implementation of Liberal Studies, I think the effects of the phenomena we now see in society, as mentioned earlier by Mrs Regina IP, such as students' expressions on many issues, could be even

worse. We hope that students can have the ability of independent thinking and when they face different issues or some controversial issues in society, it is actually necessary for us to help students integrate the knowledge that they have acquired from different disciplines, so that through an exploration of these issues, they can understand and make their own analyses, build up their own values and develop analytical ability. Therefore, in view of the current circumstances, our objective is to continue to improve the implementation of Liberal Studies.

Certainly, as I said in the main reply earlier, a Task Force has been set up to review the curriculum framework, method of assessment, and so on, and upon completion of the final report by the Task Force, we will conduct an overall review of the curriculum as a whole and make recommendations on individual curriculum.

MR HUI CHI-FUNG (in Cantonese): *Mr LEUNG, Liberal Studies is meant to shape a person's values, encourage students to think critically and teach them to be quality citizens who can tell the right from wrong and distinguish between the truth and fallacy. But of course, Mrs IP and many pro-Government Members may think that Liberal Studies is unimportant and that it would be best for the public to be ignorant of everything, so that they would be happy to be pliant, obedient citizens, and "Hong Kong pigs".*

Secretary, the education profession has agreed that Liberal Studies is an important subject and as you also said in the main reply, Liberal Studies plays a unique role in the new senior secondary curriculum. In this connection, may I ask whether you will change your view on Liberal Studies or worse still, belittle Liberal Studies due to the pressure being exerted on you by the pro-establishment camp?

SECRETARY FOR EDUCATION (in Cantonese): President, as Members have noticed, in the main reply I have talked at great lengths on the underlying principles for introducing Liberal Studies or designing the curriculum, the reasons why we would make it a core subject and why this method of assessment is adopted, and so on. I have set out these details one by one in response to the questions asked by the Honourable Member, and I have also explained why we still maintain this approach.

However, for any subject and even the overall design of the curriculum, a review is warranted from time to time because society keeps changing. As I said in the main reply, society is ever changing, and so are some social values. To help students prepare for the future world, we need to continuously make suitable changes to the curriculum design.

Therefore, in our consideration we will not insist that everything should remain unchanged, but political reasons definitely will not be our consideration in deciding whether a certain subject should be retained or otherwise. Rather, we must take into consideration whether the design and contents of the subject are to the benefit of our students and whether they can help prepare students for the future world. Amendments may need to be made to certain parts of the subject, and we do not rule out this possibility. Some of the contents may need to be further improved, and we are happy to do so. Having said that, I will not tell Members here what we will do in the future because the Task Force is conducting a holistic review and holding discussions with the stakeholders and in particular, professionals in the sector.

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

MR HUI CHI-FUNG (in Cantonese): *President, he has not answered my question. Will he change his view or attitude that Liberal Studies is important and that it can train critical thinking skills?*

PRESIDENT (in Cantonese): Mr HUI, 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 EDUCATION (in Cantonese): President, I have already given a reply. I think independent thinking and critical thinking, as well as positive values and correct perceptions about the country are among concepts or abilities that students must grasp in future. They are also requirements in the design of the curriculum that students are expected to meet.

As to whether this can be achieved through a certain subject or what we should do, we certainly have to make overall considerations, but under the present circumstances, we think that from the angle of the overall curriculum design, Liberal Studies is exactly performing these functions outside the core subjects of Chinese Language, English Language and Mathematics.

DR PRISCILLA LEUNG (in Cantonese): *President, the Secretary's reply precisely shows their sheer refusal to admit that there are serious problems with Liberal Studies. I absolutely do not wish to see that while the Secretary said that Liberal Studies can teach students to think critically, they themselves, including the Task Force mentioned by the Secretary in the main reply, have nevertheless failed to address the serious problems that have emerged over the last decade since the introduction of Liberal Studies.*

President, I have this supplementary question. There is now a problem with Liberal Studies, whether in teaching, learning and even examination, and that is, students have only half-baked knowledge. While you expect them to know everything, they ended up having only a smattering of knowledge of this and that. Insofar as the examination is concerned, eight out of ten students have told me that given the extensive topics covered by the questions, they need not be well versed in the topics and all they need to know is how to answer the questions, as teachers have often been taken to task nowadays. Therefore, the situation is exactly the opposite of the objectives expounded by the Secretary earlier on.

I have this question for the Secretary. Just now he kept on beating about the bush, and I do not wish to see students having taken Liberal Studies beat about the bush as he did. Will the Secretary please give me a proper reply as to whether he agrees that serious problems have arisen in the teaching and learning of Liberal Studies now? And, when the Task Force conducts the assessment, will the Secretary be prepared to convey the problems that he has noticed to the Task Force for reference and consult the views of not only teachers of Liberal Studies but also users in the community, including parents and students?

SECRETARY FOR EDUCATION (in Cantonese): President, it is precisely because the current issues are complicated and there is a diversity of views in society that it is difficult for me to answer the Honourable Member direct as to whether this is the case. We have to conduct an analysis on various fronts and

from multiple perspectives to examine whether there are problems with Liberal Studies.

Of course, Dr Priscilla LEUNG may have seen some problems probably from her contacts and perspectives and based on her perceptions, and it is exactly for this reason that we need to set up the Task Force to conduct an analysis and studies on the different views of different members of the community on Liberal Studies and put forward its opinions. For example, Mr HUI Chi-fung remarked earlier that he considered Liberal Studies crucially important and that it is playing its role effectively. It is because different members of the community have different views that we need to hold discussions through the Task Force with the professionals, including educators in the profession and even the business sector and other members of the community. Our objective is that if there are views that Liberal Studies are plagued with problems, we hope to find out where these problems lie and what measures can be adopted to resolve them, or ascertain whether the problems can be resolved by changing it to an elective subject, as suggested by some members in the community.

What we should address is not the problems of the subject itself but how we can develop students' ability to think critically and to think from multiple perspectives, as well as their ability to distinguish between right and wrong, and this is the major point. Therefore, the Task Force is reviewing the curriculum holistically by, among others, examining whether the curriculum framework allows room for students to achieve whole-person development as well as the impact of the overall assessment method on learning. These major issues are what the Task Force will need to deal with. In this connection, if excessive emphasis is placed on the Task Force having to address issues relating to Liberal Studies, I must say that it actually does not only deal with this area of work. Rather, it is tasked to conduct a review of the broader issues.

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

DR PRISCILLA LEUNG (in Cantonese): *I would like him to tell us whether he has seen a couple of serious problems with Liberal Studies. He basically did not answer my question. Is this the way he teaches students? I hope that he will tell us direct whether he thinks there are a couple of serious problems with Liberal Studies.*

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

SECRETARY FOR EDUCATION (in Cantonese): President, I have seen problems not only in Liberal Studies. Actually, insofar as the curriculum design is concerned, there are also problems with various subjects, including Liberal Studies, and it is precisely for this reason that we fully support the conduct of an overall study by the Task Force. However, unlike the view held by many people, the situation may not be as simple as having only one or two problems, and we also need to conduct more studies and discussions in order to address the impact of these problems or their underlying reasons. As I said just now, however, what we need to address ultimately is not only the problems with Liberal Studies but how we can nurture students' ability to face the future world.

DR HELENA WONG (in Cantonese): *President, I think the Secretary for Education's reply is actually quite good and I would like to voice support for him because as a matter of fact, the plan to introduce Liberal Studies was conceived a decade ago and has since been discussed in detail. Over the past decade we have indeed seen some problems but these problems have not negated the objectives of Liberal Studies, which include developing in students the ability to think from multiple perspectives, providing them with the opportunity of learning across various disciplines, and nurturing their skills of creative thinking and critical thinking. All these are good things, and they are also the abilities that we hope our students in the next generation can master.*

In the Greater Bay Area we have visited a training institute on robotics and I found that Liberal Studies is also included in their programme. So, I hope that the pro-establishment Members will not bark up the wrong tree in always wanting to "scrap" Liberal Studies. I myself also teach Liberal Studies in university, not in a secondary school ...

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

DR HELENA WONG (in Cantonese): *I would like to say this to Members, especially Mrs Regina IP. If she wants to change the grading of Liberal Studies to "pass or fail", it would be tantamount to "scrapping" this subject because The Hong Kong Polytechnic University once tried to switch to the grading system of "pass or fail", and students immediately considered this subject unimportant and simply did not bother to pay attention in class. Therefore, I oppose this suggestion, and I hope that the Education Bureau will firmly uphold its position and do the right thing ...*

PRESIDENT (in Cantonese): Dr Helena WONG, please come to your supplementary question direct.

DR HELENA WONG (in Cantonese): *I have this supplementary question. Earlier on Dr Priscilla LEUNG asked the Secretary if he has seen any problem with Liberal Studies. I can see that there is indeed a major problem and that is, teachers need more support. When Liberal Studies was first rolled out, teachers were provided with a teaching allowance by the Government. Whenever new issues have emerged in society, such as dust explosion, etc., they can actually become topics of debate in lessons of Liberal Studies. But if the teachers always have to include new topics, they will need support in producing the teaching materials. In this connection, I hope that the Secretary will consider reinstating the provision of a teaching allowance for Liberal Studies to enable teachers to have more support. Can the Secretary accede to this request?*

SECRETARY FOR EDUCATION (in Cantonese): President, first of all, I thank Dr WONG for supporting my reply. But in my reply I did not rule out the possibility of changes being made to the existing subjects where necessary, and as I have said, our consideration is, after all, how we can enable our students to be properly equipped in the long term.

Coming back to Dr WONG's supplementary question on how support can be provided to teachers, I must say that the Education Bureau has organized many different courses to assist teachers in preparing materials for lessons and provide teachers with more opportunities of sharing their experiences. Over a period of time in the past, we have seen that the resources injected by us into education or

the support provided by us for the education sector have increased continuously over the past year. To put it simply, even the teacher-to-class ratio has improved as the current-term Government increased this ratio by 0.1 when it assumed office, thus greatly increasing the provision of resources. We believe through their daily work, teachers of Liberal Studies can fully prepare the teaching materials and plans for students to learn effectively.

PRESIDENT (in Cantonese): Fifth question.

Boundary control and monitoring of lands in the frontier closed areas

5. **MS CLAUDIA MO** (in Cantonese): *Last month, the media uncovered that the Guangdong Border Defence Corps ("the Corps") had, since 2012, occupied and cultivated a land parcel with an area of about 20 000 square feet in the Sha Tau Kok Frontier Closed Area ("FCA") and built, without permission, a pedestrian bridge straddling the Shenzhen River. Moreover, members of the Corps from time to time commuted, via that bridge, to and from the land parcel which was located within the territory of the Hong Kong SAR. In this connection, will the Government inform this Council:*

- (1) *of the details of the Government's current work on the management of the lands in FCAs;*
- (2) *as the Government had "surprisingly" been ignorant of the aforesaid land occupation and bridge building incidents for six years, whether the Government has reviewed if there was maladministration and ineffective monitoring on the part of the relevant departments, and the improvements to be made in this respect; and*
- (3) *notwithstanding that the Corps has stopped using the occupied land parcel for the time being, whether the Government will request the Mainland authorities to return the land parcel in question to the landowner(s) concerned, hold the relevant persons responsible and apologize to Hong Kong people; if so, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the Hong Kong Special Administrative Region ("HKSAR") Government attaches great attention to the suspected occupation of land in the vicinity of the Sha Tau Kok River by the Mainland. The Development Bureau, the Security Bureau, the Constitutional and Mainland Affairs Bureau and their relevant departments have been liaising closely with one another to follow up on this matter.

The site inspections conducted by the relevant departments including the Lands Department ("LandsD") and the Hong Kong Police Force ("HKPF") have found a new water channel to the south of the Sha Tau Kok River. The area between the new water channel and the Sha Tau Kok River is encircled by wire fences and covered with artificial vegetation. A bridge straddling the Sha Tau Kok River was also found adjacent to the area.

LandsD has looked up the relevant information including past land boundary records, aerial photos, and works records. According to the past land boundary records, the land in question falls within the Sha Tau Kok River and the southern area thereof as demarcated on the map of LandsD. The aerial photos show that in recent years there have been changes to the conditions of certain areas to the south of the Sha Tau Kok River, including removal of vegetation and appearance of a new water channel, and the HKSAR Government has no record of river channel works in the vicinity of that section of the Sha Tau Kok River.

In early November 2018, LandsD received an enquiry from an owner of the lot concerned, who said that he suspected that his lot was occupied by the Mainland. Afterwards, the HKSAR Government communicated with the relevant Mainland parties. The Mainland side expressed that river channel works had been conducted at the tributary of the Sha Tau Kok River due to flood control considerations, and the boundary was taken to be the centre line of that tributary. At that time, the HKSAR Government explained to the Mainland that we considered the land in question to fall within the boundary of Hong Kong, because the relevant section of the boundary of HKSAR at the location in question was Sha Tau Kok Town to Pak Kung Au, and the boundary line thereat should run along the centre line of the Sha Tau Kok River according to the Order of the State Council of the People's Republic of China No. 221 of 1997 ("State Council Order No. 221") promulgated on 1 July 1997. And from the perspective of the HKSAR Government, the course of the Sha Tau Kok River has not changed over the past years.

The HKSAR Government and the relevant Mainland parties agreed to work together towards the accurate implementation of the provisions of the State Council Order No. 221. The two sides are currently engaged in active communication and dialogue with a view to reaching an accurate understanding on the boundary issue and following up on other related matters as soon as practicable. The two sides have also agreed that, to allay public concerns, the Mainland personnel would refrain from using the land in question before a consensus is reached on the boundary issue.

In consultation with the Security Bureau and other relevant departments, our consolidated reply to the three-part question is as follows:

(1) and (2)

To reduce the coverage of the Frontier Closed Area ("FCA") to the minimum necessary for ensuring public order, from 2008 to 2016, the Government substantially reduced the land coverage of FCA from about 2 800 hectares at the time to about 400 hectares in three phases, thereby releasing 2 400 hectares of land for various uses. Currently, the reduced FCA only covers HKPF's boundary patrol roads ("BPRs") and the areas to its north, border-crossing facilities, Sha Tau Kok Town, Starling Inlet and parts of Mai Po.

To prevent illegal immigration and combat other cross-boundary criminal activities, the HKSAR Government constructed BPRs and erected fences along the approximately 35 km long land boundary of Hong Kong. Where site conditions permit and works are technically feasible, BPRs will be constructed as close to the boundary bordering Shenzhen as possible. HKPF carries out routine patrols mainly along BPRs, which are also equipped with closed circuit television ("CCTV") and surveillance systems including electronic sensors to combat attempts by illegal immigrants to unlawfully enter Hong Kong across the land boundary. The set-up of BPRs is to enable police officers to arrive at the scene expeditiously and safely to intercept any illegal immigrant in case CCTV or the surveillance system detects attempts to cross the boundary by illegal immigrants. If site conditions do not permit or works are technically not feasible, there will be distances between BPRs and the boundary bordering Shenzhen. If

there is intelligence of illegal activity outside BPRs but within the boundary, law enforcement officers will handle such activities according to the laws of Hong Kong having regard to actual circumstances and operational considerations.

From the land management perspective, owing to the large number of government land and private lots in Hong Kong, LandsD generally acts on complaints or enquiries to follow up on cases of suspected occupation of government land or lease breaches of private lots, and conduct inspections or surveillance at individual locations with high land management risks. FCA, which is largely uninhabited, is not among the locations considered by LandsD as high-risk for breach of land-related laws or leases. Nevertheless, LandsD will handle any cases identified or received by LandsD or referred by other departments according to the applicable mechanism and having regard to their relative priority and urgency. If non-compliance with the legislation or land lease is established upon investigation, LandsD will take appropriate enforcement actions.

Since the land in question and the nearby BPR are separated by some distance and the area in between is covered by overgrown vegetation, the line of sight between the two is blocked. Police officers are unable to directly observe the status of the land in question during routine patrols. Furthermore, in view of the geographical location and ground conditions of the location which is uninhabited and without road access, it is difficult for LandsD to be aware of the status of the land through normal inspections.

As mentioned above, LandsD received an enquiry only recently from an owner of the lot concerned, who suspected that the land concerned was occupied. Before that, LandsD had not received any enquiry or complaint from owners of the lots about the land in question. LandsD was also not aware beforehand that the Mainland side had conducted river channel works near the Sha Tau Kok River.

In view of public concerns caused by this incident, we believe that there is room for improvement in the relevant issues. The relevant government departments have also started to conduct reviews

accordingly. The major directions include: as regards border patrol, HKPF will suitably examine its work from the usual angles of prevention of illegal immigration and combatting cross-boundary criminal activities; in respect of land administration and management, LandsD will examine the existing arrangement and explore placing more attention on land near the Hong Kong boundary through practical and efficient means, including studying the use of aerial photos to facilitate reconnaissance of changes in usage of land within Hong Kong's territory near the land boundary; and LandsD will also suitably review the current arrangements for masking of aerial photos, with a view to reducing possible human error in the manual masking process; as regards river training and flood control works for boundary rivers, the Development Bureau and the Drainage Services Department will explore enhancing the existing liaison mechanism with the relevant Mainland parties.

- (3) The HKSAR Government has all along been handling border matters with the Mainland through friendly dialogue and conversation. In fact, the experience of the Loop of Shenzhen River shows that such an approach can arrive at desirable results.

From the perspective of the HKSAR Government, the relevant section of the boundary of HKSAR at the location in question has not changed, and the land in question falls within Hong Kong's territory. There is also no change in land ownership. The HKSAR Government will continue to engage in active dialogue with the Mainland in respect of the administrative boundary issue of the location in question. I believe that both sides are committed to accurately implementing the provisions of the State Council Order No. 221, and what is important is to have a clear understanding of the State Council No. 221 and the relevant facts of the incident through an objective and pragmatic attitude. As mentioned above, to allay public concerns, both sides have agreed that the Mainland personnel would refrain from using the land in question before a consensus is reached on the administrative boundary issue. After sorting out the administrative boundary issue, the HKSAR Government will continue to actively follow up on other related matters. In view of the special circumstances of this case, the

District Lands Office, North of LandsD has also taken the initiative to contact the owners of the private lots concerned to understand their requests to facilitate the provision of appropriate assistance.

MS CLAUDIA MO (in Cantonese): *The Basic Law definitely protects the right of private ownership of property. The Government has now used such words as "improvement", "review" and "error" in its reply, which is basically an admission of mistakes. But it has neither apologized nor condemned the Corps. The realignment of the river, construction of the bridge, and cultivation and occupation of a land parcel of 20 000 sq ft in area by the Corps did not happen overnight, and they were not inadvertent mistakes. The remark about cross-boundary enforcement is also alarming indeed. May I seek a clarification on whether the existing "friendly dialogue and conversation" will actually continue into 2047? Will the relevant persons be held responsible, and is there a timetable requiring them to demolish the bridge and stop cultivating the land?*

SECRETARY FOR DEVELOPMENT (in Cantonese): I thank Ms MO for her supplementary question. I am happy to make a further clarification on the buffer zone as mentioned by Ms MO earlier, and after the discussion between HKSAR and the relevant Mainland parties, it has been clarified that there is no buffer zone for enforcement purposes. In other words, once a place is confirmed to fall within the territory of Hong Kong, it will be expressly dealt with by the laws of Hong Kong. As for the timetable that Ms MO has inquired about, both the Mainland and us are positive. I am afraid I cannot provide a specific timeline at this moment as requested. Nevertheless, both sides have demonstrated sincerity in the course of discussion, hoping to come to an appropriate conclusion about the relevant boundary issue.

PRESIDENT (in Cantonese): Ms Claudia MO, which part of your supplementary question has not been answered?

MS CLAUDIA MO (in Cantonese): *I would like the Secretary to clarify whether he, stating the absence of a buffer zone, has refuted the claim of the Mainland border defence personnel that there is one?*

PRESIDENT (in Cantonese): Ms MO, your question is irrelevant to your supplementary question.

MR JIMMY NG (in Cantonese): *President, this question involves the divergent views on the lands in the border area between Hong Kong and the Mainland, and the determination of the relevant boundaries. I also hope that the SAR Government can sort out the relevant issues with the relevant Mainland authorities as early as possible. But when it comes to land in the border area, was there actually any land dispute between the SAR Government and the Central Government or the Shenzhen Municipal Government, or land exchange between both sides in the past?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr NG for his supplementary question. There were indeed such cases in the past. The boundary issues were mainly related to rivers. Take the Shenzhen River Regulation Project as an example. Under the straightening approach back then, we must straighten certain bends of the river channel and in fact, the SAR Government and the Shenzhen side also handled it through friendly dialogue and conversation.

I have indicated in the main reply that desirable results can be made because using the Loop as an example, before the then river training works, it was located within the boundary of Shenzhen, and it fell within Hong Kong after the straightening of the river. In fact, after completion of the Shenzhen River Regulation Project, according to the new boundary, the land originally lying within the Mainland which falls within Hong Kong measures 91 hectares, and 12 hectares vice versa. In other words, in terms of area alone, Hong Kong actually has gained an additional 70-odd hectares of land. Hence, it is evident that friendly dialogue and conversation with the relevant Mainland parties can achieve practical results.

MR JEFFREY LAM (in Cantonese): *President, Hong Kong and Shenzhen are good neighbours, so to say. We also hope both sides can get along well. Even if problems arise, we can resolve them through friendly discussions to avoid any damage to the relationship between us, and we should not always say that we are being taken advantage of. Just now, the Secretary mentioned the straightening*

of the river, which was also resolved through mutual negotiations. On that occasion, Hong Kong actually benefitted from it.

I wish to ask the Secretary this question. We have often heard about the flooding and even overflow problems in areas along riverbanks, and when such problems arise, some training works will have to be conducted. Will the Government consider resuming such lands? I think resumption of such lands may allow better management or training works.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr LAM for his supplementary question. At present, it is actually premature to give a definite answer as to whether there will be resumption of lands or river training works in the future. In fact, the previous training works on the Shenzhen River turned out to be a success. Now the flooding problem along the Shenzhen River has basically been resolved. I would like to give Members some idea about the boundary. The Shenzhen River is about 25 km long, whereas the Sha Tau Kok River adjacent to the land in question in the present case is 2.5 km long.

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

As far as we are aware, it seems that the Sha Tau Kok River has also been affected by flooding in recent years. As to whether it is necessary to conduct river training works, I think we need to have dialogue with the Shenzhen side in future. And from the engineering perspective, we also have to consider the practicality and specific circumstances. If we are to conduct river training works, we actually cannot rule out the possibility of land resumption due to the associated public works. But now it is premature to give a definite answer as to whether it cannot be otherwise.

MR CHAN CHI-CHUEN (in Cantonese): *Deputy President, the Secretary has indicated his wish to resolve the issues through friendly dialogue and conversation to arrive at desirable results. It would certainly be best to reach a consensus with emphasis on harmony. But I share Ms Claudia MO's view that a deadline should be set for such dialogue, so that it will not go on indefinitely. Setting a deadline is what both sides should do.*

Deputy President, I have this supplementary question. If such friendly dialogue and conversation fail to achieve desirable results, what will be the next step? Will a third party adjudicate on such matters? Will it be reported to the State Council for handling, or will an arbitration mechanism be put in place?

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I thank Mr CHAN for his supplementary question. As it is not common to have dialogue on boundary issues, there is no established mechanism to handle such relatively rare cases. The SAR Government has been actively communicating with the relevant Mainland parties, and we are confident that we can arrive at results satisfactory to both sides through dialogue. As to whether a fixed timetable should be set now, as I said in my reply earlier, we currently do not have a fixed timetable. But we think we should be able to complete such work in due course.

MR CHAN CHI-CHUEN (in Cantonese): *Deputy President, he has not answered my supplementary question. If no result can be achieved through dialogue, what will be the next possible step?*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I have nothing further to add.

MR VINCENT CHENG (in Cantonese): *Deputy President, I would also like to ask a supplementary question on the relevant mechanism. Hong Kong and Shenzhen may have different understandings of the administrative boundary due to defence, river training or other reasons in the future. Will the authorities seriously consider establishing a mechanism under which both sides may identify and address boundary issues early?*

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I thank Mr CHENG for his supplementary question. I think it concerns two aspects, one of which is river training works. As pointed out by me in the main reply, the discussion between the Development Bureau and the Drainage Services Department is actually ongoing. The experience with the Shenzhen River previously has been remarkably successful, and in fact, river training works cannot proceed unilaterally. Even if the Hong Kong side has completed its river training works, problems will remain unresolved if the Mainland side does not proceed with such works. Hence, problems can actually be resolved under a joint mechanism.

Based on our understanding, as the flooding problem of the Sha Tau Kok River was not quite serious in the past, nothing was done about it. But we have found from this incident that flooding will actually occur in that place. Looking ahead, we will discuss with the relevant Mainland parties the situation of Sha Tau Kok on the basis of the experience of the training works on the Shenzhen River, in the hope of finding a satisfactory answer.

MR LAU KWOK-FAN (in Cantonese): *Deputy President, this question is related to boundary control. In fact, quite a number of private lots close to the boundary are currently frozen due to boundary control. As in the present case, it is possibly because the owner has no access to his private lot, which has been frozen for a long time, that he is unaware of the relevant situation. At present, a number of owners have to pass through the fences erected on, for example, the boundary roads mentioned by the Secretary earlier, in order to enter their private lots. This is tantamount to freezing such lots, which cannot be put to use. Concerning the right of ownership of property, it is grossly unfair to those private owners, and a great deal of land has therefore been left deserted, which is a great pity given such an acute shortage of land at present.*

Hence, I have this question for the Secretary. Since such lands cannot be put to use, will the authorities buy back from all owners of private lots in the New Territories their lands located in the boundary control areas in one go, so that such lands can be reverted to the Government or put to use?

Second, will it draw reference from ...

DEPUTY PRESIDENT (in Cantonese): Mr LAU Kwok-fan, you can ask one supplementary question only.

MR LAU KWOK-FAN (in Cantonese): *Alright. May I ask the Secretary whether all the lands in the border areas will be bought back?*

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I thank Mr LAU for his supplementary question. I will tackle it from two angles. First of all, as I said earlier, assuming that training works have to be conducted on the Shenzhen River or a certain section of the Sha Tau Kok River, some private lots may be involved. Such a possibility of land resumption due to public works does exist. But I do not wish to make any conjecture at this point. I think the concrete details will be available only upon completion of an engineering study in the future.

Second, insofar as the boundary is concerned, particularly some lands to the north of the whole boundary fence, I am aware of the wishes of certain owners for their lands to be resumed by the Government. The first point I would like to make is that the Government has no such plan at this stage. I would like to point out further that the Shenzhen Valley, particularly the Hong Kong side, actually covers extensive environmentally sensitive areas. For this reason, we have not included areas close to the Shenzhen River in the several planned development areas, including Kwu Tung North, Fanling North, Hung Shui Kiu and the future New Territories North projects of the Government for the time being because we also consider the preservation of the natural ecological environment an important consideration. I hope Mr LAU will understand that.

MRS REGINA IP (in Cantonese): *Deputy President, in the absence of a natural boundary between Hong Kong and the Mainland, artificial demarcation is necessary. To my understanding, there was once in Hong Kong a policy of tolerated border crossers ("TBCs"), or a document commonly known as a "frog permit". That is to say, if there was a land parcel straddling the boundary, we would allow farmers to cross the bridge, and the Mainland side would also allow them to farm in that area. What is wrong with that? Both sides can have dialogue and conversation. Does the Mainland side complain about Hong Kong*

farmers farming there? Hence, can the Secretary assure us that they will continue to resolve boundary issues through friendly dialogue and conversation in the future?

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I thank Mrs IP for her supplementary question. As regards TBCs or the document commonly known as the "frog permit" as mentioned by Mrs IP just now, the official name is actually the "cross border farming permit". There is no natural boundary between Hong Kong and the Mainland, and the delineation would be clearer in the presence of rivers. But for some rivers such as the Sha Tau Kok River, which is only 10 feet wide, we can actually say that they are within jumping range. So in that case, for example, for the sake of land management, some flexible arrangements were in place indeed. Take the cross border farming permit as an example. The parties concerned could actually commute between two places at Lo Fong Bridge or "International Bridge" through relatively simple and flexible procedures. If Hong Kong farmers had to farm on the land owned by them on the Mainland, they could also conveniently enter the territory of the Mainland under such an arrangement. As to whether we would stick to the approach of friendly dialogue and conversation, as asked by Mrs IP, the answer is affirmative.

DEPUTY PRESIDENT (in Cantonese): Last oral question.

Measures to attract and nurture talents

6. **DR ELIZABETH QUAT** (in Cantonese): *It has been reported that the ranking of Hong Kong in a world talent report has fallen from the 12th place of last year to the 18th of this year. There are comments that Hong Kong has to catch up expeditiously in respect of attracting and nurturing talents so as to maintain its competitiveness. In this connection, will the Government inform this Council:*

- (1) *given that some top overseas academic institutions (e.g. the Massachusetts Institute of Technology and Stanford University) require their students taking artificial intelligence programmes to also take humanities subjects such as languages, music or economics*

with a view to enabling them to develop broad horizons, an open mind and innovative ideas, whether the Government will request the various universities to make reference to overseas practice and nurture more talents with multi-abilities; if so, of the details; if not, the reasons for that;

- (2) given that 12 member states of the European Union have incorporated programming courses into the curricula in primary and secondary education and the Mainland authorities will introduce artificial intelligence courses in primary and middle school levels, whether the Government will review the education policies and allocate additional resources to cater for innovation and technology development, including incorporating all "Science, Technology, Engineering, Art and Mathematics" ("STEAM") subjects into the regular curricula in primary and secondary education, devising plans to train up sufficient STEAM teachers, and requesting the various universities to recruit more STEAM academics and increase the number of places for the relevant programmes; if so, of the details; if not, the reasons for that; and*
- (3) given that quite a number of countries and regions (e.g. Australia and Shenzhen) have put in place measures such as granting incentive payments, concessions and right of abode to attract foreign scientific research professionals, whether the Government will adopt more proactive talent admission policies; if so, of the details; if not, the reasons for that?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, talent has been a major pillar underpinning Hong Kong's present-day success and will continue to be the key driver propelling our economic development. The current-term Government attaches great importance to enhancing and optimizing our human capital to cater for the evolving development needs and maintain Hong Kong's overall competitiveness. Our reply to Dr Elizabeth QUAT's question is as follows:

- (1) The University Grants Committee ("UGC")-funded universities enjoy academic freedom and institutional autonomy. All along, the universities would, taking into account a host of factors such as

social developments, market demand, relative strengths and observations on manpower trends of different industries, to carry out academic planning and curriculum design.

Since the implementation of the four-year undergraduate curriculum, the universities have devoted much effort in reorganizing the curriculum, including the introduction of a newly designed general education curriculum. It allows students to systematically broaden their knowledge, extensively spanning across different areas such as languages, literature, philosophy, economics and technology. Universities are also devoted to strengthening students' creative thinking, leadership and communication skills, as well as improving cultural qualities through general education, thereby implementing the concept of whole-person education. In addition, universities also offer more overseas exchanges, work attachments and internship opportunities to strengthen students' international horizons and experiences.

Moreover, individual faculties allow students to take up minor studies in other faculties according to their own interests and goals, so that students can learn beyond their majors. In response to the needs of society, universities are launching more cross-disciplinary programmes in recent years, such as Bachelor of Arts and Sciences, to nurture all-rounded talents.

- (2) To align with the worldwide educational trend and equip students with necessary knowledge and skills in response to economic, scientific and technological developments as well as changes in society, the Government has made significant efforts to promote STEM education in recent years. In late 2016, the Education Bureau released the Report on Promotion of STEM Education—Unleashing Potential in Innovation, containing a number of recommended measures which are being implemented progressively. In light of the latest development in science and technology, we updated the relevant curriculum guides, which were published in 2017. In the 2017-2018 school year, we enhanced coding education at the primary level to develop students' computational thinking skills. We are now reviewing the Information and Communication Technology Curriculum for the

senior secondary level and considering incorporating contents related to artificial intelligence.

In fact, STEM education is not a separate and new subject. We have been promoting STEM education in primary and secondary schools through relevant Key Learning Areas ("KLAs"), including the Science, Technology and Mathematics Education. In accordance with their school context and their students' interests and abilities, schools may adopt different emphases and plans when implementing STEM education. Some schools, for example, have implemented STEAM education by incorporating elements of Arts Education.

On professional training for teachers, we have been providing intensive training programmes on STEM education for school leaders and middle managers in batches since the 2017-2018 school year, and organizing professional training programmes for teachers on coding education and on themes related to technology application. Besides, we have been providing primary and secondary schools with diversified school-based support services, so as to assist them in curriculum planning across the KLAs of Science, Technology and Mathematics Education and incorporating elements of STEM education into the school-based curriculum.

At the university level, the Innovation and Technology Bureau has earlier briefed UGC-funded universities on the trends and development of manpower requirements in the innovation and technology ("I&T") sector. In view of the importance attached by the community to I&T, UGC-funded universities have responded positively in their Planning Exercise Proposals for the 2019-2020 to 2021-2022 triennium by, inter alia, proposing more cross-disciplinary programmes, such as those relating to artificial intelligence and financial technology.

In 2003, the Government deregulated the salary scale of UGC-funded universities, with a view to enhancing their international competitiveness in recruiting and retaining talents. In accordance with the principle of institutional autonomy and their respective human resources policy and mechanism, the universities

will continue to recruit teaching and research personnel having regard to universities' circumstances and demand for talents.

- (3) As Asia's world city, Hong Kong is an international business and financial hub, enjoying unique advantages to tap into the unlimited opportunities in both the Mainland and other Asia-Pacific regions. Also renowned for its open and free trade regime, low tax system, rule of law and high competitiveness, Hong Kong is a livable international city welcomed by global talents. The report mentioned in Dr QUAT's question also re-affirmed Hong Kong's strengths in attracting outside talents to sustain a top-tier talent pool.

To further attract quality talent from around the world in a more effective and focused manner to support Hong Kong's development as a high value-added and diversified economy, the Government promulgated in August this year the first Talent List of Hong Kong. The 11 professions under the Talent List cover a variety of cutting-edge and emerging technology and research professionals, and are those whom Hong Kong needs most in the immediate to medium term for our economic development. Immigration facilitation is provided to eligible persons under the Talent List through the Quality Migrant Admission Scheme ("QMAS"). For applicants who meet the specifications of the respective profession under the Talent List, bonus marks will be given under the General Points Test of QMAS, subject to documentary proof.

In addition, to attract outside technology talent in support of I&T development, the Innovation and Technology Bureau launched the Technology Talent Admission Scheme in June this year to provide a fast-track arrangement for admitting overseas and Mainland technology talent to conduct research and development work in Hong Kong, thereby facilitating the I&T sector to attract talent.

The Government is also committed to promoting the various talent admission schemes overseas, including commissioning publicity visits and strengthening promotion through the economic and trade offices outside Hong Kong and relevant organizations with a view to attracting talent to come to Hong Kong for development.

The Government will continue to review the effectiveness of different talent attraction measures and admission schemes and keep an eye on other countries or regions' initiatives to attract outside talent, with a view to considering enhancements to the talent admission regime of Hong Kong and further attracting high-quality outside talent to come to Hong Kong for development and enrich Hong Kong's talent pool.

DR ELIZABETH QUAT (in Cantonese): *Deputy President, it can be seen from the Chief Secretary's main reply that the Government is not aware of how keen is the competition we are facing and how much effort we need to make.*

According to a study conducted by the University of Oxford, it is estimated that 47% of the jobs in the employment market might probably be replaced by AI (artificial intelligence) in the next 20 years. Some of the work in various trades such as doctors, lawyers, accountants, translators, customer services assistants, retail salespersons, tour guides, financial analysts and financial advisers will be replaced by computers.

When we talk about the requirement in other countries of nurturing university students into all-round talents with multiple intelligences, the Government replies that the universities allow their students to do so. When STEM has been incorporated into the regular and compulsory curricula in primary and secondary education in other places and cities, the Government replies that schools can implement this in accordance with their school context and their students' interests and abilities. When STEAM education has been implemented in other places and cities, we are still implementing STEM education. When vigorous measures have been adopted in other places to attract talents, such as granting right of abode at an earlier time, providing an enormous amount of support and capital as well as assisting them in seeking accommodation, etc., the appeal of our talent admission schemes is indeed inadequate.

Therefore, I have this supplementary. Is the Government fully aware that Hong Kong will suffer a lack of competitiveness in the future if we do not start to nurture talents at an early age—starting from the primary level—at this moment and will STEAM programmes be incorporated into the regular and compulsory curricula in primary and secondary education?

DEPUTY PRESIDENT (in Cantonese): Which public officer will reply to this supplementary question? Chief Secretary for Administration, please.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Please allow me to make a brief reply on the major principles from a macro perspective and then the Secretary for Education will provide supplementary information.

To start with, I fully agree with Dr QUAT that the world is facing an irreversible wave of I&T, which can even be said to have revolutionized the traditional business models. Automation is also expected to bring about certain degrees of impact and transformation in industry structures and job requirements. We are fully aware of this point. In view of this, the Human Resources Planning Commission under my chairmanship is also highly concerned about this issue. We will explore comprehensively how Hong Kong should position itself in the face of this irreversible wave of I&T.

School education is definitely an important component in this process. As I said earlier, we have put in a lot of resources in science and technology education. In particular, during the some 10-month period after the current-term Government has assumed office, we have taken a big step forward by making a lot of efforts in I&T. Despite the fact that education institutions enjoy a certain degree of freedom, we would encourage them to do as much as possible.

Secretary Kevin YEUNG will give a supplementary reply regarding STEM education.

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, I understand the supplementary question raised by Dr QUAT, and I believe the trades or the whole society share the same worries or concerns of Dr QUAT.

We can see that the impact of future development in science and technology on the requirements of talents by the whole society in the future and the abilities that students should master in the future for them to develop their strengths and contribute to society in the future are issues frequently discussed in society nowadays. In the international arena, there are certainly a lot of discussions about STEM or coding and AI in some places, but it is not so

widespread that everywhere is doing so. We also mentioned in the main reply that many STEM-related programmes have already been taken forward in recent years, be it STEM or STEAM, the difference in fact is that elements of Arts Education has been incorporated into STEAM. However, when we are promoting STEM education in schools on a routine basis, the focus is in fact on cultivating students' abilities to consolidate their knowledge, solve difficulties and identify problems. On the foundation of them possessing the ability to integrate knowledge of different disciplines, elements of Arts Education can then be added to the curriculum naturally, which has been achieved by many schools. Yet, on the question of whether we should require all schools to do so, it is worth discussing. As Dr QUAT said, the future world is an unknown to us. Therefore, we must nurture students' basic abilities instead. As I said earlier, students should be able to continuously absorb knowledge and adapt to changes, and apply their knowledge. These are the more important abilities. If we simply talk about coding education today—coding education is certainly important, we also hope that students can have some knowledge of coding—but if we force everyone to spend a lot of time learning coding, will it still be useful after a few years? I believe even Dr QUAT cannot assert how important this aspect will be in the future. That said, we would not sit back and do nothing. As Members can see, we have incorporated coding education into the curriculum, and we must do so. In addition, it is also mentioned in the main reply that we will consider adding contents related to artificial intelligence to the curriculum of the Information and Communication Technology subject. We will continue to update the curriculum in response to changes in the world—Members can see our approach in recent years—and we will continue to do so in this direction. Having said that, if we have to say affirmatively what would be done as a matter of course, we believe it will eventually go back to the most important issue, that is, to nurture students' abilities, instead of simply teaching a certain subject or some kind of knowledge.

MR CHARLES PETER MOK (in Cantonese): *Deputy President, I am worried that little achievement has been made on STEM education, let alone the promotion of STEAM education. Whether it is STEAM or STEM education, the crux actually lies in the lack of support for schools. Resource-wise, the one-off grant of \$100,000 or \$200,000 provided by the Government to primary and secondary schools is insufficient. As regards the curriculum guide, just take primary schools as an example, the industry and teachers have in fact made*

appeals for nearly 10 years. The authorities have finally issued a new guide to primary schools but the teaching materials are still outdated, whilst the support for and training of teachers is not adequate either. Secretary, as you can see, STEM activities are merely activities at present, and many of them are regarded as extracurricular activities. Why does the Secretary not tell us more about the actual performance indicators in the reply? Such performance indicators may include the number of participating primary and secondary schools, the number of participating students, the number of DSE (Hong Kong Diploma of Secondary Education Examination) candidates, the number of teachers who have received training, the number of primary and secondary schools with coding classes and the class time involved. Without mentioning all such information, the Secretary just said that all had been done. How can this be possible? The Secretary said that a host of tasks was undertaken to promote STEM in the past few years. Can the Secretary set out all the data to instill confidence in us that the authorities are really working on it and the work done is effective?

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, we can surely provide the specific figures if Mr MOK requests so. A simple example is how many schools are promoting STEM programmes. We have provided resources for every primary and secondary school, hence they should have promoted this aspect if they have made use of this funding. However, if Members wish to know whether resources are being used effectively or whether students have benefited, it then involves a very basic question, that is, how do we look at education. Do we have to measure the knowledge of each student of a certain aspect to ascertain that education is effective or whether the money injected can bring effective results? Should we decide whether to inject money on the basis of students' scores? In the course of education, every student is unique. We now hope to nurture them for diversified development. For instance, some students may have outstanding performance in certain technology or science subjects; they may participate and win in various competitions, and achieve good grades in examination. Similarly, some students may excel in literature and music. How should we measure whether the money injected is really helpful to students and STEM education in general? Over the past period of time—in recent years—we have committed substantial resources to promoting STEM education. Through routine visits to schools as well as daily contact with schools and teachers, we can see that, in general, the atmosphere of promoting STEM education in schools has been enhanced and greater importance attached to it. This includes the increasing number of students—through participating in

competitions or extracurricular activities as mentioned by Mr MOK—applying their knowledge of Chemistry, Physics and Mathematics learnt in various courses and subjects. Members can also see that we have achieved excellent results in many international STEM-related competitions. Therefore, I think these serve to prove that we have actually made progress in the past. Of course, we still have a long way to go before everyone agrees that we have done a very good job. It is because we only started to promote STEM education more proactively since the tenure of the previous-term Government. Did we have a late start then? I can only say that we are not the first place to promote STEM education, but not the last either. I believe we have all along been pursuing progress steadily in this respect. As Mr MOK said, in regard to the education sector, both the resources and the teachers' ability to master these subjects are very limited. We need to provide more training programmes and engage more members of the industry to join hands with us in assisting the education sector to fare better in this respect.

DEPUTY PRESIDENT (in Cantonese): Secretary, can you provide the information requested by Mr MOK after the meeting?

MR CHARLES PETER MOK (in Cantonese): *Yes, please provide more data after the meeting as such data is very important as well.*

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, I will see what data we can provide in respect of STEM when I get back to my office and will try my best to provide them to Member. (Appendix I)

MR CHAN CHUN-YING (in Cantonese): *Deputy President, the Government mentioned that immigration facilitation is provided under the Quality Migrant Admission Scheme in the reply to part (3) of Dr QUAT's main question regarding more proactive talent admission policies. Yet, I have not seen the Government implementing other complementary measures, such as housing, which are equally important. The Shenzhen Government has recently promulgated the "Implementation Plan 2018 of the Shenzhen Municipality for Planning on Residential Housing Construction" (深圳市住房建設規劃2018年度實施計劃) and the "Implementation Plan 2018 of the Shenzhen Municipality for Urban*

Development and Land Utilization" (深圳市2018年度城市建設與土地利用實施計劃), setting out clear objectives which include providing more than 110 000 housing units in total for newly-admitted talents. It is clearly stated in the housing policy of the Shenzhen Government that resource allocation will be further tilted to the settlement of talents. Can the Secretary tell us whether the Government will draw reference from the practice of other authorities which are competing for talents with Hong Kong (including the Shenzhen Government) to devise a suitable housing policy for talent admission so as to attract professionals to work in Hong Kong?

DEPUTY PRESIDENT (in Cantonese): As only three Members have raised supplementary questions on this question so far, may I ask public officers to make their replies as concise as possible. Chief Secretary for Administration, please.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Right, I will make a brief reply. I thank Mr CHAN for his supplementary question. While we do not have more proactive plans at this stage, such as providing cash and accommodation, we have taken them into consideration. For instance, on the front of I&T, a building is now being constructed in the Science Park with the aim of providing small residential units for I&T talents in the future. Being conveniently located, it can be regarded as subsidized housing since low rents will be charged. This is also an initiative to take a step forward. From time to time, we would keep in view measures suitable for implementation in the local context of Hong Kong. We will definitely follow up and implement them earnestly.

DEPUTY PRESIDENT (in Cantonese): Mr Michael TIEN.

(Mr Michael TIEN did not immediately stand up to raise his supplementary question)

DEPUTY PRESIDENT (in Cantonese): Mr Michael TIEN, please ask your supplementary question.

MR MICHAEL TIEN (in Cantonese): *Yes, I have to fix the backdrop behind me first. I would definitely lend him my support if the Secretary has any means to promote STEM education. That said, problems would arise in a skyscraper built not on a sound foundation. Mathematics is the mother of all sciences, but over the past five years, the number of students taking M1 (Mathematics Extended Part Module 1 (Calculus and Statistics)) has decreased from 7 600 to 2 700—You can see it here—whereas the number of students taking M2 (Mathematics Extended Part Module 2 (Algebra and Calculus)) has decreased from 8 000 to 4 000. The Faculty of Engineering of The Chinese University of Hong Kong has even put it bluntly that it has to modify the admission requirements due to students' weak basics in Mathematics. Secretary, is the Education Bureau aware of this situation? Has the Bureau devised a solution?*

Some professors of the faculties of engineering suggest reforming the Mathematics subject, under which ordinary students will continue to take basic Mathematics, and a new Mathematics for Science subject should be introduced by integrating M1 and M2 for students who intend to enroll in the departments of engineering. Deputy President, this is shown on the display board in my hand, and I bet most Hongkongers have never seen these mathematical formulae which look like insects. The level of difficulty is equivalent to that of Pure Mathematics in the past. Will the Secretary examine in collaboration with the universities requiring the faculties of engineering to make Mathematics for Science—that is, combining M1 and M2 into one single subject—a prerequisite on top of the existing compulsory subject of basic Mathematics? Because I find the Mathematics standard in Hong Kong has dropped drastically. Let me cite an example. Nowadays if I have to pay \$47 with a \$100 note, it appears that people need to use a calculator or mobile phone to calculate the amount of the change. This indicates how serious the situation is. What is the Secretary's reply?

DEPUTY PRESIDENT (in Cantonese): Mr TIEN, this main question is about measures to attract talents. Although your question is irrelevant, I would leave it to the Secretary to decide whether he would give a reply.

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, we have also noticed the figures or views put forward by Mr TIEN. In my reply to the fourth question, it is also mentioned that a Task Force is now studying the curriculum and mode of assessment in Hong Kong. They will certainly examine whether there are indeed the problems with the Mathematics subject mentioned by Mr TIEN, or how we should address these problems.

To put it simply, we presently take the view that whilst students have a host of considerations when deciding which subjects to take, we hope they can take subjects according to their interests primarily. For this reason, we hope to enhance students' interests in science subjects, including Mathematics, through providing STEM education at the primary or junior secondary level. Once they have developed interests in these subjects, and if they believe that they can pursue development in fields such as engineering in the future, naturally they will hope to take the M1 or M2 module of the senior secondary Mathematics curriculum. Hence, it can be seen that we have made efforts in both aspects. We hope to make improvement as soon as possible if there is room for improvement in this respect after receiving the report of the Task Force.

MR MICHAEL TIEN (in Cantonese): *Deputy President, my supplementary question is: Will the Secretary discuss with the faculties of engineering the suggestion of making M1 and M2 compulsory subjects?*

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, please allow me to give a reply as quickly as possible. The university admission requirements are after all determined by the universities, which is an element of institutional autonomy. Yet, I believe they are aware of such views in society. I undertake to raise this issue with the universities and relay Mr TIEN's views on appropriate occasions.

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

WRITTEN ANSWERS TO QUESTIONS**Combating Mainland fishermen's illegal fishing activities in Hong Kong**

7. **MR CHAN CHI-CHUEN** (in Chinese): *President, it has been reported that a large number of Mainland fishermen entering Hong Kong waters for illegal fishing has often been seen in recent months. By using serpentine traps for fishing, they have not only contravened the law but also caused serious damage to the ecology of Hong Kong waters. Despite repeated complaints lodged by some villagers to the Police and the Agriculture, Fisheries and Conservation Department, the situation has shown no improvement. In this connection, will the Government inform this Council:*

- (1) of the manning scale of Marine Police officers responsible for patrolling the boundary of Hong Kong waters in the past three years;*
- (2) of (i) the number of cases of Mainland fishing vessels suspected of illegal fishing in Hong Kong which were dealt with by the various law enforcement departments, and (ii) the respective numbers of cases in which Mainland fishermen were prosecuted and convicted for illegal fishing, in each of the past seven years;*
- (3) whether the authorities have, since 2016, allocated additional resources for combating illegal fishing activities; if so, of the details; if not, the reasons for that; and*
- (4) whether it will (i) allocate additional resources for law enforcement, (ii) improve the prosecution mechanism, (iii) raise the penalty, and (iv) take other measures, to curb Mainland fishermen's illegal fishing activities in Hong Kong, so as to safeguard the rights and interests of local fishermen and conserving the ecology of Hong Kong waters; if so, of the details of the measures to be taken; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, having consulted the Security Bureau, we provide a consolidated reply to the various parts of the question raised by Mr CHAN Chi-chuen as follows:

- (1) The divisions under the Police's Marine Region are responsible for the daily patrol and enforcement actions within Hong Kong waters, providing round-the-clock service for the general public. The staff establishment of the Marine Region was 2 281 in the past three years. The Police does not maintain a separate breakdown of the number of officers responsible for patrolling the boundary of Hong Kong waters.
- (2) In tackling the cross-boundary illegal fishing activities of Mainland fishing vessels, the Marine Region has drawn up a standing action plan and has been actively carrying out joint enforcement operations against illegal fishing with the Agriculture, Fisheries and Conservation Department ("AFCD"). Four hundred and ninety one joint operations were carried out from 2012 to October 2018. The Marine Region has arrested 108 illegal immigrants and intercepted 188 fishing vessels suspected of illegal fishing, and referred the relevant cases to AFCD for follow-up having regard to the circumstances. Apart from the joint operations, AFCD also conducts daily patrols in Hong Kong waters. Together with the aforementioned cases as referred from the Marine Region, AFCD made prosecution in 35 cases involving 78 Mainland fishermen in total for illegal fishing activities under the Fisheries Protection Ordinance (Cap. 171) and the Marine Parks and Marine Reserves Regulation (Cap. 476A) in the same period.
- (3) and (4)

The Government considers that the existing statutory provisions are already effective in combating the illegal entry of Mainland fishing vessels into Hong Kong waters for fishing activities, and that the penalties imposed by the court, including fines and imprisonment, provide certain deterrent. Out of the 78 Mainland fishermen prosecuted as mentioned above, 24 were fined up to \$10,000, and the remaining 54 were sentenced for imprisonment up to two months.

The Government has been flexibly deploying resources to take enforcement actions against illegal fishing activities. As pointed out above, besides patrolling in Hong Kong waters, AFCD conducts joint operations with the Marine Region to target black spots for

illegal fishing such as Soko Islands and the waters south of Cheung Chau, striving to curb illegal fishing activities of Mainland fishing vessels in Hong Kong. Since July 2016, AFCD has been seizing fishing gears deployed by Mainland fishermen in Hong Kong waters during regular patrols, so as to further safeguard the interests of local fishermen.

In addition, AFCD will exchange intelligence with Mainland law enforcement agencies. If Mainland fishing vessels are found illegally fishing in Hong Kong waters but they could not be successfully intercepted within Hong Kong waters, AFCD will, having regard to the circumstances, refer these cases to Mainland law enforcement agencies for follow-up.

Recruitment of and compensation for major officers of the Hong Kong Football Association

8. **MR ANDREW WAN** (in Chinese): *President, according to a funding agreement signed between the Government and the Hong Kong Football Association ("HKFA"), the Government allocates to HKFA a maximum of \$25 million annually from April 2015 to March 2020 for the implementation of a Five-Year Strategic Plan. Recently, some news reports have alleged that HKFA failed to follow the established procedure when it recruited the Head Coach of the Hong Kong Football Representative Team. In this connection, will the Government inform this Council if it knows:*

- (1) *(i) the details of the procedure made by HKFA for the recruitment of the Head Coach and (ii) the measures taken by HKFA to ensure that the conduct of the recruitment exercise complied with the procedure and the principles of openness, impartiality and prudent use of public funds;*
- (2) *in respect of the funding allocated by the Government to HKFA in each year since April 2015, the respective (i) amounts and (ii) percentages used for meeting the various expenses; whether the funding agreement has specified a maximum percentage for each type of such expenses in the total amount of the allocation;*

- (3) *the total amount paid for the remuneration and fringe benefits for the Chief Executive Officer ("CEO") of HKFA in each year since April 2015; as the former CEO has left upon contract expiry since September this year, the recruitment procedure as well as the remuneration and fringe benefits for the successor; and*
- (4) *the respective current remuneration and fringe benefits for the following HKFA posts: (i) Referees Manager, (ii) Head Coach, (iii) Technical Director, (iv) Head of Football Development, (v) General Secretary, (vi) Head of Competitions, and (vii) Head of Corporate Governance?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the Hong Kong Football Association ("HKFA") has, upon my request, given relevant information on its Five-Year Strategic Plan ("the Plan"). My reply to the question is as follows:

- (1) Since April 2015, the Government has been funding HKFA to implement its Plan. The funding provided, with a ceiling of \$25 million per year, is mainly used for subventing the creation of various posts to provide the administrative and technical capabilities required by HKFA to implement the Plan. These subvented posts include the Chief Executive Officer ("CEO"), Referees Manager, Head Coach, Technical Director, Head of Football Development, Head of Corporate Governance, Human Resources Manager, Academy Head Coach, Coach Education Manager, Grassroots Football Manager and Women's Football Manager.

With the agreement of the Football Task Force ("FTF"), HKFA combined the posts of Head Coach and Technical Director in May 2014. Before commencing the recent recruitment exercise for the vacant post of Head Coach, HKFA proposed to split the combined Head Coach cum Technical Director post back into two posts. HKFA also made a proposal in its 2018-2019 annual plan on the remuneration subvention ceilings of these two posts. Having considered the views of FTF, the Government endorsed HKFA's proposal on 23 May 2018.

HKFA has formulated a set of Staff Recruitment Policy and Procedures. The open recruitment exercise for the vacant Head Coach post was conducted in accordance with the guidelines in this document. HKFA placed the advertisement for open recruitment on recruitment websites around the world as well as its own website on 24 May 2018, inviting interested persons to apply on or before 23 June 2018. By the end of the application period, HKFA received a total of 106 applications. CEO shortlisted the applicants in accordance with the relevant guidelines and selected the nine most suitable applicants for interview. HKFA's Selection Panel conducted interviews with the shortlisted applicants through video conferencing between 17 and 19 July 2018, and then made its recommendation on the appointment to the HKFA Board ("the Board") on 26 July 2018. The Board deliberated on the Selection Panel's recommendation at its meeting on 26 July and 2 August 2018, and at the second meeting on 2 August, the Board accepted the Panel's recommendation and confirmed the candidate for the Head Coach post.

We understand that during the Board's deliberation of the Selection Panel's recommendation, one of the Directors questioned CEO's deviation from the relevant policy and procedures in certain parts of the recruitment exercise and his lateness in informing the Board. While the Board recognized that there was room for improvement in the handling of the recruitment exercise, the majority of the Directors considered that the impartiality of this recruitment exercise had not been compromised and the Board had therefore decided to accept the recommendation of the Selection Panel. The Board however agreed that the current policy and procedures and their implementation should be reviewed and improved.

- (2) The funding allocated by the Government to HKFA in the past three years for implementing the Plan is tabulated below:

<i>Type of expenses</i>	<i>Funding amount (\$ million)</i> <i>(percentage in total allocation)</i>					
	<i>2015-2016</i>		<i>2016-2017</i>		<i>2017-2018</i>	
Subvented posts	17.3	(81.2%)	18.2	(80.2%)	18.5	(86.9%)
Professional services	1.7	(8%)	0.8	(3.5%)	0.8	(3.7%)

<i>Type of expenses</i>	<i>Funding amount (\$ million) (percentage in total allocation)</i>		
	<i>2015-2016</i>	<i>2016-2017</i>	<i>2017-2018</i>
Market research/promotion	0.8 (3.8%)	1 (4.4%)	0.7 (3.3%)
Accident and medical insurance	0.4 (1.9%)	0.9 (4%)	0.6 (2.8%)
Others	1.1 (5.1%)	1.8 (7.9%)	0.7 (3.3%)
Total	21.3	22.7	21.3

The funding agreement between the Government and HKFA stipulates that HKFA should submit its annual funding application to FTF for endorsement to ensure effective funding allocation. The Government has not specified ceilings on the percentages in total allocation for the various types of expenses.

(3) and (4)

For the implementation of the Plan, the Government has subvented in total 27 posts of HKFA in 2018-2019. Distribution of the relevant subvention is as follows:

<i>Annual remuneration subvention (\$)</i>	<i>Number of posts</i>
2.5 million or above	1
1.5-2.5 million	1
0.5-1.5 million	11
under 0.5 million	14

On 2 October 2018, the Board approved the appointment of its Head of Football Development as the acting CEO for a period of six months. We understand that HKFA is currently preparing for the CEO recruitment exercise.

Issuance of Hong Kong identity cards

9. **MR LEUNG YIU-CHUNG** (in Chinese): *President, regarding the issuance of Hong Kong identity cards by the Immigration Department, will the Government inform this Council:*

- (1) *of the respective numbers of Hong Kong Permanent Identity Cards ("HKPICs") and Hong Kong Identity Cards issued in the past decade, with a breakdown by the applicants' gender and the age group (i.e. aged (i) below 16, (ii) 16 to 24, (iii) 25 to 40, (iv) 41 to 64 and (v) 65 or above) to which they belonged when they applied for the identity cards; and*
- (2) *of a breakdown, by the following circumstances of issuance, of the number of HKPICs issued in the past decade:*
 - (i) *permanent residents applying for the first time upon reaching the age of 11;*
 - (ii) *permanent residents applying for a replacement card upon reaching the age of 18;*
 - (iii) *Chinese citizens, who had met the eligibility criteria for application as they had ordinarily resided in Hong Kong for a continuous period of not less than seven years, applying for the first time;*
 - (iv) *non-Chinese citizens, who had met the eligibility criteria for application as they had ordinarily resided in Hong Kong for a continuous period of not less than seven years and had taken Hong Kong as their place of permanent residence, applying for the first time;*
 - (v) *children under the age of 11 applying in connection with their applications for a Hong Kong Special Administrative Region Passport;*
 - (vi) *cardholders applying for a replacement card because their cards were lost, destroyed, damaged or defaced;*
 - (vii) *cardholders applying for a replacement card because they had changed the registered particulars on their cards; and*
 - (viii) *applications made in other circumstances, with a breakdown of such number by the 10 most common circumstances?*

SECRETARY FOR SECURITY (in Chinese): President,

- (1) According to the records of the Immigration Department ("ImmD"), the numbers of Hong Kong Permanent Identity Cards ("HKPICs") and Hong Kong Identity Cards ("HKICs") issued⁽¹⁾ in the past 10 years are tabulated below:

<i>Year</i>	<i>HKPICs</i>				<i>HKICs</i>			
	<i>Persons aged 18 or above</i>	<i>Persons aged 11 to 17</i>	<i>Persons aged under 11*</i>	<i>Subtotal</i>	<i>Persons aged 18 or above</i>	<i>Persons aged 11 to 17</i>	<i>Persons aged under 11*</i>	<i>Subtotal</i>
2008	269 817	88 483	53 247	411 547	148 260	16 925	0	165 185
2009	241 200	80 440	63 150	384 790	150 308	16 284	0	166 592
2010	247 064	75 910	70 974	393 948	156 466	15 932	0	172 398
2011	238 933	74 869	74 666	388 468	164 940	15 216	0	180 156
2012	265 488	71 450	82 429	419 367	179 965	13 789	0	193 754
2013	254 858	71 428	78 014	404 300	166 719	12 647	0	179 366
2014	233 343	66 239	77 679	377 261	168 149	12 712	0	180 861
2015	237 944	66 356	86 690	390 990	167 412	12 077	0	179 489
2016	240 585	70 062	83 896	394 543	177 651	14 849	0	192 500
2017	231 912	76 930	78 665	387 507	177 581	14 348	0	191 929
2018 [^]	186 182	69 262	63 134	318 578	153 005	11 476	0	164 481

Notes:

[^] From January to October.

* Under the Registration of Persons Regulations, children under the age of 11 are not required to register for an identity card unless the children are Hong Kong permanent residents who need to apply for HKPICs in connection with their applications for Hong Kong Special Administrative Region passports.

ImmD has not maintained other breakdown figures mentioned in the question.

- (2) The numbers of HKPICs which ImmD issued to persons aged 18 or above, persons aged 11 to 17, and persons aged under 11; and the numbers of HKPICs ImmD issued for replacement due to loss, destruction, damage or defacement of cards or changes of registered particulars on the cards in the past 10 years are tabulated below:

- (1) Including identity cards issued due to loss, destruction, damage or defacement, registration of identity cards for persons who have attained the age of 11 and 18, and replacement of identity cards due to changes of registered particulars, etc.

<i>Year</i>	<i>HKPICs</i>				
	<i>Persons aged 18 or above[#]</i>	<i>Persons aged 11 to 17[#]</i>	<i>Persons aged under 11^{*#}</i>	<i>Due to loss, destruction, damage or defacement or changes of registered particulars</i>	<i>Sub-total</i>
2008	151 068	74 963	51 842	133 674	411 547
2009	128 091	67 244	61 512	127 943	384 790
2010	120 956	62 175	69 038	141 779	393 948
2011	120 954	63 333	72 401	131 780	388 468
2012	130 276	58 741	79 990	150 360	419 367
2013	106 714	56 131	74 957	166 498	404 300
2014	99 015	54 920	74 356	148 970	377 261
2015	91 165	54 568	83 118	162 139	390 990
2016	82 496	59 499	80 671	171 877	394 543
2017	76 742	66 187	75 145	169 433	387 507
2018 [^]	60 157	60 137	59 827	138 457	318 578

Notes:

[^] From January to October.

^{*} Under the Registration of Persons Regulations, children under the age of 11 are not required to register for an identity card unless the children are Hong Kong permanent residents who need to apply for HKPICs in connection with their applications for Hong Kong Special Administrative Region passports.

[#] Excluding HKPICs issued due to loss, destruction, damage or defacement or changes of registered particulars.

ImmD has not maintained other breakdown figures mentioned in the question.

External transport services for Tuen Mun and Tsuen Wan

10. **MR STEVEN HO** (in Chinese): *President, it has been reported that with the intake of more than 20 housing estates in Yuen Long and Tuen Mun in the past five years, the population of the two districts has increased by 67 000 in the past decade. Some residents of Tuen Mun and Tsuen Wan who travel daily to Hong Kong Island for work have relayed that the traffic congestion along Tuen*

Mun Road and the crowdedness in train compartments of the West Rail Line during peak hours every day are aggravating, making it both time consuming and very tiring for them to commute to and from work. They hope that the Government will introduce measures expeditiously to improve the external transport services for those districts. In this connection, will the Government inform this Council:

- (1) whether it has surveyed the respective average times taken by members of the public to commute, by various means of transport, (i) between Tuen Mun and Central and (ii) between Tsuen Wan and Central, during peak and non-peak hours in each of the past five years; if so, of the details;*
- (2) whether it has surveyed the (i) average daily vehicular traffic flow of Tuen Mun Road and (ii) average daily patronage of the West Rail Line in each of the past five years; if so, of the details; whether it has projected the relevant figures for each of the coming five years; if so, of the details;*
- (3) whether it will re-commission the ferry route between Central and Tsuen Wan as well as that between Central and Tuen Mun to provide service full-day or during peak hours; if so, of the details; if not, the reasons for that; and*
- (4) of the specific plans and measures, implemented now and in future, to alleviate the hardship suffered by Tuen Mun and Tsuen Wan residents in commuting to and from work?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, residents of Yuen Long, Tuen Mun and Tsuen Wan, which are located in New Territories West and Kowloon West, are served by various kinds of convenient public transport modes connecting to the city. They may commute by means of railway lines, including Tsuen Wan Line, Tung Chung Line and West Rail Line; and depending on availability of services in their localities, residents in Tuen Mun may take light rail and transfer to the West Rail Line. Franchised buses and non-franchised buses are plying between Yuen Long/Tuen Mun/Tsuen Wan and Central via Route 3, Tuen Mun Road, Ting Kau Bridge and Western Harbour Crossing.

My reply to the various parts of Mr Steven HO's question is as follows:

- (1) The Transport Department ("TD") does not have statistics on the average time taken by members of the public to commute, by various means of transport between Tuen Mun/Tsuen Wan and Central during different periods of a day. The actual time for journeys are subject to a host of factors, including modes of commuting, road traffic, rail passenger flow, and the actual places where the journeys start and end. The public may make use of the all-in-one mobile application "HKeMobility" launched by TD to search for routes of different transportation modes, journey times and fares, and obtain real-time traffic news to plan for the most appropriate travel arrangements.

According to information available, a journey during peak hours between Tuen Mun and Central, by means of railway with interchange at Nam Cheong to Tung Chung Line and West Rail Line, generally takes about 50 minutes; and a journey between Tsuen Wan and Central via Tsuen Wan Line takes about 29 minutes. Journey time for non-peak hours is more or less the same. As for the franchised bus services connecting Tuen Mun and Tsuen Wan with Central during peak hours, KMB Route No. 961 (Shan King Terminus to Hong Kong Convention and Exhibition Centre in Wan Chai), for example, takes about 60 minutes to get to Central. City Bus Route No. 903 (Tsuen Wan West Station/Discovery Park—Wan Chai North) takes about 45 minutes to get to Central.

- (2) The annual average daily traffic volume of Tuen Mun Road (between Sham Tseng and Tsing Long Highway) over the past five years and the estimated annual average daily traffic volume between 2018 and 2022 are respectively set out in the Annex. We anticipate that upon full commissioning in 2020, the Tuen Mun—Chek Lap Kok Link will provide another trunk road for linking up New Territories West and Lantau and help divert traffic on Tuen Mun Road. The average daily patronage of the West Rail Line in each of the past five years is also set out in the Annex.

As regards the patronage for the West Rail Line in the coming five years, much will depend on the impact of the commissioning of the Tuen Ma Line under the Shatin to Central Link, which is under construction, on the existing West Rail section. But, in general, the flow of passengers does not stabilize during the early stage of commissioning of new railway lines. Thus, the Government will normally conduct continuous monitoring of the flow of passengers after commissioning and then assess future patronage. If the factor of the opening of the Tuen Ma Line is discounted and on the basis of the data for the past five years, the flow of passengers for the West Rail Line generally rises in the range of 0.6% to 2.3% every year.

- (3) In tandem with the continuous enhancements in traffic network and ancillary transport facilities in recent years, the two ferry routes, "Central—Tsuen Wan (via Tsing Yi)" and "Central—Tuen Mun", ceased operation in July 2000 as a result of inadequate patronage. TD invited tenders for the two ferry routes of "Central—Tsuen Wan (via Tsing Yi)" and "Central—Tuen Mun" in March and April 2000 respectively with a view to selecting suitable ferry operators to provide licensed ferry services for the above routes. Yet, no tender submission was received. In August 2010, at the request of members of the local community, TD conducted a new round of tender exercise for the "Central—Tuen Mun" route. Despite the relaxation of the tender requirements, no tender submission was received. TD considered that the results of the tender exercises reflected the market assessment that the operation of the two services was not financially viable under the operating environment at that time with low patronage. Nevertheless, the Government welcomes application from operators interested in launching new licensed ferry services. However TD has not received any proposal to operate new licensed ferry services between Tsuen Wan/Tuen Mun and Central up till now. In case a proposal is received, TD will assess the service proposal having regard to such factors as passenger demand, financial and operational viability of the above mentioned ferry services.
- (4) At present, the external public transport services for Tsuen Wan and Tuen Mun are generally adequate for meeting passenger needs.

With regard to railway service, the MTR Corporation Limited ("MTRCL") has been committed to enhancing the capacity of its network. The Corporation has increased the train frequency during peak hours where possible, and has adopted various passenger flow management measures to alleviate crowdedness during peak hours. On the West Rail Line, the current train frequencies for the morning and evening peak hours are around 3 and 3.5 minutes respectively. During the busiest period of the morning peak hours, MTRCL additionally provides a regular special train trip departing from Tin Shui Wai Station for Hung Hom. To dovetail with the Shatin to Central Link project, the West Rail Line has deployed eight-car trains on a full scale since late May this year, resulting in an increase of around 14% in the overall capacity of the line. The above measures were observed to effectively alleviate crowdedness at the busiest sections during the said hours. As regards the Tsuen Wan Line, MTRCL is currently proceeding with the replacement of the signalling systems of the line, the completion of which will help increase both the capacity and efficiency of train service. Moreover, during the evening peak hours, MTRCL currently arranges individual direct train trips to Admiralty Station without pick-up at Central Station so as to ease passenger flow at the platform of Admiralty Station, where numerous passengers are waiting to board trains bound for Tsuen Wan. The Corporation also deploys platform assistants to platforms of busy stations on all lines with a view to assisting passengers with orderly and smooth boarding and alighting, thereby enabling on-time departures and efficient operation of trains.

MTRCL will continue to closely monitor the loading of relevant lines. To cope with demand generated by future patronage, the Corporation will review and consider proposals from time to time, including enhancing station management measures to ease passenger flow, increasing train frequency where practicable, and offering fare concessions to alleviate the heavy loading of trains during peak hours.

In respect of franchised bus services, TD and franchised bus companies jointly formulate bus route planning programmes on an annual basis. As for Tsuen Wan and Tuen Mun districts, the

franchised bus companies concerned will adjust their bus services in the light of the needs of passengers in these two districts. TD will continue to keep in view the developments in Tsuen Wan and Tuen Mun, and will consider supportive transport measures and adjustments to public transport services where necessary.

In the long term, the Chief Executive just mentioned the "Lantau Tomorrow Vision" in the Policy Address, in which a part of the proposed railway corridor as referred to in the Lantau Tomorrow Vision is similar to the alignment of Tuen Mun-Tsuen Wan Link (Tuen Mun to Tsing Lung Tau). 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, RMR2030+ Studies will examine the demand for and supply of 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 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 (including 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 the West Rail Line) 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.

Annex

Annual Average Daily Traffic Volume of Tuen Mun Road^{Note}
between 2013 and 2017

<i>Year</i>	<i>Vehicles</i>
2013	92 580
2014	94 530
2015	102 660
2016	123 250
2017	129 590

Note:

Section of Tuen Mun Road between Sham Tseng and Tsing Long Highway, including the slip road connecting Sham Tseng.

Estimated Annual Average Daily Traffic Volume of Tuen Mun Road^{Note}
between 2018 and 2022

<i>Year</i>	<i>Vehicles</i>
2018	136 100
2019	142 900
2020	147 700
2021	124 000
2022	125 700

Note:

Section of Tuen Mun Road between Sham Tseng and Tsing Long Highway, including the slip road connecting Sham Tseng.

Average Daily Patronage of West Rail Line (passenger trips)
between 2013 and 2017

<i>Year</i>	<i>Patronage (passenger trips)</i>
2013	380 400
2014	410 700
2015	418 100
2016	420 400
2017	430 000

Minimum area of floor space for each resident in nursing homes for elderly persons

11. **DR FERNANDO CHEUNG** (in Chinese): *President, at present, there are 45 registered nursing homes for elderly persons ("NHEPs") in Hong Kong. The Private Healthcare Facilities Bill ("the Bill") proposed to bring NHEPs within the ambit of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) and its Regulation. When the Council went into Committee during its scrutiny of the Bill on the 15th of last month, the Government moved an amendment to delete a clause which sought to provide that the minimum area of floor space for each resident ("area/resident") for NHEPs shall be 6.5 square metres. The amendment and the amended Bill were subsequently passed. In this connection, will the Government inform this Council:*

- (1) of the following information in respect of each of the aforesaid 45 NHEPs: (i) the net operational floor area, (ii) the number of places offered and (iii) the area/resident;*
- (2) given that the current legislation has not provided for the minimum area/resident for NHEPs, of the measures put in place by the Government to ensure that the area/resident in NHEPs will not fall below 6.5 square metres;*
- (3) whether it will issue a code of practice to operators of NHEPs on the minimum area/resident and other matters; if so, of the timetable of the relevant work; and*
- (4) of the respective additional numbers of (i) NHEPs and (ii) places for elderly person therein in each of the past 10 years?*

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

- (1) There are at present 45 nursing homes for elderly persons registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165). Among these homes, some are concurrently registered under the Residential Care Homes (Elderly

Persons) Ordinance (Cap. 459). A list of the 45 aforementioned nursing homes for elderly persons, as well as the numbers of beds registered under Cap. 165 in these homes, are at Annex 1.

(2) and (3)

Upon implementation of the provisions on nursing homes under the Private Healthcare Facilities Ordinance, the Government will, in light of the requirements under the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes currently in force, suitably incorporate the relevant regulatory standards pertaining to nursing homes in the existing Code of Practice for Residential Care Homes (Elderly Persons).

(4) The numbers of nursing homes for elderly persons registered under Cap. 165 and the numbers of beds registered under Cap. 165 therein in each of the past 10 years are at Annex 2.

Annex 1

Nursing Homes for Elderly Persons Registered under the Hospitals,
Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)
(as at 1 November 2018)

<i>Name</i>	<i>Number of Beds Registered under Cap. 165</i>
1. Alice Ho Miu Ling Nethersole Nursing Home	238
2. Buddhist Li Chong Yuet Ming Nursing Home for the Elderly	259
3. Haven of Hope Nursing Home	270
4. Haven of Hope Sister Annie Skau Holistic Care Centre	110
5. Hong Kong Sheng Kung Hui Nursing Home	280
6. Jockey Club Home for Hospice	30
7. Po Leung Kuk Wong Chuk Hang Extended Care Home	64

<i>Name</i>	<i>Number of Beds Registered under Cap. 165</i>
8. Pok Oi Hospital Tuen Mun Nursing Home	216
9. The Hong Kong Anti-Cancer Society Jockey Club Cancer Rehabilitation Centre	92
10. Yan Chai Nursing Home	316
11. Altru Nursing Home [*]	124
12. Caritas Evergreen Home [*]	135
13. ELCHK, Grace Court [*]	72
14. ELCHK, Serene Court [*]	135
15. Evergreen (Pratas Street) Nursing Home [*]	90
16. Evergreen (Tsz Ching) Nursing Home cum Day Care Centre [*]	132
17. Evergreen Nursing Home cum Day Care Centre [*]	131
18. Fung Kai Care and Attention Home for the Elderly—C&A Section [*]	45
19. Grace Nursing Home (Tak Tin) [*]	92
20. Grand Residence [*]	90
21. Hong Kong Baptist Mr. & Mrs. Au Shue Hung Rehabilitation and Healthcare Home Limited [*]	112
22. Lok Sin Tong Hoi Wang Road Nursing Home [*]	111
23. MFBM Elderly Home [*]	54
24. Oasis Nursing Home [*]	196
25. Olive Nursing Home cum Day Care Unit for the Elderly [*]	105
26. Po Leung Kuk Comfort Court for the Senior cum Evergreen Day Care Centre for the Elderly [*]	216
27. Po Leung Kuk Eco-Home for the Senior cum Sunny Green Day Care Centre for the Senior [*]	126
28. Po Leung Kuk Fuk Wai Home for the Elderly [*]	104
29. Po Leung Kuk Kwok Law Kwai Chun Home for the Elderly [*]	77
30. Po Leung Kuk Merry Court for the Senior [*]	133
31. Po Leung Kuk Sai Ying Pun Home for the Elderly cum Day Care Centre for the Elderly [*]	75

<i>Name</i>	<i>Number of Beds Registered under Cap. 165</i>
32. Po Leung Kuk Tai Kok Tsui Home for the Elderly cum Cherish Day Care Centre for the Elderly*	82
33. Po Leung Kuk Tin Yan Home for the Elderly cum Green Joy Day Care Centre for the Elderly*	96
34. Po Leung Kuk Tung Chung Home for the Elderly*	105
35. Po Leung Kuk Wan Chai Home for the Elderly cum Day Care Centre for the Elderly*	83
36. Scenic Resort (Nursing Home)*	84
37. St. James' Settlement True Light Home for the Aged*	120
38. The Methodist Church, Hong Kong Yang Memorial Methodist Social Service Sham Shui Po Nursing Home cum Day Care Service*	90
39. Tung Wah Group of Hospitals Chu Sau Cheung Nursing Home*	135
40. Tung Wah Group of Hospitals Ho Yuk Ching Willow Lodge*	90
41. Tung Wah Group of Hospitals Lo Wong Yuk Man Nursing Home cum Day Care Centre*	90
42. Tung Wah Group of Hospitals Women's Welfare Club Western District, Hong Kong Residential Care Home for the Elderly*	119
43. Yan Chai Hospital Lee Wai Siu Kee Elderly Home*	101
44. Yuen Yuen Nursing Home cum Day Care Centre for the Elderly (Lei Muk Shue Estate)*	112
45. Yuen Yuen Nursing Home cum Day Care Centre for the Elderly (Shun Lee Estate)*	120

Note:

* Nursing homes for elderly persons concurrently registered under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459).

The Department of Health does not have information on the net operational floor area of the aforementioned homes.

Annex 2

Numbers of Nursing Homes for Elderly Persons Registered under
the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance
(Cap. 165) and Relevant Bed Numbers

<i>Year</i>	<i>Number of Nursing Homes for Elderly Persons Registered under Cap. 165</i>	<i>Number of Relevant Beds Registered under Cap. 165</i>
2009	23	2 967
2010	26	3 193
2011	30	3 616
2012	33	4 032
2013	34	4 322
2014	37	4 680
2015	40	5 191
2016	44	5 549
2017	45	5 519
2018	45	5 657

Note:

Except for 2018, the aforementioned numbers of nursing homes for elderly persons and beds are as at 31 December of the corresponding years. For 2018, the numbers are as at 1 November.

Proposed legislation to regulate person-to-person telemarketing calls

12. **MR SHIU KA-FAI** (in Chinese): *President, the Government proposes to establish a statutory Do-not-call Register to enhance the regulation of person-to-person telemarketing calls, and plans to introduce the relevant bill into this Council within the current Legislative Council term. In this connection, will the Government inform this Council:*

- (1) *whether it has examined if the enactment of the proposed legislation can eradicate (i) telemarketing calls pretended to have come from legitimate financial institutions, and (ii) overseas telemarketing calls; if it has examined and the outcome is in the negative, whether it will review if it is still necessary to enact the legislation;*

- (2) *whether the proposed legislation will require any person or company to obtain the prior consent of each of the persons with whom that person/company has business connections before calling such persons to carry out marketing activities; if so, whether it has assessed if this requirement is practicable;*
- (3) *whether it will stipulate in the proposed legislation that the prior consent of the targets of marketing activities may be obtained through instant messaging applications;*
- (4) *regarding the practice that a person makes calls to new acquaintances, using the contact information on the business cards obtained on social occasions, to introduce products or services to them, whether the Government has plans to bring this practice within the ambit of the proposed legislation;*
- (5) *given that some trades and industries need to contact their clients from time to time (e.g. reminding their clients to renew their service contracts which will expire soon), whether it has assessed if this kind of normal business activities will be impeded after the enactment of the proposed legislation; and*
- (6) *whether it has assessed the changes in Hong Kong's business environment and the daily operation of small and medium enterprises upon the enactment of the proposed legislation; if so, of the outcome; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, in recent years, person-to-person telemarketing calls ("P2P calls") have caused nuisance to many members of the public. There are growing demands on strengthening the regulation of such calls. Based on the views collected in a public consultation conducted by the Government in mid-2017 and further to the discussion at the meeting of the Legislative Council Panel on Information Technology and Broadcasting ("the Panel") on 9 April 2018, we propose to set up a statutory Do-not-call Register to allow phone users who do not wish to receive P2P calls to indicate so by including their phone numbers in

the Register. We are working on the content of the framework of the legislative amendments and will consult the relevant the Legislative Council Panel on the legislative proposals.

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

- (1) The aim of the proposed statutory Do-not-call Register is to allow phone users who do not wish to receive P2P calls to indicate so by including their phone numbers in the Register.

Telemarketing calls involving unfair trade practices are regulated by the Trade Descriptions Ordinance (Cap. 362) whereas those involving fraud may violate offences under the Theft Ordinance (Cap. 210). The Unsolicited Electronic Messages Ordinance (Cap. 593) also contains provisions dealing with fraud and other illicit activities related to the transmission of commercial electronic messages. We will make reference to the relevant legislation when drawing up the framework of legislative amendments to ensure that the future regulatory mechanism will be compatible with other legislation.

Regarding P2P calls from places outside Hong Kong, as we indicated at the meeting of the Panel in April this year, there may be more difficulties in investigation, evidence gathering and prosecution for cases involving places outside Hong Kong. We will further examine the enforcement details during the stage of formulating the framework of legislative amendments.

- (2) to (4)

We are mapping out the details of the framework of legislative amendments, including operational details of the proposed Do-not-call Register. Take the existing Unsolicited Electronic Messages Ordinance as an example, regarding the regulation of unsolicited electronic messages, "consent" can be express consent or consent that can reasonably be inferred from the conduct concerned. Reference will be made to the practice of regulating commercial electronic messages under the Unsolicited Electronic Messages

Ordinance on, for instance, what constitutes consent, how to withdraw consent, etc., so as to ensure that the proposed legislative provisions can strike a balance between public expectations and the practical operational needs of the trades and industries.

- (5) Taking the regulation of commercial electronic messages under the existing Unsolicited Electronic Messages Ordinance as a reference, if the concerned person-to-person telemarketing communications do not involve "commercial" marketing purposes (i.e. carrying out matters specified in the Ordinance in the course of or in the furtherance of any business, including offer to supply, advertise or promote goods, services, facilities, land or business opportunity, etc.; and to advertise or promote a supplier of goods, services, facilities, land or a provider of a business opportunity, etc.), or when the persons or organizations making the concerned P2P calls have obtained prior consent of the clients, there should not be violation of the proposed regulatory framework of P2P calls. We therefore consider that our proposal will not affect non-marketing business activities.

Upon passage of the bill, we will formulate appropriate guidelines and conduct publicity and education activities to ensure that the trades and industries as well as the public understand the legal requirements and could avoid violating the law.

- (6) We understand that setting up a Do-not-call Register may increase the operation cost of the trades and industries. However, the call from the public for early introduction of the legislation has been clear, and they consider that the self-regulatory mechanism of P2P is not effective. As such, we will be, as mentioned above, cautious in handling the various definitions and details when we draft the bill and will introduce the bill into the Legislative Council for scrutiny and discussion. We will endeavour to ensure that a balance can be struck between satisfying public expectations and reducing the compliance cost of the trades and industries.

Medical incidents in public hospitals

13. **DR CHIANG LAI-WAN** (in Chinese): *President, last month, the Hospital Authority ("HA") announced three medical incidents, in which healthcare workers had failed to spot at an opportune time the abnormal lung shadows appearing on the X-ray films of three patients (from the Prince of Wales Hospital, Princess Margaret Hospital and Queen Mary Hospital respectively) who were suffering/suspected of suffering from lung cancer, resulting in delays in the diagnosis and treatment of the patients for periods as long as 20 to 33 months. Under the existing mechanism, the patients concerned and their family members may lodge complaints and claims with HA in respect of medical incidents. In the past three years, HA received a total of 342 claims arising from medical incidents. In this connection, will the Government inform this Council if it knows:*

- (1) the respective current stages of lung cancer from which the patients in the aforesaid incidents are suffering, and the follow-up treatment they are receiving;*
- (2) as HA has established a Root Cause Analysis Panel to investigate the aforesaid incidents, the scope and progress of the investigation;*
- (3) the number of patients who underwent chest X-ray examinations, and the number of such patients diagnosed with lung cancer, at each public hospital in each of the past three years;*
- (4) regarding those patients who underwent chest X-ray examinations at the aforesaid three hospitals in the past three years but abnormalities were not spotted in their X-ray films at that time, whether HA will arrange experienced radiologists to read afresh the X-ray films concerned so as to expeditiously diagnose and treat patients of oversight cases; if HA will, of the details; if not, the reasons for that;*
- (5) the number of claims arising from medical incidents reported since January 2015 under the medical incidents insurance scheme of HA, broken down by public hospital, as well as the number of such claims referred to mediation and the amount of compensation involved;*

- (6) *whether HA will review the manpower and workload of the relevant departments of public hospitals and ensure that all X-ray films are read by experienced radiologists; if HA will, of the details; if not, the reasons for that; and*
- (7) *whether HA has measures in place to avoid the recurrence of similar types of incidents so as to protect patients' rights and interests; if HA does, of the details; 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 Dr CHIANG Lai-wan is as follows:

- (1) Prince of Wales Hospital, Princess Margaret Hospital and Queen Mary Hospital have sought to arrange follow-up examinations for the patients concerned, and will formulate and provide the most suitable treatment plans for them. To protect patients' privacy, the Hospital Authority ("HA") will not disclose further information of the patients.
- (2) HA has established a Root Cause Analysis Panel to comprehensively examine the three cases as well as the workflow and services of each of the hospitals, with a view to exploring how to better support health care staff and ensuring that they can identify abnormalities in chest X-ray examinations in a more timely manner. The Panel is chaired by the Chief of Service, Department of Radiology and Nuclear Medicine, Tuen Mun Hospital and Pok Oi Hospital, and includes representatives from HA's Central Co-ordinating Committees of various specialties. The Panel is expected to complete a report with recommendations on improvement measures in eight weeks.
- (3) The numbers of attendances for chest X-ray examinations in HA in the past three years are set out in the table below:

<i>Year</i>		<i>2015-2016</i>	<i>2016-2017</i>	<i>2017-2018</i>
Number of attendances		About 1.6 million	About 1.7 million	About 1.8 million

HA does not keep statistical information on the number of patients diagnosed with lung cancer in respect of the above attendances.

- (4) The respective clinical departments of the hospitals concerned will consider the clinical needs and treatment plans of individual patients to decide whether it is necessary to conduct further examinations and arrange radiologists to read their X-ray films.
- (5) The numbers of medical incident claims reported by each HA cluster from January 2015 to the end of October 2018 are set out in the table below:

<i>Hospital Cluster</i>	<i>Year in which claims⁽¹⁾ were reported</i>			
	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
Hong Kong East	10	11	8	4
Hong Kong West	14	6	8	11
Kowloon Central	15	16	20	14
Kowloon East	11	14	14	11
Kowloon West	42	41	21	20
New Territories East	18	20	12	9
New Territories West	18	17	28	12
Total:	128	125	111	81

Compensation and mediation in respect of the above claims are as follows:

	<i>Year in which claims⁽¹⁾ were reported</i>			
	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
Number of claims ⁽²⁾	128	125	111	81
Number of claims settled out of court ⁽³⁾	27	17	16	5
Number of claims referred to mediation	5	0	0	0
(a) Number of claims settled during mediation ⁽⁴⁾	3	0	0	0
(b) Number of claims settled after mediation ⁽⁴⁾	0	0	0	0

	<i>Year in which claims⁽¹⁾ were reported</i>			
	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
Amount of compensation paid ⁽⁵⁾ in respect of claims settled out of court ⁽³⁾ (\$ million)	31.09	9.68	7.76	1.89

Notes:

- (1) Claims reported under the medical incidents insurance scheme of HA.
- (2) The number of claims reported in a particular year includes the number of claims settled through mediation in that year. For example, for the claims reported in 2015, as at the end of October 2018, a total of 128 claims were received, of which 27 were settled out of court (including three cases settled during mediation).
- (3) Including claims settled out of court after legal proceedings had commenced.
- (4) Included in the number of claims settled out of court.
- (5) Of the total amount of compensation in this row, \$4.38 million was paid for claims settled during mediation. As compensation agreements must be kept confidential the number of claims settled during mediation is relatively small, HA is unable to provide a breakdown of the compensation paid according to the agreements reached by mediation.
- (6) HA currently provides clinical services through management teams of various specialties. After an X-ray examination of a patient, the image(s) will be uploaded to the Clinical Management System for doctors to read and make diagnosis. If necessary and depending on the situation, doctors of various specialties will consult radiologists to prepare a report so as to arrange suitable treatment for the patient. Moreover, HA conducts regular reviews of the manpower and workload of health care staff to ensure that clinical and service needs are met.
- (7) HA's Head Office will disclose to the public salient information of incidents through the media in a timely manner, and will enhance the awareness of its staff in this regard. HA will implement improvement measures, to be explored and devised by the Panel after root cause analysis, so as to avoid the recurrence of similar types of incidents and ensure patients' safety.

Disposal of yard waste

14. **MR JEREMY TAM** (in Chinese): *President, on 21 September this year, the Environmental Protection Department set up a temporary wood waste collection area ("the collection area") in the Kai Tak Development Area for collecting and temporary storing the huge quantity of tree waste generated due to the onslaught of super typhoon Mangkhut in Hong Kong. The collection area stopped receiving tree waste on the 10th of last month. Besides, it is learnt that quite a large quantity of yard waste is generated in Hong Kong each year. In this connection, will the Government inform this Council:*

- (1) of the quantity in tonnes of tree waste collected in the collection area during the period of its operation; a breakdown of that quantity of waste by disposal method, as at the 30th of last month;*
- (2) of the respective quantities of yard waste (i) collected and (ii) discarded at landfills, by the various government departments in each year from January 2014 to the 30th of last month;*
- (3) whether it has studied those yard waste disposal methods which are, as compared with disposal at landfills, more environmentally friendly feasible and effective; if so, of the details; if not, the reasons for that; and*
- (4) of the latest implementation progress of the various measures to reduce yard waste at source, which were put forward in A Food Waste and Yard Waste Plan for Hong Kong 2014-2022, and the effectiveness of such measures?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (1) Super typhoon Mangkhut caused extensive and severe damage to Hong Kong, resulting in a huge amount of broken or fallen trees and hence a surge in the volume of tree waste. The Government had to respond swiftly with a view to clearing up the tree waste as quickly as possible. To facilitate and expedite the clearance work conducted across the territory, the Government set up a temporary collection area ("the collection area") in the Kai Tak Development Area for temporary stockpiling of fallen trees and branches collected

and delivered by the public. From 21 September to 10 November 2018, the collection area received a total of around 8 200 truckloads of tree waste. The Government was well aware beforehand that such waste would require prompt treatment or else might cause environmental hygiene nuisance including mosquito breeding. The Environmental Protection Department ("EPD") thus started to collaborate with the departments concerned from 28 September 2018 in delivering tree waste at the collection area to appropriate facilities for treatment or disposal. The delivery exercise was completed on 27 November 2018, with about 20 480 tonnes of tree waste delivered to the West New Territories Landfill for disposal.

To encourage waste reduction and reuse as well as recycling of resources, the collection area was open to the public between 22 September and 31 October 2018 for free collection of logs from the tree waste. A total of 435 logs were collected by 85 groups or members of the public. EPD also selected some 450 logs suitable for reuse from the tree waste in the collection area and delivered them to the Community Green Stations ("CGSs") in the Eastern District, Kwun Tong, Sham Shui Po, Sha Tin, Yuen Long, Tuen Mun and Kwai Tsing, with the aim of encouraging interested parties or members of the public to reuse or recycle the logs. Members of the public may visit these CGSs by 31 December 2018 to obtain the logs for free, and may call CGSs to enquire about necessary arrangements and make appointments in advance. As of 27 November 2018, a total of 225 logs were collected from these CGSs by interested parties/individuals.

In addition, to speed up the handling of the large amount of tree waste generated during the attack of super typhoon Mangkhut and facilitate onward recycling, EPD has procured an industrial grade wood shredder, which is placed on the Government land near the T-PARK in Tuen Mun. Some 2 300 tonnes of the tree waste temporarily stored at the collection area have been delivered to the above land area, where the contractor engaged is conducting installation and testing of the machinery concerned. Separation of other types of waste from the mixed tree waste is also underway to prepare for shredding and recycling of the tree waste.

- (2) The quantities of yard waste collected and disposed of by various government departments in the past few years are detailed at the Annex.
- (3) EPD has been exploring different proposals to utilize yard waste resource effectively as far as practicable, with various feasible treatment trials in progress. As mentioned in the response to part (1), EPD has procured an industrial grade wood shredder. Tree waste is just being shredded, and trials are being started to turn the shredded wood into wooden chips for various uses, such as solid fuel for appropriate facilities, bulking agent in the composting process at the Organic Resources Recovery Centre, mulch for planting purposes, and soil cover at landfills, etc. Moreover, the shredded wood is available to interested parties or members of the public free of charge for suitable recycling uses. In the long run, EPD will introduce more diverse proposals for treating yard waste. Subject to the outcome of the above trials, EPD will consider incorporating these proposals in our long-term strategies on yard waste management.
- (4) In February 2014, the Environment Bureau promulgated A Food Waste and Yard Waste Plan for Hong Kong 2014-2022 ("the Plan"), which sets out the Government's strategies on dealing with organic waste. The strategies cover collecting data, promoting waste reduction at source, encouraging waste separation and collection as well as exploring the most suitable means to treat the unavoidable waste. An interdepartmental working group led by the Environment Bureau has been set up to coordinate the work of various government departments in implementing the Plan, including enhancing data collection and promoting best practices.

Various government bureaux and departments have rendered support to the Plan. For example, the Greening, Landscape and Tree Management Section of the Development Bureau published the Guidelines on Yard Waste Reduction and Treatment in July 2014 for general reference by government departments regarding measures on yard waste reduction at various stages from landscape design to maintenance. The Agriculture, Fisheries and Conservation Department treats yard waste on site as far as possible, including

stockpiling on site to provide niches for wildlife and release nutrients to the nature as the waste decomposes. Suitable tree logs are reused for making furniture or decorative items for the recreational facilities in country parks, such as animated features, waymarks and benches, etc. Yard waste from the Leisure and Cultural Services Department ("LCSD") is delivered to the Animal Waste Composting Plant in Ngau Tam Mei for composting. Since 2014, LCSD has started to produce compost on-site from yard waste using garden composters at suitable venues. LCSD is also replacing the planting of annuals by shrubs or perennials with colourful foliage, with a view to reducing yard waste at source. In the longer term, LCSD will specify in the Schedule of Accommodation of suitable new venues the requirement for installation of on-site composting facilities. The Civil Engineering and Development Department's greening works relating to infrastructural development, geotechnical works and greening master plan will focus on planting of perennials suitable for local environment, with the right vegetation in the right place and choose native perennials to encourage local ecological growth and reduce plant replacement in order to reduce yard waste. The Government will continue to implement the Plan in full to reduce yard waste on multiple fronts, including reducing the use of decorative plants during festive events, replanting, promoting better landscape design, etc.

Annex

Quantities of Yard Waste Collected and Disposed of by
Various Government Departments

<i>(i) Weight of Yard Waste Collected (tonnes)</i>					
<i>Department/Year</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018⁽¹⁾</i>
Agriculture, Fisheries and Conservation Department ⁽²⁾	80	80	72	25	4
Architectural Services Department ⁽²⁾	#	#	1 757	3 043	3 143
Civil Engineering and Development Department ⁽³⁾	#	#	2 100	3 250	3 090
Drainage Services Department ⁽²⁾	460	480	450	512	588

<i>(i) Weight of Yard Waste Collected (tonnes)</i>					
<i>Department/Year</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018⁽¹⁾</i>
Highways Department ⁽³⁾	2 370	4 770	2 810	3 340	2 530
Leisure and Cultural Services Department ⁽²⁾	3 600	3 600	3 600	3 600	10 800
Water Supplies Department ⁽²⁾	10	3	4	1 174	1 603
Lands Department ⁽⁴⁾	#	#	#	#	2 300
Housing Department ⁽⁴⁾	#	#	#	#	715
TOTAL	6 520	8 933	10 793	14 944	24 773

<i>(ii) Weight of Yard Waste Disposed of at Landfills (tonnes)</i>					
<i>Department/Year</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018⁽¹⁾</i>
Agriculture, Fisheries and Conservation Department ⁽²⁾	0	0	40	0	0
Architectural Services Department ⁽²⁾	#	#	1 689	2 983	3 013
Civil Engineering and Development Department ⁽³⁾	#	#	2 100	3 200	3 030
Drainage Services Department ⁽²⁾	451	471	440	488	575
Highways Department ⁽³⁾	2 370	4 710	2 760	3 270	2 380
Leisure and Cultural Services Department ⁽²⁾	3 439	3 453	3 440	3 440	10 657
Water Supplies Department ⁽²⁾	4	1	2	1 125	1 576
Lands Department ⁽⁴⁾	#	#	#	#	2 300
Housing Department ⁽⁴⁾	#	#	#	#	598
TOTAL	6 264	8 635	10 471	14 506	24 129

Notes:

Relevant data not recorded.

- (1) Tree waste delivered to the collection area in the Kai Tak Development Area not covered by the statistics.
- (2) Statistics for 2018 only available up to 31 October 2018. Data for November 2018 still being compiled and so the statistics not yet available.
- (3) Statistics for 2018 only available up to 30 September 2018. Data for October and November 2018 still being compiled and so the statistics not yet available.
- (4) Only partial statistics available for the department concerned.

Reducing homework and promoting happy learning

15. **MR VINCENT CHENG** (in Chinese): *President, some parents have relayed that as they need to supervise their children's completion of a large quantity of homework every day, their relationship with the children is very tense and the children have lost interest in learning. It is learnt that the phenomenon of excessive homework has spread from primary and secondary schools to kindergartens. On reducing homework and promoting happy learning, will the Government inform this Council:*

- (1) *whether it has compiled statistics on the respective average time spent daily on homework by primary, secondary and kindergarten students in each of the past three years; if so, set out the relevant figures in a table by type of kindergartens (i.e. half-day, whole-day and long whole-day) and by type of primary and secondary schools (i.e. government, aided/caput, Direct Subsidy Scheme and private), and whether the homework load has shown an upward trend; if it has not compiled such statistics, whether it will do so expeditiously; if it will, when it will do so; if not, of the reasons for that;*
- (2) *whether it has compiled statistics on the average number of tutorial sessions per week in primary schools at present; if so, set out the relevant figures by type of schools in a table;*
- (3) *whether it conducted any review in the past three years on the effectiveness of the tutorial sessions of primary schools in alleviating the homework burden of students; if so, of the findings; whether it will specify in the relevant guidelines a minimum number of tutorial sessions per week; if so, of the details; if not, the reasons for that;*
- (4) *as the Government's Task Force on Prevention of Youth Suicides has recommended in the report it submitted earlier that the quality of homework should be improved, and indicated that the Education Bureau will provide advice to and support for schools through school inspections and visits so as to improve the quality of homework for students and make doing homework more meaningful, of the details of this recommendation, whether the Government will consult the stakeholders on this recommendation, and the implementation timetable;*

- (5) *whether it will conduct an in-depth study on reducing homework load for secondary, primary and kindergarten students as well as promoting happy learning, so as to formulate specific and long-term policy objectives; and*
- (6) *given that for many years, the authorities of Finland have been advocating happy learning and happy teaching, and increased the rest time in schools for both students and teachers (a 15-minute break for every 45 minutes' class time), while in general a break of just 10 to 15 minutes for every class time of about two hours in Hong Kong, whether the Government will request schools to schedule more rest time when drawing up class timetables, in the hope that students will be more concentrated in class after taking breaks?*

SECRETARY FOR EDUCATION (in Chinese): President, the Education Bureau has all along emphasized the importance of whole-person development, joyful learning and unleashing potential. Schools should cater for students' learning diversity, adopt diversified learning and teaching materials and strategies, design interesting learning activities, meaningful and effective assessment tasks and homework based on students' abilities, learning styles and interests etc., so as to strengthen students' learning motivation, enrich their learning experiences, facilitate their learning to learn and experience the meaning and enjoyment of learning. Schools should also plan the lesson time flexibly to create a pleasant and harmonious environment for student learning and their balanced physical and mental health development.

Our reply to the questions raised by Mr Vincent CHENG is as follows:

(1) and (5)

The Education Bureau's stance is clearly set out in the Education Bureau Circular No 18/2015 on "Guidelines on Homework and Tests in Schools—No Drilling, Effective Learning". The purposes of homework are to enable students to consolidate their learning in class, stimulate thinking, enhance their understanding of lesson topics and construct knowledge. The amount of homework given should definitely not be excessive, nor should it be meaningless with mechanical copying or drilling. Effective and meaningful homework can inspire students' interest in learning, and encourage

active self-motivated exploration of daily life problems and application of knowledge. It can also extend learning and nurture creative thinking. Therefore, it is the quality rather than the quantity of homework that matters. Since both teachers' teaching strategies and students' learning abilities vary, setting any limit on the amount of homework for schools at the policy level not only fails to meet the needs of schools, but may also hinder students' learning and undermine teachers' work in catering for the needs of the less able students and high achievers. We should let teachers exercise their professionalism in assigning and marking homework in light of the curriculum requirements and student abilities.

The Education Bureau has commissioned an independent academic institution to conduct questionnaire surveys on primary three students' learning attitude and motivation, and some of the questions were about homework. The findings indicate that even with similar homework arrangements for students of the same grade in the same school, the time spent on homework and revision by students still vary significantly. This indicates that the amount of homework is neither the main nor the unique factor affecting the time spent by students on homework. The factors behind whether a student would feel that there is pressure from homework are even more complicated. Therefore, we should not simply quantify the number of hours spent daily by students on homework to measure the amount of homework. There are diversified modes of homework. Apart from paper-and-pencil exercises, there may also be reading, information collection, pre-lesson preparation, designing models or project learning, etc. It is thus not practicable to measure statistically the amount of homework or the time spent on doing homework. In fact, such statistics cannot reflect the quality of homework.

Homework helps students review what has been learnt and acquire new knowledge. The education sector generally agrees that homework has positive educational functions in the learning and teaching process and should not simply be equated with study pressure. The sector considers that a suitable school-based homework policy, which can cater for the diverse abilities and characteristics of students, has a positive impact on student learning. We are of the view that it is not appropriate to set any rigid

indicators for schools on an across-the-board basis. Instead, we should encourage schools and teachers to make professional decisions based on their school context and student learning needs. They can design different modes of quality homework for their students in their day-to-day classroom learning and teaching as well as during long holidays. As for individual students with learning difficulties, their schools/teachers should communicate with the parents, adapt homework tasks or make flexible arrangements. Recently before the long holidays, the Government also appealed to schools to provide more interesting holiday homework for their students.

(2) and (3)

We encourage schools to allocate lesson time flexibly to provide students with suitable homework support in various ways with regard to their school context. Providing tutorial sessions is one of the many ways to support student learning. In primary schools, the main purpose of tutorial sessions is for teachers to provide guidance to students with learning needs, help them tackle learning difficulties, and let them complete part of their homework at school. Apart from providing individual tutorial sessions, teachers may also reserve some time in each lesson to guide students to tackle the more difficult parts of their homework and let them ask questions in class to solve their problems, thereby raising their confidence in learning. Some schools adopt a whole-school approach to support student learning, provide assistance to individual students with learning needs, formulate appropriate homework adjustment strategies and communicate with parents continuously. It is thus not appropriate to simply measure the time allocated for tutorial sessions or to set guidelines to specify the number of tutorial sessions.

- (4) The Education Bureau has all along encouraged schools to design homework that stimulates students' thinking and helps them consolidate and apply what they have learnt. Schools should avoid homework in the form of mechanical drilling. We will continue to maintain communication with primary and secondary school councils, regional school heads associations and major school sponsoring bodies to remind them to give due attention to the quality

and quantity of homework to be given, and further promote interesting and meaningful homework. We will also strengthen school-based professional support and organize related professional development programmes for newly-appointed principals, deputy principals, curriculum leaders, middle managers, panel chairs and teachers. To enhance teachers' professional capacity, we will reiterate and elaborate on the principles and policy of setting meaningful homework in these professional development programmes. Good practices will also be disseminated for schools' reference. We gain understanding of schools' implementation of their school-based homework policy through prevailing means such as regular inspections, school visits and daily contacts. If necessary, we will provide schools with feedback to help them further refine their school-based homework policy and timetable. We will also make recommendations on improving the quality of homework so as to facilitate student learning as well as their balanced physical and mental health development.

- (6) The education systems, curriculum frameworks as well as teaching and assessment policies in different countries/regions are developed based on factors such as their unique social culture, background and economy. They may be taken as reference but should not be adopted directly given the different circumstances.

When updating the curriculum documents and related circulars, the Education Bureau has made reference to information of different countries/regions, as well as related local and overseas publications and study reports. Views of various stakeholders have also been sought extensively through different channels, including focus group interviews, questionnaire surveys, etc. with a view to developing guidelines that can cater for the developmental needs of students and align with the direction of curriculum development as well as the actual situation of Hong Kong. Regarding the scheduling of lesson time, we understand that schools generally arrange recess time for students every two to three lessons and schedule rest time in between lessons flexibly in light of students' needs. Different interactive learning activities such as group discussions, sharing and presentation sessions are arranged in class. Many schools have made use of double lessons to provide sufficient time for students to

engage in life-wide learning activities. Given that schools' context and the learning needs of their students may vary, schools will arrange lesson time flexibly and professionally taking into account their actual situation and the learning needs of their students. Such flexible arrangements may include longer recess time and a combination of long and short lessons to enable the design of diversified learning activities to meet different learning objectives. We will continue to remind schools of the need to improve the school timetable and their school-based homework policy through different means, so as to give students more time to rest, develop personal interests and participate in various aesthetic and physical activities.

Lastly, we would like to reiterate that whether learning is enjoyable or not may be affected by the amount of homework but more importantly, it is the quality of the learning process that counts. An interesting and inspiring learning process, a sense of achievement gained from completing a challenging assignment and the satisfaction from overcoming learning difficulties or finishing a piece of creative work are all possible sources of joy and happiness. We do not agree to simply equate homework with study pressure and thereby negating the positive educational functions of quality homework. This may mislead students. In the long run, this will also affect the overall educational outcome.

Time taken for certain judicial processes

16. **MR JAMES TO** (in Chinese): *President, a well-known legal maxim says that "justice delayed is justice denied". Regarding the time taken for certain judicial processes, will the Government inform this Council:*

- (1) *in respect of the civil cases disposed of by the High Court in each of the past three years, of (i) the number of such cases, (ii) the median time interval between the dates on which the rulings were made and the dates on which the judgments were delivered ("time for preparing judgments"), and (iii) a breakdown, by the time for preparing judgments (i.e. more than six months, more than 12 months, more than 18 months, more than two years, and more than*

three years), of the number of cases and their percentages in the total;

- (2) in respect of the applications for leave to lodge civil appeals disposed of by the Court of Appeal of the High Court in each of the past three years, of (i) the number of such cases, (ii) the median time interval between the dates on which the applications were filed and the dates on which the results were announced ("time for processing applications for leave to appeal"), and (iii) a breakdown, by the time for processing applications for leave to appeal (i.e. more than six months, more than 12 months, more than 18 months, more than two years, and more than three years), of the number of cases and their percentages in the total;*
- (3) in respect of the cases on which the Family Court delivered judgments in each of the past three years, of (i) the number of such cases, (ii) the median time for preparing judgments, and (iii) a breakdown, by the time for preparing judgments (i.e. more than six months, more than 12 months, more than 18 months, more than two years, and more than three years), of the number of cases and their percentages in the total; and*
- (4) whether it will review if the time taken for the judicial processes mentioned in the aforesaid three items is satisfactory, and explore the measures (e.g. allocating additional resources to the Judiciary and reducing judges' work other than handling cases) to allow more time for judges to concentrate on the preparation of judgments and handling of the aforesaid processes, so that injustice to litigants can be avoided?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, the Government has consulted the Judiciary on the questions raised by Mr James TO. According to the information provided by the Judiciary, the Government's responses are as follows:

- (1) In respect of the civil cases disposed of by the High Court in the past three years, the number of cases are listed below:

<i>Level of Court</i>	<i>Type of Cases</i>	<i>Number of Cases Disposed of</i>		
		<i>2015</i>	<i>2016</i>	<i>2017</i>
The Court of Appeal of the High Court	Civil Appeals	277	273	224
The Court of First Instance of the High Court	Civil Jurisdiction	16 870	16 413	14 832
	Tribunal and Miscellaneous Appeals	105	84	83

As regards the time taken from conclusion of hearing to delivery of judgments in respect of civil cases of the Court of Appeal of the High Court and the Court of First Instance of the High Court, the Judiciary only maintains statistics on the average time taken. These average figures are live data which may vary at different report generation date and time. For cases which hearings were concluded between 2015 and 2017, the latest available figures⁽¹⁾ with the position as at 28 February 2018 are as follows:

<i>Level of Court</i>	<i>Type of Cases</i>	<i>Average time taken for cases with hearings concluded in the year (days)*</i>		
		<i>2015</i>	<i>2016</i>	<i>2017</i>
The Court of Appeal of the High Court	Civil Appeals	49	27	26
The Court of First Instance of the High Court	Civil Trials/ Substantive Hearings	99	76	48
	Tribunal and Miscellaneous Appeals	51	36	60

Note:

* Since the figures are live data, the figures for a year would normally become stable by end of the subsequent year when judgments for most of the cases concluded in the year are delivered. This is particularly true for cases concluded toward the last quarter of the year.

(1) The latest available report was generated on 28 February 2018 and it would take some time to generate a further report.

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- (2) (a) Before 1 July 2017, applications for leave to lodge civil appeals in the Court of Appeal of the High Court were counted together with some other miscellaneous cases under the category of miscellaneous proceedings of the Court of First Instance of the High Court. Between 2015 and 2017, the total number of cases disposed of under the category was 2 478, 2 577 and 2 205 respectively. The Judiciary does not keep separate statistics on the applications for leave disposed of by the Court of Appeal of the High Court.
- (b) With effect from 1 July 2017, applications for leave to lodge civil appeals in the Court of Appeal of the High Court have been put, together with some other miscellaneous cases, under a new category of miscellaneous appeal cases of the Court of Appeal of the High Court. In the period from 1 July 2017 to 31 December 2017, a total of 39 cases under the new category were disposed of. The Judiciary does not keep separate statistics on the applications for leave disposed of by the Court of Appeal of the High Court.
- (3) In the three years between 2015 and 2017, the number of Family Court judgments delivered and uploaded to the Judiciary website was 172, 170 and 162 respectively. The Judiciary does not keep statistics on the time taken from conclusion of hearing to delivery of judgment in respect of the cases of the Family Court.
- (4) (a) As a matter of principle, the Judiciary considers it important that reserved judgments are handed down within a reasonable time. While the Judiciary has not set any target time for delivery of judgments, the Judiciary has been monitoring the position closely and taking all possible measures to deal with the matter, including deploying further additional judicial resources as far as practicable. In January 2016, as an enhanced measure, the former Chief Judge of the High Court asked the Judges of the High Court to provide the parties concerned with an estimated date for handing down the reserved judgment if the relevant Judge considers that this may take longer than usual for such a reserved judgment to be delivered. The Acting Chief District Judge is also

monitoring the position with regard to reserved judgments in the Family Court closely and taking all possible measures to deal with the matters.

- (b) The Judiciary notes that having regard to the heavy workload and tight manpower situation, in particular, at the Court of First Instance of the High Court, there may be cases in which it takes longer than the normal period of time for reserved judgments to be delivered. The Acting Chief Judge of the High Court is fully aware of the situation, and is monitoring the situation closely and making every effort, e.g. by allowing more time for judges to deal with reserved judgments if needed, with a view to improving the situation, whilst balancing, among other things, the need to maintain a reasonable listing time for the hearing of cases.
- (c) Furthermore, the Judiciary has advised that legally qualified assistants have been engaged as Judicial Associates to strengthen the legal and professional support to the High Court Judges for their discharge of judicial duties. Some of these Judicial Associates provide support to High Court Judges in civil cases and legal research work, and also provide assistance in criminal appeals. Further, the Judicial Institute has been set up in the Judiciary to conduct research and provide relevant training to Judges and Judicial Officers ("JJOs") for the enhancement of their judicial skills and knowledge.
- (d) On a more general note, the Judiciary has been taking every possible measure to address issues arising from the tight manpower situation. Specifically, there have been recruitment exercises for JJOs of different court levels with a new round of recruitment exercise for Judges of the Court of First Instance of the High Court and District Judges in progress. In addition, having regard to the difficulty in the recruitment of the suitable talents in joining the bench, the terms and conditions of service for JJOs have been enhanced in 2017. A review of the statutory retirement age for JJOs

has also been completed and the relevant legislative exercise to give effect to revisions to the statutory retirement ages for JJOs at all levels of courts is also underway.

- (e) In addition, the Government has also supported the Judiciary's proposals to create additional judicial posts in the past years to meet its operational needs. In 2018-2019, the Judiciary is seeking to create four posts of the Deputy Registrar of the High Court to strengthen the manpower position in the Masters Office of the High Court. The Government looks forward to receiving the support of the Legislative Council regarding these proposals.
- (f) Lastly, the Judiciary has also pointed out that since 2017, there has been a sharp increase in torture claim cases filed with the Court of First Instance and the Court of Appeal of the High Court, and it is noted that more of such cases are now being filed with the Court of Final Appeal. The Judiciary is closely monitoring the situation and considering how such upsurge of cases should be handled without seriously affecting the processing of other civil cases. In this regard, the Judiciary would assess whether any additional requirements for judicial and other staffing resources are required, and if so, would put forward such proposals to the Government according to the established mechanism of the budgetary arrangements between the Judiciary and the Government.

Accredited Registers Scheme for Healthcare Professions

17. **MR LAM CHEUK-TING** (in Chinese): *President, the Government launched the Accredited Registers Scheme for Healthcare Professions ("AR Scheme") in 2016. The AR Scheme aims to enhance the current society-based registration arrangement of the relevant professions under the principle of professional autonomy and it operates under the principle of "one profession, one professional body, one register". The Accreditation Agent appointed by the Department of Health is responsible for accrediting for each profession one professional body that has met the prescribed standards under the AR Scheme, and the accredited professional body is responsible for administering the relevant*

register of professionals. In this connection, will the Government inform this Council:

- (1) whether it will issue guidelines to those accredited professional bodies to stipulate that when vetting and approving applications for inclusion in the relevant register of professionals, they should not require applicants to submit practice information which contains personal data and medical records of their patients, so as to protect patients' privacy; if so, of the details; if not, the reasons for that;*
- (2) of the specific measures in place to ensure that in setting the relevant accreditation standards for their professionals, accredited professional bodies uphold the principle of fairness and reasonableness, and do not exclude qualified professionals as far as possible; and*
- (3) as I have learnt that two professional bodies of clinical psychology with representativeness in the profession (namely, the Division of Clinical Psychology of The Hong Kong Psychological Society Limited and the Hong Kong Association of Doctors in Clinical Psychology) have vastly divergent views on the standards to be adopted for accreditation, whether the Government has formulated measures to continue to take forward the AR Scheme for the clinical psychology profession under the circumstances that such differences cannot be resolved?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the question raised by Mr LAM Cheuk-ting is as follows:

The Government launched the Pilot Accredited Registers Scheme for Healthcare Professions ("the AR Scheme") in late 2016. Under the principle of professional autonomy, the AR Scheme aims to enhance the society-based registration arrangements for health care professions which are currently not subject to statutory registration, with a view to assuring the professional competence of health care professionals and providing more information for the public to make informed decisions. The Jockey Club School of Public Health and Primary Care of the Chinese University of Hong Kong has been appointed as the independent Accreditation Agent of the AR Scheme.

Having examined all applications received, the accreditation team of the Accreditation Agent considered that five health care professions, namely audiologists, clinical psychologists, dietitians, educational psychologists and speech therapists, were preliminarily assessed to meet the criteria for accreditation process under the AR Scheme. Regarding the accreditation applications from the Hong Kong Institute of Speech Therapists and the Hong Kong Institute of Audiologists, the Department of Health accepted the recommendations by the Accreditation Agent and announced the accreditation results for the speech therapist and audiologist professions in April and November 2018 respectively. For the other three health care professions, namely dietitians, educational psychologists and clinical psychologists, the Accreditation Agent will commence the accreditation processes in phases according to the readiness of each profession. Upon completion of the accreditation, the Accreditation Agent will review the effectiveness of the AR Scheme and report to the Government with recommended measures for improvement. The Government will continue to forge ahead with the AR Scheme with a view to paving the way for mapping out a statutory registration regime for these professions.

(1) and (2)

The Accreditation Agent of the AR Scheme is responsible for assessing whether the applying health care professional body has met the standards for accreditation. These standards include governance, operational effectiveness, risk management and quality improvement, standards for registrants, educational and training requirements, as well as management of the register. According to the accreditation standards, the accredited health care professional bodies are required to set standards of practice for relevant health care professions, which includes a mechanism on confidentiality in handling information of registrants and other relevant information. These health care professional bodies have to subscribe and adhere to a set of ethical principles for its governance covering, at the least, confidentiality, independence, objectivity and fairness. They are also required under the accreditation standards to set, promote and publish standards of good practice in respect of professional behaviour based on an ethical framework and technical competence within a defined body of knowledge of the professions of which the register are held. Moreover, the AR Scheme also requires the

professional bodies to undertake a self-assessment and external peer review process, through which they, as holders of the voluntary registers of their profession, demonstrate their abilities to meet acceptable standards of quality, and commitment to take action when necessary to protect the public. Professional bodies applying for the AR Scheme should demonstrate a broad representation of their profession, operate in a non-exclusive manner and maintain a well-established operation of professional practice.

- (3) Based on the criterion that "health care professional bodies holding registers of health care professionals should have a broad representation of the corresponding profession and an established operation for a substantive period", the Accreditation Agent of the AR Scheme considered that the Division of Clinical Psychology of the Hong Kong Psychological Society ("HKPS-DCP") had initially fulfilled the requirements to proceed with the accreditation process first. The Accreditation Agent notified the two applying bodies concerned in writing in June 2018.

The Accreditation Agent has explicitly requested HKPS-DCP to thoroughly engage relevant stakeholders including the Hong Kong Association of Doctors in Clinical Psychology, other local clinical psychologists and relevant training institutes in the consideration and formulation of education and training requirements of clinical psychologists in order to demonstrate inclusiveness in admitting professionals from different educational background and training with reasonable standard. By doing so, health care services will be provided with due protections to the interest of the public.

We understand that HKPS-DCP has conducted consultations to collect views from the profession as well as the public on the setting up of a new register for clinical psychologists, including views on resolving the differences on the education and training requirements of clinical psychologists within the profession. The Accreditation Agent has been maintaining ongoing liaison with the above parties in respect of the application to facilitate communication within the profession for reaching a consensus on the registration standards for the profession.

The Government respects the professional autonomy of health care professions and wish the clinical psychologist profession to reach a consensus on the relevant standards, with a view to jointly setting up a register for the clinical psychologist profession. Meanwhile, depending on whether the proposal prepared by HKPS-DCP after consultations has met the accreditation standards, and the views received from the relevant stakeholders, we have requested the Accreditation Agent to tender its recommendations on accreditation result to the Government.

Regulation of water play equipment

18. **MR HOLDEN CHOW** (in Chinese): *President, it is learnt that at present, quite a number of owners of pleasure vessels ("PVs") provide, at the same time when renting out PVs to customers, water play equipment such as jet-skis or inflatable banana boats to them. Under the existing legislation, jet-skis are required to be issued with a relevant licence while non-mechanized inflatable vessels such as banana boats are not required. In this connection, will the Government inform this Council:*

- (1) *whether vessel owners providing jet-skis or banana boats are required to take the initiative and expeditiously report to the Marine Department ("MD") after any accident involving such equipment has occurred; if so, of the details (including the reporting mechanism and penalty for non-compliance); if not, the reasons for that;*
- (2) *given that PV owners who intend to use their vessels for towing inflatable vessels such as banana boats, must apply in writing for and obtain the approval of MD, of the penalty to be imposed on those PV owners who do not comply with this requirement; and*
- (3) *of the number of cases in which prosecutions were instituted in each of the past five years by MD against the persons concerned for contravention of the law involving jet-skis or banana boats?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my responses to the question raised by Mr Holden CHOW are as follows:

- (1) The existing Merchant Shipping (Local Vessels) Ordinance (Cap. 548) ("the Ordinance") does not require non-mechanized inflatable vessels including banana boats to obtain an Operating Licence for Local Vessel. However, under section 57 of the Ordinance, where a local vessel (including pleasure vessels such as jet-skis and banana boats) is involved in any incident within the waters of Hong Kong, the owner or person-in-charge of the vessel shall report in writing to the Marine Department ("MD") within 24 hours after the occurrence of the incident, providing details such as basic particulars of the vessel and the coxswain concerned, type of the incident (e.g. collision, contact, stranding or machinery damage), location, time, sequence of events, as well as number of vessels and casualties involved, etc. Any owner or person-in-charge of the vessel contravening the requirements on reporting marine incident(s) will be liable on conviction to a maximum fine of HK\$10,000.
- (2) The coxswain of a Class IV vessel (i.e. pleasure vessel) will be liable on conviction to a maximum fine of HK\$5,000 if he uses the vessel to tow inflatable vessels such as banana boats without the permission of the Director of Marine.
- (3) During the period from 2012 to 2017, MD had taken prosecution actions against 14 cases of owners or persons-in-charge of Class IV vessels failing to report details of marine incident to MD after occurrence of an incident. None of these cases involved jet-ski or banana boat. In addition, MD had also taken prosecution actions against five cases of illegal use of pleasure vessels for towing purpose during the five-year period.

Application of intelligent traffic safety technologies to enhance road safety

19. **MR CHARLES PETER MOK** (in Chinese): *President, it is learnt that from July this year onwards, all the double-deck buses procured by franchised bus operators will be equipped with electronic stability control systems and speed limiters. Besides, an intelligent traffic safety system incorporating a global positioning system, vehicle-mounted radar and various types of sensors can provide drivers with various types of driving assistance (including warnings of*

frontal collision, lane departure and blind spot; detection of fatigue driving and driving stability; as well as autonomous emergency braking system). Apart from that, it can provide running data and records for analysing the driving behaviour of drivers when traffic accidents occurred. Regarding the application of intelligent traffic safety technologies to enhance road safety, will the Government inform this Council:

- (1) of the following statistical information from January to October this year and how such information compares with that in the same period last year:*
 - (i) the average daily number of passenger trips of franchised buses;*
 - (ii) the casualties of traffic accidents;*
 - (iii) the pedestrian casualties of traffic accidents;*
 - (iv) the three categories of vehicles having the highest accident rates and their respective accident rates; and*
 - (v) the driver factors involved in the traffic accidents and, in respect of each factor, the number of traffic accidents that may be attributed to that factor;*
- (2) whether it has formulated specific strategies and objectives to reduce the casualties of traffic accidents; whether it will devise standards for the use of safety technologies by commercial vehicles, and support the transport sector in researching, developing and applying innovation and technology to enhance road safety; and*
- (3) whether it will examine subsidizing the trial use of intelligent traffic safety technologies on commercial vehicles in order to enhance road safety, thereby reducing the casualties, damage to property and indirect economic loss caused by traffic accidents; if so, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government attaches great importance to road safety, including the operational safety of commercial vehicles, and has been adopting a multi-pronged approach to enhance road safety. My reply to the various parts of Mr Charles Peter MOK's question is as follows:

- (1) (i) The daily number of passenger trips of franchised buses between January and September 2018 was about 4 million, while that between January and September 2017 was about 3.94 million. The average increase is about 1.5%. The daily number of passenger trips of franchised buses in October 2018 is under preparation.

(ii) and (iii)

The number of traffic casualties and pedestrian casualties between January and October 2018, the figures in the same period last year and the corresponding percentage changes are set out in Annex 1.

- (iv) The three classes of vehicles with the highest accident involvement rate per 1 000 licensed vehicles between January and October 2018 are franchised bus, tram and taxi, which are the same as that in the same period in 2017. The accident involvement rates of these three classes of vehicles and the corresponding percentage changes as compared with that in the same period last year are set out in Annex 2.

- (v) The number of traffic accidents involving various driver contributory factors between January and October 2018, the figures in the same period last year and the corresponding percentage changes are set out in Annex 3.

(2) and (3)

The Government adopts a multi-pronged approach to enhance road safety, including legislative amendments and strengthened enforcement, publicity, application of technology, etc. The Transport Department ("TD") also makes reference to overseas

practices and experience from time to time, and will set up a new dedicated team responsible for carrying out road safety audit. In addition, TD has been closely monitoring the trends of traffic accident statistics, paying close attention to and analysing relevant data such as traffic accident-related figures, so as to formulate and implement appropriate road safety strategies and measures.

Regarding the application of technology to enhance vehicle safety, the Government is open-minded on any innovative technologies that could effectively improve road and driving safety and welcomes vehicle manufacturers to introduce new driver assistance systems for such purpose for all classes of vehicles. TD has been closely monitoring the development and application of technology in the automotive industry worldwide, including driver assistance systems, such as Collision Prevention Assist, Lane Keep Assist and Blind Spot Assist alerts, Stability Programme and Automatic Emergency Braking System, installed by some vehicle manufacturers on their vehicles. Upon assessing the technical details submitted by vehicle manufacturers for type approval applications, TD has approved the installation of some of the aforesaid systems on vehicles registered in Hong Kong. Manufacturers of commercial vehicles may also consider introducing such driver assistance systems to enhance driving safety. Apart from this, TD is actively facilitating relevant organizations or vehicle manufacturers in trials of innovative vehicle technologies, such as field testing of autonomous vehicles at suitable locations in Hong Kong.

In addition to continuing to liaise with various organizations, vehicle manufacturers and safety device manufacturers to promote the application of innovative technologies, the Government has been taking initiatives to conduct feasibility studies on vehicle safety technologies. For example, TD will fund a research on the application of geo-fencing technology in 2019. This technology could assist drivers to comply with the applicable speed limit of the roads concerned. If the research demonstrates that the technology is suitable for adoption by vehicles registered in Hong Kong, the Government will promote such technology to commercial vehicles.

Furthermore, to encourage and support the industry to conduct trials on safety technologies suitable for commercial vehicles for enhancing road safety, the Government will provide subsidies to the

industry. For example, to further enhance the operational safety of franchised buses, the Government proposed in the 2018 Policy Address to set aside \$500 million to subsidize franchised bus operators for retrofitting three safety devices on suitable existing buses, including Electronic Stability Control systems which can improve vehicle stability and reduce the risk of rollover, speed limiter with slow-down function, and seat belts to be retrofitted on all seats in the upper deck of buses deployed for long-haul routes which are operated via expressways with relatively fewer bus stops. The subsidy scheme is expected to be rolled out in Financial Year 2019-2020.

The Government has also supported different types of research and development and technology application projects through the Innovation and Technology Fund. For example, the research and development of a next generation of driver assistance system and the trial of an intelligent system, which can identify potential hazards on roads and give warnings to drivers so as to enhance road safety, on various classes of vehicles (including private cars, light buses, buses, light goods vehicles, medium goods vehicles, refuse collection vehicles and special purpose vehicles) of government departments.

Annex 1

Number of traffic casualties between January and October 2018, the figures in the same period last year and the corresponding percentage changes

	<i>Killed</i>	<i>Seriously injured</i>	<i>Slightly injured</i>	<i>Total</i>
2017 January to October	86	1 952	14 534	16 572
2018 January to October [*]	111	1 307	14 544	15 962
Percentage change	+29.1% [^]	-33.0%	+0.1%	-3.7%

Notes:

* Provisional figures

[^] The number of persons killed in traffic accidents between January and October 2018 has increased. Among them, the bus traffic accident in Tai Po in February 2018 caused 19 deaths.

Number of pedestrian casualties between January and October 2018, the figures in the same period last year and the corresponding percentage changes

	<i>Killed</i>	<i>Seriously injured</i>	<i>Slightly injured</i>	<i>Total</i>
2017 January to October	52	564	2 024	2 640
2018 January to October*	50	414	2 118	2 582
Percentage change	-3.8%	-26.6%	+4.6%	-2.2%

Note:

* Provisional figures

Annex 2

The highest accident involvement rate per 1 000 licensed vehicles by class of vehicle between January and October 2018, the figures in the same period last year and the corresponding percentage changes

	<i>Franchised Bus</i>	<i>Tram</i>	<i>Taxi</i>
2017 January to October	304.9	298.1	199.7
2018 January to October*	320.8	254.7	196.4
Percentage change	+5.2%	-14.6%	-1.7%

Note:

* Provisional figures

Annex 3

Number of traffic accidents involving various driver contributory factors between January and October 2018 and that of the same period in 2017 and the corresponding percentage changes

<i>Driver contributory factor involved</i>	<i>Number of accidents[^]</i>		<i>Percentage change</i>
	<i>2017 January to October</i>	<i>2018 January to October*</i>	
Driving inattentively	3 572	3 359	-6.0%
Driving too close to vehicle in front	1 254	1 560	+24.4%

<i>Driver contributory factor involved</i>	<i>Number of accidents[^]</i>		<i>Percentage change</i>
	<i>2017 January to October</i>	<i>2018 January to October[*]</i>	
Lost control of vehicle	1 511	1 479	-2.1%
Careless lane changing	979	1 053	+7.6%
Turning right/left negligently	530	539	+1.7%
To avoid collision or otherwise: swerving/stopping suddenly	552	472	-14.5%
Careless cycling	390	361	-7.4%
Reversing negligently	322	319	-0.9%
Failing to ensure the safety of passenger	250	238	-4.8%
Emerging from side road negligently	150	195	+30.0%
Starting negligently	162	184	+13.6%
Disobey traffic signal/light	179	180	+0.6%
Disobey give way sign (slow)	158	177	+12.0%
Overtaking on offside/nearside negligently	114	147	+28.9%
U turning negligently	71	109	+53.5%
Disobey stop sign (halt)	76	62	-18.4%
Opened door negligently (driver)	34	45	+32.4%
Drink driving	65	42	-35.4%
Furious/Dangerous driving	22	26	+18.2%
Rolling backwards/forwards-failed to set handbrake	19	25	+31.6%
Driving too fast for road condition	15	16	+6.7%
Stopping negligently	5	15	+200.0%
Driving too close to vehicle alongside	27	14	-48.1%
Disobey double white lines	12	12	0.0%
Driving on wrong side of road	15	12	-20.0%
Sleep or fatigue	16	12	-25.0%
Driving too close to kerb	19	11	-42.1%
Sudden illness, or mental defect	5	11	+120.0%
Driving a dangerous vehicle	18	10	-44.4%
Improper or illegal turn	23	7	-69.6%
Failing to stop at a zebra crossing	12	6	-50.0%
Exceeding speed limit	1	3	+200.0%
Overtaking in a zebra controlled area	2	2	0.0%
Dazzled by headlight	2	1	-50.0%

<i>Driver contributory factor involved</i>	<i>Number of accidents[^]</i>		<i>Percentage change</i>
	<i>2017 January to October</i>	<i>2018 January to October[*]</i>	
Dazzled by other lights	1	1	0.0%
Drug driving	2	1	-50.0%
Failure to signal movement correctly	1	1	0.0%
Vision affected by atmospheric conditions/sunlight	1	1	0.0%
Disobey directions of a police officer	3	0	-100.0%
Failing to keep to nearside of road	5	0	-100.0%
Using telephone while driving	1	0	-100.0%
Other driver factors/Unknown	645	485	-24.8%

Notes:

* Provisional figures

[^] In a single accident, there may be more than one "Driver contributory factor involved".

Municipal solid waste

20. **MR CHAN HAK-KAN** (in Chinese): *President, to complement the implementation of the municipal solid waste charging ("MSWC"), the Government will provide recurrent resources to strengthen the relevant waste reduction and recycling work. The provision for the next financial year will be around \$300 million to \$400 million, which will be increased to \$800 million to \$1 billion each year from the financial year in which MSWC is implemented. In this connection, will the Government inform this Council:*

- (1) *of the respective estimated amounts of the aforesaid provision of \$300 million to \$400 million to be spent on the following three tasks and the details of the tasks: (i) setting up of outreaching teams across the territory, (ii) provision of free collection service in respect of waste plastics from non-commercial-and-industrial sources and food waste from commercial and industrial ("C&I") sources, and (iii) implementation of a pilot scheme of applying reverse vending machines in the recycling of waste plastic containers;*

- (2) *whether it will inject the annual revenues from MSWC directly into a fund dedicated for the promotion of waste reduction and recycling in the community; if so, of the details; if not, the reasons for that;*
- (3) *regarding the measures to improve (i) refuse collection points and (ii) rubbish bins and recycling bins placed in public spaces, of the relevant work targets, timetables and progress; the respective numbers of rubbish bins and recycling bins placed in public spaces in each of the past three years, as well as the estimated numbers of such bins in the first year in which MSWC is implemented;*
- (4) *in respect of the municipal solid waste from households and C&I sources, of the respective (i) quantities generated, (ii) quantities recovered and (iii) recovery rates, in each of the past three years, with a tabulated breakdown by type of waste (i.e. food waste, paper, plastics, metal, glass and others);*
- (5) *of the respective quantities and percentages of the solid waste, generated in each of the past three years, which was (i) handled by recovery facilities and (ii) exported; and*
- (6) *of the number of reports/complaints about illegal refuse dumping received by the Government, and the number of prosecutions instituted against the persons concerned, in each of the past three years?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, based on the existing statistical data, our responses to the question raised by Mr CHAN are as follows:

(1) and (2)

To complement the implementation of the municipal solid waste ("MSW") charging, the Government has announced in the Policy Address the allocation of additional recurrent resources to strengthen our complementary work on promotion of waste reduction and recycling and public education. The Government will provide an additional provision of around \$300 million to \$400 million for the financial year 2019-2020 to start with, which will be further

increased to no less than \$800 million to \$1,000 million from the financial year when the MSW charging is to be implemented. The amount of this annual provision will be commensurate with the estimated gross revenue to be generated from the MSW charging so as to achieve the effect of "dedicated-fund-for-dedicated-use", i.e. the revenue generated from the MSW charging will be used for enhancing waste reduction and recycling work. The Government has been emphasizing all along that the introduction of MSW charging is not for raising public revenue or recovering the cost. The total revenue generated from the MSW charging will be used for enhancing waste reduction and recycling work.

Relevant waste reduction and recycling work under planning include the setting up of new outreaching teams under the Environmental Protection Department ("EPD") to provide on-site assistance to the community, thereby putting waste reduction and recycling and MSW charging into practice; provision of free territory-wide collection service in respect of waste plastics from non-commercial and industrial ("C&I") sources and food waste from all sources in the longer run subject to the experiences gained from the pilot schemes to collect non-C&I waste plastics and C&I food waste, as well as the progress of developing food waste recycling facilities in Hong Kong; and implementation of a pilot scheme to assess the effectiveness of applying reverse vending machines ("RVMs") in promoting the recycling of plastic beverage containers. The details and estimated expenditure of the above work are as follows:

Outreaching Teams

To further enhance on-site support for recycling, we will set up new outreaching teams directly under EPD. Building on the existing waste reduction and recycling network, the outreaching teams will collaborate closely with the community green stations ("CGSs") and other community partners to educate the public on the importance of waste reduction at source and assist them in practising waste separation and clean recycling, as well as in identifying proper outlets for recyclables. At the same time, the outreaching teams will also promote at the district level the various waste reduction and recycling initiatives launched by EPD, including MSW charging and the producer responsibility scheme ("PRS") on glass beverage

containers, so as to raise public awareness and enhance stakeholders' understanding on the implementation details. We will kick-start pilot outreaching services in the Eastern, Kwun Tong and Sha Tin districts. After gaining actual experiences, we will gradually expand the outreaching services to all districts in Hong Kong. The estimated expenditure for financial year 2019-2020 is about \$130 million.

Pilot schemes for collection service in respect of waste plastics from non-C&I sources

To raise the quantities of waste plastics recovered from households and enhance public confidence in the waste separation and recycling system, EPD plans to roll out a two-year pilot scheme in the Eastern, Kwun Tong and Sha Tin districts to provide free collection service for waste plastics from non-C&I sources. Service contractors engaged by EPD will directly collect waste plastics from non-C&I premises in the community such as public and private housing estates, schools, public organizations and EPD's community recycling centres ("CRCs") and CGSs for further treatment including sorting, shredding, cleaning, and melting to produce recycled raw materials or products so that they can be supplied to the local market or exported to ensure proper handling of the collected waste plastics. Having regard to the data collected and experience gained in the pilot scheme and the progress of development of PRS on plastic beverage containers, we will consider expanding the free collection service for non-C&I waste plastics to cover the whole territory. The estimated expenditure for financial year 2019-2020 is around \$70 million.

Pilot schemes for collection service in respect of food waste from C&I sources

We will continue to promote food waste source separation in the C&I sectors, and plan to make use of the Organic Resources Recovery Centre Phase 1 (O • Park1) as well as the food waste/sewage sludge co-digesting facilities in Tai Po to conduct a two-year pilot scheme for free collection of food waste, with a view to exploring the feasibility of extending the food waste collection

service (which covers transportation and treatment free of charge) to cover all sectors in Hong Kong. The estimated expenditure for financial year 2019-2020 is approximately \$60 million.

Pilot scheme on RVMs

The Government is preparing to introduce a pilot scheme on RVMs in 2019 by placing them at various locations to assess their performance and effectiveness in recycling waste plastic beverage containers. The estimated expenditure for financial year 2019-2020 is some \$4 million.

Besides, we also plan to proactively explore regularizing the funding support for CRCs and encourage these non-governmental organization-operated centres to beef up their waste reduction and recycling support to local residents, in close collaboration with the outreaching teams.

As mentioned above, the Government will further increase the financial provision to no less than \$800 million to \$1,000 million from the financial year when the MSW charging is to be implemented. The amount of this annual provision will be commensurate with the estimated gross revenue to be generated from the MSW charging so as to achieve the effect of "dedicated-fund-for-dedicated-use". We plan to use part of the provision on the aforementioned waste reduction and recycling measures, which would be expanded to cover the whole territory gradually. We are also prepared to gauge the views from the members of the public on how to make use of the rest of the provision to promote waste reduction and recycling work in the community.

- (3) To enhance the service quality at refuse collection points and improve the environmental hygiene, the Food and Environmental Hygiene Department ("FEHD") is planning to upgrade, on a trial basis, the facilities at existing aluminium refuse collection points and bin sites in rural areas. This will include introducing "sensor-operated easy-thrown aluminium refuse collection points" and "solar-powered compacting refuse bins", with a view to

increasing the storage capacity of refuse collection facilities in rural areas, providing enough space for refuse disposal and reducing environmental nuisance. To this end, FEHD has approached suitable science and technology companies through the Hong Kong Science and Technology Park Corporation, inviting them to submit design proposals on enhancing refuse collection points. If the trial works well, FEHD will carefully examine the resources and land space required for the new design, and devise a plan on adopting the new design in other rural refuse collection facilities.

To further enhance the Government's waste reduction and resource recovery efforts in support of the implementation of the MSW charging, the Government has set up the Steering Group on the Modification of Recycling and Refuse Collection Facilities in Public Places ("Steering Group") to review the provision and design of recycling bins and litter containers in public places so as to put forward relevant recommendations.

Having considered the planning parameters recommended by the consultant commissioned by the Steering Group, FEHD as well as the Leisure and Cultural Services Department ("LCSD") plan to gradually reduce the number of litter containers in public places by 40% to around 24 000 by the time when MSW charging is implemented. The overall ratio of recycling bin to litter container in public places will be roughly enhanced from 1:14 to 1:6 and the number of recycling bins in public places will be increased by 45% to about 4 000.

Having regard to relevant factors such as the implementation progress of the MSW charging, the situation on the ground and public reaction, we will from time to time review and adjust the arrangements and complementary measures adopted for recycling and refuse collection facilities in public places. In addition, the Steering Group has also commissioned a consultant to conduct the Stage 2 Consultancy Study to recommend conceptual designs for recycling bins and litter containers and produce prototypes for future public consultation to gauge the views from members of the public, frontline workers and relevant stakeholders.

Statistics on recycling bins and litter containers provided by FEHD and LCSD in public places between 2016 and 2018 are tabulated below.

<i>Year</i>	<i>Recycling Bins</i>	<i>Litter Containers</i>
2016	2 900	33 900
2017	3 000	30 400
2018	3 200	27 400

Note:

Figures are rounded to the nearest hundred.

- (4) Statistics on the disposal and recovery of food waste, paper, plastics, metals and glass between 2014 and 2016 are set out at Annex 1 (2017 figures are being prepared). EPD does not compile breakdown statistics on the quantities recovered and recovery rates of various waste types by waste source.
- (5) Statistics on the recyclables recovered from MSW via our local recovery systems from 2014 to 2016 are tabulated below (2017 figures are being prepared).

	<i>2014</i>	<i>2015</i>	<i>2016</i>
Total quantity of recyclables recovered from MSW (thousand tonnes) (a)	2 053	2 033	1 912
Quantity of recyclables recovered from MSW and exported (thousand tonnes) (b)	2 008	1 987	1 856
Proportion of recyclables recovered from MSW and exported (percentage) (c) [(c)=(b)/(a) x 100%]	98%	98%	97%

Note:

Recyclables recovered from MSW include paper, plastics, metals, glass, rubber tyres, textiles, wood, food waste and electrical and electronic equipment.

- (6) Figures on the relevant reports/complaints received by EPD and FEHD and the number of prosecutions between 2015 and 2017 are detailed at Annex 2.

Annex 1

Statistics on the Disposal and Recovery of Food Waste, Paper, Plastics, Metals, Glass and Other Types of MSW between 2014 and 2016

<i>Food Waste</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Disposal Quantity (tonnes per day)	3 640	3 382	3 600
- domestic waste	2 608	2 397	2 326
- commercial and industrial waste	1 033	985	1 274
Total Recovery Quantity (thousand tonnes)	7	14	16
Recovery Rate	1%	1%	1%

<i>Paper</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Disposal Quantity (tonnes per day)	1 922	2 257	2 244
- domestic waste	1 223	1 339	1 358
- commercial and industrial waste	699	918	886
Total Recovery Quantity (thousand tonnes)	948	896	806
Recovery Rate	57%	52%	50%

<i>Plastics</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Disposal Quantity (tonnes per day)	2 015	2 183	2 132
- domestic waste	1 303	1 351	1 257
- commercial and industrial waste	713	832	875
Total Recovery Quantity (thousand tonnes)	99	94	126
Recovery Rate	12%	11%	14%

<i>Metals</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Disposal Quantity (tonnes per day)	209	236	242
- domestic waste	120	123	139
- commercial and industrial waste	89	113	103
Total Recovery Quantity (thousand tonnes)	921	948	880
Recovery Rate	92%	92%	91%

<i>Glass</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Disposal Quantity (tonnes per day)	285	367	329
- domestic waste	178	242	193
- commercial and industrial waste	107	125	136
Total Recovery Quantity (thousand tonnes)	8	9	9
Recovery Rate	7%	6%	7%

<i>Other types of MSW</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Disposal Quantity (tonnes per day)	1 710	1 732	1 798
- domestic waste	985	1 012	1 118
- commercial and industrial waste	724	721	681
Total Recovery Quantity (thousand tonnes)	71	71	76
Recovery Rate	10%	10%	10%

Note:

The overall MSW recovery rates in 2014, 2015 and 2016 were 37%, 35% and 34% respectively. The recovery rate by type of recyclable varied.

Annex 2

Table 1: Figures on the reports/complaints and prosecutions against illegal disposal of MSW handled by EPD between 2015 and 2017

	<i>Year</i>		
	<i>2015</i>	<i>2016</i>	<i>2017</i>
Number of Reports/Complaints ⁽¹⁾	259	222	177
Number of Prosecutions			
(1) Summonses served	36	287	113
(2) Fixed penalty notices issued	94	166	154

Tables 2: Figures on the reports/complaints and prosecutions concerning street cleanliness⁽²⁾ handled by FEHD between 2015 and 2017

	<i>Year</i>		
	<i>2015</i>	<i>2016</i>	<i>2017</i>
Number of Reports/Complaints	49 650	63 785	66 046
Number of Prosecutions			
(1) Summonses served	210	278	224
(2) Fixed penalty notices issued	31 070	34 221	39 239

Notes:

- (1) Repeated reports/complaints included.
- (2) FEHD does not compile separate figures for reports/complaints on illegal dumping of refuse.

United States control policy for exporting dual-use technology to Hong Kong

21. **MR KENNETH LEUNG** (in Chinese): *President, the United States-China Economic and Security Review Commission, created by the United States ("US") Congress, has alleged in a report published last month that the Central Authorities' encroachment on Hong Kong's autonomy has brought an ongoing decline of the rule of law and freedom of speech. The Commission has also recommended that the Congress direct the Department of Commerce and other relevant government agencies to prepare a report to examine and assess the adequacy of US export control policy for dual-use technology as it relates to the treatment of Hong Kong and China as two customs areas. In this connection, will the Government inform this Council:*

- (1) whether it will review if the Government made mistakes in its decisions and in the decision making process regarding the incidents in Hong Kong referred to in the aforesaid report, with a view to providing reference for implementing policies in future, thereby demonstrating to the international community the Government's determination to uphold the core values such as the rule of law and freedom of speech; if so, of the details; if not, the reasons for that;*
- (2) whether it knows the specific contents of the dual-use technology mentioned in the report and whether it can provide a relevant list; and*
- (3) whether it has plans to commence lobbying efforts targeting the US authorities and representatives of the various sectors to persuade the US authorities not to tighten the control policy for exporting dual-use technology to Hong Kong; if so, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, since the return to the Motherland, the Hong Kong Special Administrative Region ("HKSAR") has been exercising "Hong Kong people administering Hong Kong" and a high degree of autonomy in strict accordance with the Basic Law. The "one country, two systems" principle has been fully and successfully implemented. Through actively making good use of the opportunities in the international arena conferred to HKSAR by Articles 116 and 151 of the Basic Law, adherence to the relevant laws and systems and international cooperation, we consolidate our status in international trade and economic arena. Hong Kong's unique status and advantages under the Basic

Law and "one country, two systems" allow Hong Kong to establish mutually beneficial collaboration relationship with economies around the world at bilateral and multilateral international trade and economic levels, demonstrating the successful implementation of "one country, two systems".

Through officials' overseas visits and participation in international conferences, the HKSAR Government has been explaining to countries around the world the successful implementation of "one country, two systems" since our return to the Motherland, and promoting Hong Kong's unique status under the Basic Law and "one country, two systems" as well as our own various advantages, and exploring room for mutually beneficial collaboration. For example, I led a delegation to visit Washington DC, the United States this September, during which I met with United States government officials, members of the Congress, think tanks as well as the business community, and explained clearly Hong Kong's unique status under the Basic Law, as well as Hong Kong's important role in helping our global trading partners in developing markets.

In addition, the three Economic and Trade Offices ("ETOs") in the United States, together with the other nine overseas ETOs, have been maintaining close liaison with relevant government officials, the political and business community, in order to reflect the actual situation of Hong Kong and to promote the unique status of Hong Kong under "one country, two systems" and our own various advantages.

The United States-China Economic and Security Review Commission ("USCC") mentioned in the question is appointed by the bipartisan leaders of the United States Congress and currently does not comprise members of the United States Congress. The USCC report published last month is not a report by the Congress or the United States Administration. Its contents do not reflect the position of the United States Congress or the United States Administration but the views of the USCC members who are not members of the Congress.

In addition to comments on United States-China relations, the USCC report published last month also mentions the situation in Hong Kong. In respect of the paragraph on trade control, the Commission points out that Hong Kong is an important partner of the United States in ensuring robust protection against unauthorized shipments of controlled United States items to the Mainland. Indeed, Hong Kong has always been enforcing import and export trade controls according to the laws of Hong Kong, and such efforts have been recognized and respected by our trading partners. Hong Kong will continue to maintain our robust trade control system in accordance with the law and continue to work closely with the United States and other trading partners.

Hong Kong's trade and economic relationship with the United States is mutually beneficial. Since Hong Kong's return to the Motherland, the United States has continued to maintain and expand economic and trade ties with Hong Kong based on our unique status. It is in the United States and Hong Kong's mutual interest to maintain and promote our bilateral relations. The HKSAR Government will continue to enhance Hong Kong's economic and trade ties with the United States.

Safety of food products from Quangang district of Quanzhou city

22. **PROF JOSEPH LEE** (in Chinese): *President, it has been reported that Quangang district of Quanzhou city in Fujian Province is a base for aquaculture farming and edible salt production. On the 4th of last month, an incident occurred in Quangang district in which C9 aromatics ("C9"), a chemical feedstock, was leaked, affecting the coastal waters, aquaculture farms and salt farms there. Some experts have pointed out that humans are susceptible to poisoning and developing cancers by consuming C9-contaminated animals or plants. In this connection, will the Government inform this Council:*

- (1) *whether it knows if there were imports of (i) marine produce from the aquaculture farms and (ii) edible salt from the salt farms, in Quangang district in the past three years; if there were, whether the Government has banned the imports of such food products upon the occurrence of the aforesaid incident; if so, of the details; if not, the reasons for that; and*
- (2) *as some vegetable importers and wholesalers have indicated that there were imports of vegetables grown in Fujian Province in recent years, whether the Government knows if the water sources and farmland there were contaminated in the aforesaid incident; if they were contaminated, whether it will immediately impose a ban on the imports of the agricultural products therefrom; if so, of the details; if not, the reasons for that?*

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

The Centre for Food Safety ("CFS") of the Food and Environmental Hygiene Department has been closely monitoring the situation regarding the

chemical leakage incident in Quangang District of Quanzhou City in Fujian Province which reportedly occurred last month, with a view to assessing whether the incident will affect the safety of food supplied to Hong Kong.

According to the administrative arrangements between the Mainland authorities and CFS, only registered farms approved by the Mainland authorities can export agricultural products to Hong Kong. In the past three years, there were no registered aquaculture farms and vegetable farms in Quanzhou City (including Quangang District) approved by the Mainland authorities and therefore no aquatic products or vegetables were supplied to Hong Kong from that region. Besides, there has been no import of salt into Hong Kong from Quanzhou City since the incident.

CFS will continue to keep in view the development of the aforementioned incident and monitor the safety of food imported from that region and the surrounding areas on a risk-based principle.

MEMBERS' MOTIONS

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

Council now continues with the debate on Mrs Regina IP's motion on "Studying the enactment of an ordinance on regulating subdivided units".

Stand-over items: Members' motions on "Studying the enactment of an ordinance on regulating subdivided units", "Legislating for the protection of whistle-blowers" and "Motion for the adjournment of the Council under Rule 16(4) of the Rules of Procedure" (since the meeting of 28 November 2018)

STUDYING THE ENACTMENT OF AN ORDINANCE ON REGULATING SUBDIVIDED UNITS

Continuation of debate on motion which was moved on 29 November 2018

MR LEUNG CHE-CHEUNG (in Cantonese): Deputy President, I support Mrs Regina IP's motion on "Studying the enactment of an ordinance on regulating subdivided units". In the Motion of Thanks debate on the Policy Address

earlier, I already put forth this viewpoint: given that increasing the average living space per person in Hong Kong from the current level involves land, I support the Lantau Tomorrow programme in no uncertain terms, as reclamation can produce the land that makes possible the construction of more housing. Apart from housing construction, I think the Government should at the same time review the issue of living space with a view to improving our living conditions in the future and resolving our present problems—not just of subdivided units, but that of "nano flats" as well. Strictly speaking, the current living environment is taking a big toll on the harmony of family life.

Mrs Regina IP calls for a study on the legislation on subdivided units or related policies. As we all know, the number of people currently living in subdivided units are large—over 200 000, which is an informal figure from the Government. They are all grass roots and victims of much exploitation, such as paying nearly as much, if not more, for electricity as for rental, or being excluded from the odd benefits and allowance provided by the Government since they are not living in proper flats installed with separate water and electricity meters. It is thus evident that people living in such places are subject to bullying—I can come up with no other words but "bullying" to describe the situation. Hence, I definitely support Mrs Regina IP's proposal for regulating, even by means of legislation, subdivided units. For the Government has a responsibility to provide proper care for people living in subdivided units who are the most vulnerable group in Hong Kong.

From the perspective of social responsibility, it is also necessary to regulate subdivided units. There are several problems related to subdivided units that we cannot overlook, one of them being the overcrowded living environment. Guided by the relevant organization, I once visited some subdivided units with Christopher CHUNG, a former Member of this Council. I remember it was summer, neither chilly nor hot, but it was very stuffy when I entered those units. I could smell the body odours of each of the occupants living in the four or five subdivided units. Conversations could be easily overhead by the occupants next door. All this bears testimony to how repressive the living environment of subdivided units is to the occupants. Those who have lived in such places for a long time and still manage to cling onto their sanity are "superhumans" indeed. While they are obligated by circumstances to live in subdivided units, the Government is unable to help them. This is the problem really.

Hence, I find Mrs IP's proposal commendable. I hope the Government will give it serious consideration and study effective measures to help them. Certainly, I am aware that the Government is actually providing assistance for households living in subdivided units through the Community Care Fund. The relevant measure, in the form of a living allowance granted to those eligible, targets low-income earners with severe rent burdens. Yet, the burning aspiration of people living in subdivided units is not receiving a living allowance but being allocated public housing as soon as possible, which is the best way of helping them.

In this connection, I must make a passing criticism here of those who oppose producing land by reclamation. I do not understand such an attitude of theirs. Since people living in subdivided units will never make a stand in opposition to reclamation or resumption of land by the Government for housing construction, I guess most of the detractors opposing reclamation are already living in cosy homes. Otherwise, there is no reason for them to oppose such an initiative by the Government. Right, Secretary? So, those who oppose the Government reclaiming or resuming land for housing construction must first make a declaration of interest, stating whether they are shelterless, or already living somewhere comfortable. Those in the latter category should not oppose the initiative.

In addition, in respect of legislating for the regulation of subdivided units, I think Members must pay attention to one important issue, that is, the issue of fire escape passageways. With an old building's flat—measuring 1 000 sq ft or 800 sq ft originally—being subdivided into four or five units, can the occupants of these units make their way out through the escape route in the event of a serious incident? I hope the Government will take this issue into consideration when studying the legislation for regulation of subdivided units.

In closing, I will support this original motion and all the amendments. I so submit.

MS YUNG HOI-YAN (in Cantonese): Deputy President, according to the 2016 Population By-census Thematic Report: Persons Living in Subdivided Units, there were approximately 92 700 subdivided units in Hong Kong, and on average

each residential flat was subdivided into 3.4 units, in which approximately 209 700 persons lived, with 2.3 persons on average in each subdivided units. I have made a comparison between these numbers and the numbers on the Waiting List of Public Rental Housing ("PRH"). At present, there are 267 700 persons on the PRH Waiting List, with more than 110 000 of them being non-elderly one-person applicants, and the current average waiting time is 5.5 years. Comparing the aforementioned two sets of numbers, it is a straightforward notion that most of the people waitlisted for PRH are now living in subdivided units.

What is the alarming number mentioned just now? I note that the Commission on Poverty published the Hong Kong Poverty Situation Report 2017 last month. According to the report, after policy intervention, the child poverty rate still increased year on year and the number of poor children increased by 5 300 persons. It has been reported that currently 40 000 teenagers and children under 15 years of age live in subdivided units. I am very concerned about such a situation and find it necessary to study the enactment of an ordinance on regulating subdivided units, and thus I will support Mrs IP's motion.

What housing problems are such 200 000 persons facing? Are they problems about the number or size of subdivided units? In addition to such problems, I consider that fundamentally safety issues are innate of subdivided units, including the effects on the building structure resulting from the conversion works which involve reinforcement bars and concrete, as well as the hygiene condition of the flats, the materials and design used for the sub-division of the flats, fire escapes inside the flats, and even whether the back stairs of the buildings are obstructed and sealed off. Not only households of subdivided units are affected, but also other residents in the building.

Drawing reference from the provisions of the Buildings Ordinance, we know that many subdivided units are non-compliant with regulations. The Government said it will enforce the law, but we know that as there are now over 200 000 people living in subdivided units, it does not hope that law enforcement will make them homeless. It is the very problem the Government has to address squarely. Today, our discussion on studying the enactment of an ordinance on regulating subdivided units is meant to remind the Government that standards should be set so that people know what basic housing requirements entail.

The United Nations established the right to adequate housing in 1991, defining accommodation appropriate for people as one that complies with seven principles, such as habitability, affordability and legal security of tenure. I hold that the Government should include the right to adequate housing in the overall framework of urban development planning. At present, the average living space per person in PRH is 70 sq ft. The average living space per person in subdivided units as announced by the Government is 62.4 sq ft, lower than the number in PRH, and among them families living in subdivided units suffer from particularly small living space.

Some Members have mentioned the Community Housing Movement ("CHM"). I consider that this movement means de facto legalization of subdivided units. But many Members disagree with such a notion and the Government has also denied it. Never mind, I just wish to point out that this movement exactly draws reference from the PRH standards. What living conditions will the participating organizations of CHM provide for people? And what are the relevant terms of tenancy? Under CHM, the average living space per person should not be smaller than 7 sq m and the tenancy period is generally not less than two years. Some flats will be let on the basis of co-living. Without modification of the existing partitions, two to three families are allowed to live together in one flat.

Of course, CHM has merits and demerits. The demerits are that the flats lack separate toilets and some even lack personal space. But we can also see its merits, which are, after all, provision of temporary dwellings for people and rental cheaper than that of subdivided units. Currently, the rental of subdivided units often accounts for half or more of tenants' monthly salaries. People participating in CHM can keep savings during the two years of tenancy. Even if they are not allocated PRH upon the expiry of the tenancy period they can rent other flats using their savings.

However, as we can see, the supply of CHM flats is extremely small, which is probably only 500 or 1 000 flats, possibly failing to offer direct or immediate help to people currently on the PRH Waiting List or living in subdivided units.

Having discussed the standards, exactly what are the advantages of the licensing system and tenancy control we propose after all? We understand that some people have some views on regulation of subdivided units through comprehensive licensing and pointed out that, after licensing is implemented,

tenants will be forced to move out while rentals will be pushed up, thus providing no help for households of subdivided units. However, we submit that tenancy control can precisely help households of subdivided units to prevent them from being affected by rental increases. In my view, in this developed economy of Hong Kong, people ought to be living in adequate housing that must meet various requirements of basic safety, fire services, hygiene, etc. while their right to accommodation is stable and protected, thereby enabling them to have access to an up to standard living environment.

Therefore, the Chief Executive proposed to reactivate the revitalization scheme for industrial buildings, with a view to incentivizing owners of industrial buildings to convert their flats and allowing wholesale conversion of industrial buildings for the provision of more transitional housing. Such a measure merits our tremendous support.

Deputy President, there is a pressing need to enhance the protection for households dwelling in subdivided units, so I support the motion proposed by Mrs IP. Thank you.

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, I support studying the enactment of an ordinance on regulating units of flats subdivided into separate units (commonly known as "subdivided units). But first of all, I must clearly state that supporting the enactment of legislation on regulating subdivided units does not mean approving subdivided units. We also do not wish to give the Government an opportunity to rationalize the existence of subdivided units.

Currently, the conditions of some subdivided units are most inhumane. Such subdivided units are certainly profitable to their owners but extremely inconvenient to the tenants, and such a problem has always existed. When I was a child, I also lived in a cubicle apartment. At the time, I lived in a flat located on Lockhart Road, Wanchai, which housed 16 people from seven households in only three rooms. Other rooms were of the size as two phone booths combined, or were located in the attic access on a ladder.

At present, subdivided units generally are sub-divisions of flats of a few hundred square feet or more than a thousand square feet into multiple units, each of which being only dozens of square feet big. The landlord can only get

\$10,000-odd in rental letting the original flat. But now letting the subdivided units at thousands of dollars each, there will be tens of thousands of dollars altogether. It is how landlords make profits. Given the needs in the market, they will have "everlasting business".

The absolute majority of landlords have refused to disclose the conditions of sub-division of their properties to the Rating and Valuation Department, while the Government seldom initiates investigations into the conditions of such subdivided units and the actual rental income derived from such properties, causing the rentals charged by the landlords to be way higher than the rateable values of such properties as assessed by the Government for a long period of time. In other words, such landlords charge rentals comparable to that of luxury flats but only pay rates levied on general residential properties. It is such a "good deal". No wonder the families of some high-ranking officials are also operating the business of subdivided units. Such low investment can yield a considerable and sustainable rental income in return. It would truly be foolish not to carry on such a business.

Though subdivided units bring no harms but gains to the landlords, as far as the occupants are concerned, they mean hell. First of all, subdivided flats are not value for money. Tenants pay several to ten thousand dollars to rent a subdivided unit measuring less than 100 sq ft. Some subdivided units do not contain separate kitchens and bathrooms, and the toilet is rather close to the bedspace. Such an environment is worse than the prison, meaning it is a better deal being in jail because a prison cell is bigger, without the need to pay any rental and also with three meals provided every day. People now living in subdivided units may have to tighten their belt to be able to pay the rental. And they are subjected to rental increases and even forced eviction by the landlords anytime. If they sleep on the street they will be driven away by the Food and Environmental Hygiene Department. Therefore, they are subjected to exploitation, not knowing what to do. At any rate, they must earn money to pay the rental. Moreover, they are often overcharged for the use of water and electricity, while the electricity charge subsidy introduced by the Government did not cover them. They can be regarded as completely powerless to resist. Many tenants of subdivided units often find themselves worse off and more undignified than being jailed.

It is indicative from the said description that there are two reasons contributing to the plight of subdivided units, i.e. unreasonable living conditions and unreasonable rentals. As stated in the original motion, for the problem of

the poor living environment in subdivided units, the Government can enact legislation on regulating subdivided units, setting requirements for the minimum space per person, basic facilities, as well as the installation of separate water and electricity meters. Nevertheless, the introduction of a licensing and regulatory system may increase the operation cost of subdivided units, thus giving landlords more excuses to increase rentals. Therefore, rental control must be implemented at the same time as the enactment of legislation on regulating subdivided units.

However, I have some other worries as well. If only rental increases of subdivided units are regulated through rental control without restricting the base numbers, landlords may significantly increase rentals during our discussion on the relevant bill. For this reason, the Government must provide a rental allowance for tenants of subdivided units to help share the high rental with them. I must stress that rental control and the rental allowance are measures we have been proposing for years. I proposed not long ago a motion on rental allowance at a meeting of the Panel on Housing, which was passed by a large majority. However, over the years the Government has been refusing the introduction of rental control and rental allowances, citing possible consequent rental increases as a reason, but rentals have indeed been rising steadily. Despite the absence of rental control, rentals have still been on the rise. In fact, had the Government accepted our proposal of concurrent implementation of rental control and rental allowance back then, perhaps the rentals of subdivided units would not have risen to such unreasonable levels nowadays.

In the long run, if we can impose serious regulation on subdivided units and control on their rental levels, which will greatly increase the cost of operation of subdivided units, thus reducing the relevant income and reducing its investment value, subdivided units may well, following the example of caged homes, be gradually phased out. Of course, people must find dwelling places. Even if one tenant stops renting the unit, someone worse off may. Therefore, in the light of an inadequate overall supply of flats, such subdivided units will persist, and it concerns our population policy.

If the population continues to grow and the increase in housing supply fails to keep up with the demand of the growing population, perhaps the flats that will hence emerge should no longer be called subdivided units, but other forms of inadequate housing. After all, I consider that, to control demand and increase supply, the Government must tackle the problems from two perspectives at the

same time. First, public rental housing ("PRH") has all along been in excess demand, which is the very reason for our oft-mentioned request for recovery of the power to vet and approve entry for immigration, for the sake of controlling on our own the overall number so as to make adjustments. We does not necessarily have to reduce the 150 daily quota for one-way permits. If housing production by the Government can catch up, we can then allow more people to come to Hong Kong. But in the event of the failure of housing production to catch up, coupled with the fact that at present even our own people have to live in subdivided units, if this daily quota of 150 people being allowed entry into Hong Kong continues every day, it will only enable subdivided units to exist forever. We of course cannot bear to do so and hope to eradicate subdivided units. Yet there must be accommodation for people. Are they to be all driven out into the streets? And the Government is short of means to address it. Therefore, the concept of shared housing, which has just been mentioned, is reasonable. It actually means making the best use of the available space in the hope that everyone has a dwelling place where the living conditions can be relatively better. At least that kind of housing is better than subdivided units. Nonetheless, should efforts be not made from the perspectives of land supply and control on population growth, combating subdivided units will only be like milking the ram. Even if some people are allocated PRH and have their living environment improved, newcomers to Hong Kong will still have to continue to live in such dwellings of poor conditions.

I so submit.

DR KWOK KA-KI (in Cantonese): Deputy President, I rise to speak in support of Mrs Regina IP's motion and also thank her for proposing the motion on an issue every Honourable colleague wishes to discuss.

Deputy President, I have here a screenshot of a website. I believe Honourable colleagues all know that the average area of a subdivided unit is 54 sq ft. In this subdivided unit shown in this picture live three people, and the bathroom is next door. It is indeed a portrayal of subdivided units. Before further discussing subdivided units, I would like to respond to the speech of Mr LEUNG Che-cheung from the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB"). We have obviously been discussing subdivided units, but he brought up reclamation.

Deputy President, I must present a few facts. In 2002, the Government introduced "SUEN's Nine Strokes" to halt the production of Home Ownership Scheme ("HOS") flats. From 2005 to 2012, Donald TSANG reduced housing and land supply. At the time, who were members of the Executive Council? Members of DAB and the Hong Kong Federation of Trade Unions ("FTU"). But did they say anything? Whatever the boss said, they did, leading to the housing shortage today. It was only in hindsight that they talked about increasing housing production and resuming HOS production. I did not hear them say anything back then but now they talked about reclamation!

It is common knowledge that it is unrealistic to solve the problem of subdivided units with reclamation. Now there are over 27 000 households waitlisted for public rental housing ("PRH"), more than 90 000 households (200 000 persons) live in subdivided units. Are they to wait for the reclamation project under the Lantau Tomorrow Vision? Is it crazy? As far as reclamation projects go, it is common knowledge that it takes some 10 to 20 years from dumping the first pile of fill to housing constructed and available for people to move in. The full completion of the entire project requires 30 to 40 years. Among the some 200 000 people currently living in subdivided units, 18% (38 000 people) are children. They are children today but after 30 years, they will be entering middle age, and only at such time can they be allocated PRH. I ask them to not be so silly and utter such words to deceive people. The Government's swaying housing policy over the years formulated primarily out of the consideration of property development has created the consequences today. It of course comes with a price—Donald TSANG is now serving his time in prison.

However, we all know that, as regards the issue of subdivided units, the Government has 6 000 hectares of land on hand to solve the housing and land problems: 170 hectares of golf course, nearly 1 000 hectares of land in the New Territories for construction of small houses by indigenous villagers, 2 000 hectares of idle land sites, 700 and odd hectares of land in the countryside (brownfield), and also the 2 700 hectares of military land held by the People's Liberation Army. The Government has not put all such land to use, so why talk about reclamation? How could it said something so outrageous? I originally did not want to hold them responsible but if they have made such statements, I must reprimand them straight so as to set the record straight. At the time, those supporting the Government in "killing" HOS flats and reducing land supply were DAB, FTU and the pro-establishment camp.

I would like to make a declaration of interest before all else. I also lived in subdivided units when I was a child, so I can assuredly tell all Honourable colleagues the situation of subdivided units. As we can see now, is the Government unwilling to regulate subdivided units? Certainly not. Last week the Secretary for Development said that actually the existing laws could already impose regulation. The Buildings Department needs only deploy personnel to enter subdivided units, which will definitely be sequestered, because the internal fixtures of subdivided units are disorganized, with random connections of water and electricity giving rise to structural problems. But let us guess whether the Government will handle it. Of course not. All dirty things will certainly be swept under the carpet as if they cannot be seen. The lucky ones do not see. Because when the Buildings Department is to handle the problem of subdivided units, how can the adjacent Transport and Housing Bureau "repay its debts"?

The Government is utterly incapable. The supply of PRH in the next five years only amounts to less than 100 000 flats. Such an incapable Government has talked about housing production by reclamation. Will anyone still believe it? The Government said it will launch 180 000 flats in the next five years, and it will definitely "default on payment". The Government is hoarding so much land, but the present North East New Territories Development, Hung Shui Kiu and Yuen Long South New Development Areas are delayed all the same. As for the first, second and third phases of the Wang Chau development project, those "hillbillies" and rich people are occupying land there so the Government must spend 18 months conducting a study, followed by planning, and then housing production will still not be completed after "ten generations". Such a situation will be the Government's own doing, and yet it turned around to blame us. Is it crazy?

I find Mrs Regina IP's remarks correct. Something has to be done. However, we must consider, while regulating subdivided units, how best not to displace households of subdivided units. As a matter of fact, it is a very difficult situation. We know full well that the Government is incapable and fails to achieve anything. It has failed to increase housing supply and the provision of transitional housing is like a child's play: after much hustle and bustle, it has proposed the construction of the so-called "container" housing to accommodate a few hundred people. Right now dozens of thousands of people are waitlisted for PRH, but the Government can only provide housing for a few hundred people? It is not even one hundredth. I understand the good intentions of Mrs IP so I have to support her. Nevertheless, I know that she is a member of the Executive

Council. May I ask her to urge such a group of mediocre officials to do better, otherwise, even if we all sit down together and wait for the Government to implement the reclamation project under the Lantau Tomorrow Vision, and then after 10 or 20 years when those children now living in subdivided units have reached middle age, the problem of subdivided units will still remain unsolved.

I already said yesterday that the average waiting time for PRH is now 5.5 years. It looks like after the end of the current-term Government, the waiting time will soon become 7 years. And such a thing can happen! I will not oppose the original motion and all amendments to it. I consider the instigators of the problems the Government and the pro-establishment camp, which can hardly absolve themselves of the blame. Once the shortage of housing has emerged, it is difficult to alleviate in a short time. But adopting the Government's current mentality that disregards other options, the Lantau Tomorrow Vision alone will also fail to solve the problems.

I hope the Government can drum up the resolve to solve the problems so that people living in subdivided units will stop surviving in such miserable conditions. Over 90% of them suffer from emotional problems. According to statistics, in 2015, Hong Kong actually was ranked the fifth among the wealthiest regions in the world. Ironically, now ordinary people live in spaces of the same size as prison cells. The average living space per person in prisons is 49 sq ft, while that in subdivided units is 54 sq ft. Living in subdivided units is no different from being jailed. What a heartless Government!

I so submit.

MR KWONG CHUN-YU (in Cantonese): Deputy President, first of all, I would like to thank Honourable colleagues for proposing this motion. As a matter of fact, this issue merits our discussion in the Legislative Council.

Recently, I have visited some "net cafe refugees". I think this term may be relatively unfamiliar to most people. What does "net cafe refugee" mean? A few days ago, I conducted an outreach visit with a television crew to look for "net cafe refugees". We can imagine that there are computers, video game consoles and chairs in Internet cafes. But in fact, some people would stay overnight in Internet cafes. Why would they do so? Because it is very cheap

to spend a night there. It costs only some \$50, hence about \$1,600 a month, to spend a night there. They can save a lot in rent as it costs one third to two thirds less than the rent of a subdivided unit. However, this is indeed a social tragedy. Just imagine, they sleep all night sitting up in a rather noisy environment.

Why are there "net cafe refugees" in society? In the final analysis, it is because housing is becoming more and more expensive, crowded and "nano". The rentals of subdivided units are comparable to the level in middle-class districts. Yet, there is this group of people who live in Internet cafes. I cannot say how many there are, but they are indeed living in Internet cafes in different districts and sleeping in a seated-up position every night. A "net cafe refugee" said it has been a long time since he last slept with his legs straight, and this really saddens me. Hong Kong is such a wealthy society, yet there are people who cannot sleep lying flat may be night. He does have an income, but his monthly income is only some \$10,000. He needs to find a place to spend the night and avoid sleeping on the street as street sleepers, as the Leisure and Cultural Services Department would spray water and powder in the parks, and they are subjected to occasional thefts, identity checks by the Police, etc, as we have repeatedly criticized. They are not penniless as they do make an income, but they are precisely the disadvantaged group who need assistance most badly because they cannot even afford the rental of a subdivided unit.

This is really a most pathetic situation. In fact, I started my career as a social worker and I am honoured to chair the Panel on Welfare Services in this session. We often have to conduct site visits and follow-up in order to understand the problems faced by them. Even water, electricity and gas can be a problem. As we all know, some landlords would charge tenants extra for water and electricity and make profits out of them in addition to the rental. Some landlords would even charge 40% more for water and electricity. Society is still holding discussions on how to solve this problem. Fortunately, there seems to be a ray of hope for the situation when subdivided unit tenant CHEUNG (I call him "Old CHEUNG") lodged a claim with the Small Claims Tribunal and the other party proposed an out-of-court settlement and realized that landlords should not bully tenants in this manner. But then, on the other hand, we can see that rentals are soaring. Can they really afford it? This also leads to our discussion today, which is rent control and a rental allowance. Do we not offer a helping hand to this group of people? Do we turn a blind eye to this issue? Do we leave outdated legislation as it is and ignore the survival of these people?

The Landlord and Tenant (Consolidation) Ordinance really warrants a review because these people are Hongkongers, citizens and human, too. They have one simple request: have a roof over their heads and a place to sleep. Does today's discussion mean we approve of subdivided units? In the face of the 90 000 subdivided unit households and 210 000 subdivided unit dwellers, we cannot but consider how to protect the basic human rights and feelings of subdivided unit dwellers. Hence, we have to consider, as I mentioned earlier on, legislating for rent control and a rental allowance, which are issues we cannot evade.

Is there a better solution at this stage? There is. Here, I should perhaps first thank the Secretary for Development for having accepted one of the proposals advocated by us of setting up a fund for renovating vacant school premises and idle sites. The establishment of this fund has just been approved by the Panel on Development and I hope it will obtain the approval of the Finance Committee next. In fact, the fund originally aims at helping creators and artists working in industrial buildings. As we all know, it is forbidden to generate visitor flow in some industrial building premises. If this happens, creators and artists may not be allowed to work there at all. So, we came up with the idea of identifying some 120 vacant school premises and 800 idle sites throughout Hong Kong and asked the Administration how they could be used and why they were not being used. The Administration replied that applications for leasing the premises could be made but no funding was set aside for rendering the space available for use. Consequently, we approached the Development Bureau for help which conducted data collection and inspections before announcing the establishment of the fund in the Budget.

I have made only half a step by having come up with this idea of the fund. This half a step may not help many people but we are doing as much as we can. With respect to transitional housing, how about setting up a social housing fund? We know that the Community Care Fund has allocated more than \$30 million to developing a project on Nam Cheong Street, but it remains all smokes but no fire. In fact, making good use of idle sites is something we should do. After all, one more unit is better than nothing; helping one more subdivided unit tenant is better than helping nobody. However, I wish to remind the Government that, in order to really solve the issue, it must first tackle the problem of supply as there are more than 90 000 subdivided unit households, 200 000 subdivided unit tenants, not to mention the nearly 300 000 people waiting for public housing allocation. We have been advocating using, for example, the golf course, or other sites for medium-to-short-term purposes. These are questions the Government cannot evade.

Therefore, short-, medium- and long-term plans should be implemented. The short-term plan is the introduction of transitional housing. I suggest the Government to find ways to revitalize every idle site or vacant school premises, or transform them into transitional housing with the support of the fund or a recurrent funding. This is the short-term approach. In the medium term, we should recover brownfield sites, "tso tong" sites and golf courses, in order to help those who aspire to sleeping with their legs stretched straight. Their wish is merely to sleep with their legs laid straight. How humble a wish is that? Is Hong Kong so sick that it cannot even let its people have a good night's sleep? I hope the Government will listen to our views. I so submit.

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

(Dr KWOK Ka-ki indicated his wish to raise a point of order)

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki, what is your point of order?

DR KWOK KA-KI (in Cantonese): Deputy President, a quorum is not present in the Chamber.

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki 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, but some Members did not return to their seats)

DEPUTY PRESIDENT (in Cantonese): A quorum is now present in the Chamber. Will Members please return to their seats. The meeting now continues.

MR CHU HOI-DICK (in Cantonese): For a start, I am very grateful to Mrs Regina IP for moving this motion and other Honourable colleagues for proposing their amendments. I believe this is a rare occasion on which the Legislative Council can engage in more thorough and in-depth discussion on a motion in a progressive manner. I also believe that we can reach a consensus on this motion. Despite the fact that we do not have a consensus on various aspects such as long-term land supply, potential reclamation sites and the number of flat units to be constructed, I think the Legislative Council would not have divergent views on the some 90 000 dwellers living in subdivided units who are currently in dire straits. Our common goal is to explore ways to improve their lot as expeditiously as possible and help them break away from their present predicament.

Therefore, if the original motion and all the amendments are passed today, but the Government still takes no action—such as setting standards for subdivided units, installing separate water and electricity meters, and implementing tenancy control on a specific scope of coverage as proposed by Mrs Regina IP in her original motion—If the authorities still sit back and do nothing despite the specific demands jointly put forward to the Government by Members from different parties and camps, and the Government still turns a deaf ear to us, we should then ask ourselves whether the Legislative Council has been scrapped. I consider the subsequent development regarding this motion in the future would precisely reflect how the SAR Government treats the Legislative Council.

The second point I wish to raise is that this type of motion somewhat resembles a Christmas tree. It is similar to the previous motion concerning the Greater Bay Area, which provides a relatively broad framework for us to add different contents. Honourable colleagues from the pro-establishment camp would usually add a lot of contents. The case of this motion is quite similar. Nevertheless, I think that in regard to the problem of subdivided units or the housing predicament of the grass roots, we need to devise a conceptual framework to let the public understand our thoughts clearly.

I consider the existing framework is precisely the housing ladder all along emphasized by the Chief Executive or the Government in the past. The housing ladder has been deeply rooted in people's minds and there is a great variety of corresponding policies in place. Nowadays, there are at least the Green Form Subsidized Home Ownership Scheme, Home Ownership Scheme and "Starter Homes" Scheme for Hong Kong Residents. Other policies might be rolled out

in future, whereas the Urban Renewal Authority and the MTR Corporation Limited have also been involved. These policies to facilitate members of the public in achieving home ownership all use the housing ladder as the framework.

However, I clearly recall that Mrs Regina IP has mentioned on different occasions that if the Government has the resources to help the public solve the housing problem, whether the top priority task is to help members of the public buy their own homes, let them move up the housing ladder so that they can eventually purchase private residential flats offered by the sector represented by Mr Abraham SHEK, or whether the Government should focus its resources on helping the grass roots. As Mr KWONG Chun-yu said, some members of the public cannot even afford to live in subdivided units, so they can only stay in the McDonald's and Internet cafes. This is a very crucial difference. In view of this, I think our mindset should not be fettered by the phrase "housing ladder". We should contend or supplement it with another phrase which I call the "settlement ladder".

Why do we need a "settlement ladder"? It is due to the insufficient supply of public housing. The problem can be solved at one stroke if there are sufficient public rental housing ("PRH") units to enable members of the public with less financial means to have a stable home in PRH. However, given the insufficient volume of PRH construction nowadays, we have to introduce an additional rung on which they can set foot. In the absence of such a rung now, members of the public can either be allocated a PRH unit or stay in the McDonald's and Internet cafes. Between these two groups there are some 90 000 inadequately housed households dwelling in subdivided units.

The "settlement ladder" is an important framework we should instil in the mind of the Government. By applying this framework, we can get to know the parts where discrepancies exist and the areas where the shortfall has to be made up for. For the time being, regarding the part which should be made up for—be they the several points of views raised by Mrs Regina IP, or the "three keys" proposed by Honourable colleagues from the Hong Kong Federation of Trade Unions, namely rental allowance, tenancy control and a vacant property tax—the Government often claims that implementing these measures will have impacts on the market, which may lead to a further reduction in the supply of flats, thereby adding to the woes of the public.

I have specifically pointed out on various occasions that I would definitely lend my support if the Government implements these policies. Having said that, it is necessary for the Government to undertake to make an underwriting to ensure that these policies will not give rise to the negative effects indicated by the Government. What does it mean by "making an underwriting"? It means that the Government should take up the responsibility of constructing transitional housing, that is, temporary housing which existed in the past.

The initiatives proposed in the Policy Address have completely shirked such a responsibility onto non-governmental organizations and private developers by setting aside \$1 billion for them to apply for housing construction. Yet, but how many units can be built with this sum? There are currently 90 000 households dwelling in subdivided units, thus how many units should be built in order to alleviate the problem substantively and introduce such a rung on the "settlement ladder"? Will the two Directors of Bureaux please respond to this question.

If the Government adopts an outsourcing approach in taking forward its policies by setting aside a funding of only \$1 billion, it is merely doing some minor patch-up work which is no different from doing nothing. I hope that with the general consensus reached by the Legislative Council today, the Government will shoulder the responsibility of adding the very important rung of temporary housing to the "settlement ladder", so that members of the public who do not want to live in subdivided units which are so cramped but the rents of which amount to \$6,000 or \$7,000 (*The buzzer sounded*) ... can have a new option.

DEPUTY PRESIDENT (in Cantonese): Mr CHU, your speaking time is up. Please stop speaking.

MR DENNIS KWOK (in Cantonese): Deputy President, I am a member of the Hong Kong Housing Authority ("HA") and the Chairman of the Building Committee under HA. Our duty is to monitor the construction of public rental housing ("PRH"). Being the Chairman, I have noticed that the area of HA construction sites is getting smaller and smaller whereas many sites are in irregular shape. The volume of PRH construction has continued to drop as well. While the waiting time for PRH is five years at present, it might become six,

seven or eight years in the future. The insufficient land supply has resulted in the smaller area of construction sites, which in turn slows down the speed of construction. Why? To cite a recent example, at a site in Chai Wan on which a single building is to be built by HA, space can only be made available for construction works by excavating part of the hill slope and erecting a large-scale platform. Problems with the area of the site have slowed down the speed of construction and led to high property prices. To my understanding, the average selling price of each unit of the development is at least \$1.4 million.

What we have seen is not only the diminishing number of PRH units, but also the persistent slowing down of construction speed. Why? If precast concrete components are used for PRH construction, the best approach is of course to transport such components to the site for subsequent construction floor by floor. Yet, when the area of the construction site is so small that there is no space to place the precast concrete components, the speed of PRH construction becomes even slower.

All in all, I believe the Secretary is also aware that the situation is very bad. HA colleagues have tried their best to identify sites but the efforts are in vain. They also hope to secure larger sites, but the area of construction sites is getting smaller and smaller. We would certainly discuss the problem of subdivided units, but why do we mention PRH? Because PRH is the solution to tackle the entire problem concerning subdivided units at root. Why do people have to live in subdivided units at root? Hong Kong is such an affluent city, why do people live in such accommodation? Foreigners are puzzled when they see the phenomenon of subdivided units in Hong Kong, and this is also the shame of Hong Kong. I believe everyone in Hong Kong, especially those living in subdivided units, are very much saddened by this phenomenon.

In fact, according to the Housing Act 2004 of the United Kingdom, subdivided units would be issued with a licence or they can be rented out. The specific details are stipulated in the definition of "house in multiple occupation" in the law, which means the house is occupied by a number of people. For instance, a property can be rented out to households with more than three members who share facilities such as the kitchen and toilet. It can also be rented out to more than five individuals, with some or all of whom sharing certain facilities.

There are specifications for these so-called subdivided units in the United Kingdom and they are required to obtain a licence. The licence is issued by the municipal government and it should be renewed every several years, which is handled by dedicated staff. The waiting time for PRH is as long as five, six or seven years or even longer nowadays, hence the Government should not look on with folded arms indeed. It has to consider whether it should follow the practice of the United Kingdom of devising a set of housing legislation to allow the occupation of a flat by a number of people. That said, regulations should be made to require that the hygiene and basic facilities of such units should at least meet certain standards. I hope the Secretary will seriously consider this suggestion, for the current situation is actually not the worst case, and it will only grow increasingly worse.

When we see the very long waiting time for PRH, we cannot just sit back and do nothing. This is one of the Civic Party's suggestions in respect of the housing problem, other suggestions include the introduction of a vacancy tax. Mr Abraham SHEK will certainly take great exception to this. In addition, we also propose levying a capital gains tax on non-local residents. The Civic Party believes that introducing a vacancy tax is one of the means to facilitate the property market in resuming normal. We can see that the number of first-hand properties sold has increased by 97% when such a tax has yet to be introduced. Some years ago, people asked about the purposes of a vacancy tax. We now see that the sales volume of first-hand properties of real estate developers has increased by 97% in the absence of such a tax.

(Mr Abraham SHEK indicated his wish to raise a point of order)

DEPUTY PRESIDENT (in Cantonese): Mr Dennis KWOK, please hold on. Mr Abraham SHEK, what is your point of order?

MR ABRAHAM SHEK (in Cantonese): Deputy President, I would like to raise a point of order. What is the relationship between the vacancy tax mentioned by Mr KWOK and the problem of subdivided units currently under discussion?

DEPUTY PRESIDENT (in Cantonese): Mr SHEK, this is not a point of order. If you have any views, you may press the "Request to speak" button and express your views at a later time. Mr Dennis KWOK, please continue your speech.

MR DENNIS KWOK (in Cantonese): Thank you, Deputy President. If Mr SHEK has any views on a vacancy tax or other suggestions on the overall housing policy made by the Civic Party, the door of my office at Room 813 is always open. Mr SHEK is welcome to discuss with us the vacancy tax and a host of housing issues at any time.

Certainly, I believe the Deputy President also understands why we have to talk about these issues. It is because this subject concerns not only subdivided units, but also the problems with the overall housing policy of Hong Kong. Therefore, other problems regarding the housing measures and policies would unavoidably be involved when we discuss other policies. Having heard some good suggestions put forward by a number of Members earlier, all I can say is that I hope the Bureau will cautiously consider how best to implement the relevant suggestions to solve the existing problem of subdivided units. Thank you, Deputy President.

MR KWOK WAI-KEUNG (in Cantonese): Deputy President, the problem of units of flats subdivided into separate units (commonly known as "subdivided units") in Hong Kong is acute. It is estimated that there are currently some 100 000 households living in subdivided units housing 210 000 persons in total—including 30 000 children, with half of them being waitlisted for public rental housing ("PRH"). While the provision of PRH, in theory, can go a long way towards easing the problem of subdivided units, the slow progress and meagre volume of PRH construction mean that the sufferings of people living in subdivided units are perpetuated indefinitely. The relevant blame should be primarily laid at the door of the Government which fails to achieve the goal of maintaining the PRH waiting time at three years.

In this connection, what can the Government do? On PRH construction, the Government points to the current shortage in land supply coinciding with obstruction at every turn from the opposition camp, which opposes reclamation, among many other things. It turns out that the task of identifying land for

housing construction is indeed daunting—it should not be so, if Members greenlight the release of land for housing construction so that people can expeditiously move into PRH. However, while demanding actions from the Government to enable people to move into PRH as soon as possible, the opposition camp opposes everything and rejects all proposals, rendering the Government in its current state of inaction.

Deputy President, we are all aware that the average waiting time for PRH has been hitting new highs, from a little over 4 years last year to 5.5 years at the moment. I am sure all Honourable colleagues present would agree that this number will only go up instead of down in future. As for how long this rising trend will continue, honestly, no one has any idea at what level it will peak. The supply of PRH in the next five years is indeed woefully short. Theoretically, according to targets set by the Long Term Housing Strategy Steering Committee, the Government should provide 20 000 PRH units and 8 000 Home Ownership Scheme flats annually, which is also the consensus among Members. However, in terms of PRH, for instance, the actual annual volume of supply in the next five years is just 15 000 on average, which is practically inadequate. When can the problem of subdivided units be resolved? The outlook came to mind is bleak indeed.

Since the Government cannot construct sufficient PRH to meet demands in the short term, what else can it do to help the households dwelling in subdivided units? There is this suggestion that the supply of transitional housing should be increased, a proposal of which all Members here approve. The problem is, after providing a few hundreds of such units last year, the Government again pledges the provision of no more than a few hundreds of such units this year. As the annual figure will probably remain at a few hundreds for next year and the years to come, how can these units accommodate the 200 000 or so persons waitlisted for PRH, Deputy President?

Since this cannot be done and that cannot be done either, the Government should go for the next best option by laying down rules for these subdivided units—even though Members in this Council do not care much about following rules. With the current lack of regulation on subdivided units, landlords can arbitrarily increase rentals, evict existing tenants and cherry-pick prospective tenants, putting those households with children or seniors at a disadvantage. Since the Government cannot resolve the issue of identifying land for PRH construction and provide enough transitional housing, it might as well be pragmatic by regulating such subdivided units, preferably through the

introduction of rent control, requiring at the very least that landlords can increase rentals only upon the completion of a two-year tenancy agreement, so as to prevent them from arbitrarily increasing rentals—every three months or biannually—in the light of strong market demands and depending on their moods, and depriving their tenants of the most basic protection. Besides, what should be the rate of rental increase? Some landlords will increase rentals by 10% to 20%, while others demand an exorbitant 50% increase in one go. There are many similar cases like this. And this has yet taken into account the overcharge of water and electricity tariffs on tenants, who may have to, for instance, pay their landlords an amount that doubles their actual water tariff of no more than \$20 to \$30. Should the Government turn a blind eye to these problems? The Government often stresses that special issues require special approaches. Now that there is this problem before us, is the Government taking a special approach to address such a special issue, or being especially unwilling to exert itself? I hope the Government will address the issue of subdivided units in a serious manner.

Apart from rental protection, the protection on the living environment also deserves our attention. First, is fire safety—an issue which Members find very disturbing—up to standard? Second, are subdivided units too small? For instance, some of the units measure no more than a few dozens sq ft with the toilet and shower fitted right under the bed. In the light of such a living environment, is it not necessary for the Government to intervene? Or, since these subdivided units are the inevitable products of the unresolvable problem of housing supply which nevertheless offer shelter to some people despite their illegality, they are thus seen by the Government as a time bomb best to be left alone lest it explodes—banning subdivided units would require consideration on rehousing the affected occupants, so it is best to leave the problem unaddressed—which causes more sufferings to the occupants of subdivided units.

In addition, on the suggestions of tenancy control or rent control, the Government keeps insisting that the provision of a rental allowance will only encourage landlords to increase rentals. In fact, with the stabilization of rental brought about by the introduction of tenancy control, the allowance will naturally find its way to tenants' pockets without being pocketed by landlords. However, if the Government only considers implementing one single measure, instead of taking a three-pronged approach—providing a rental allowance, implementing rent control and imposing a vacancy tax—as we the Hong Kong Federation of Trade Unions have suggested, it is doomed to fail.

Deputy President, simply put, the Government should assume responsibilities for failing to achieve the goal of maintaining the PRH waiting time at three years. It should not shirk its responsibilities by leaving the issue of subdivided units unresolved.

Thank you, Deputy President.

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

DEPUTY PRESIDENT (in Cantonese): Mr Abraham SHEK, please speak. Mr Jeremy TAM, if you wish to speak, please press the "Request to speak" button.

MR ABRAHAM SHEK (in Cantonese): Deputy President, I think Members have to understand what the whole matter is about in discussing the subject matter today. The root of the problem is the incompetence of the Government. At present, 290 000 households are waiting for public rental housing ("PRH"). Initially, the waiting time was three years but subsequently, it increased to five years but a couple of days ago, the Government told us that it might not be possible to allocate PRH to them even after waiting for five years.

The Government chose a person of the opposition camp to chair the Building Committee under the Hong Kong Housing Authority ("HA") but they did not voice any opposition, instead, they said that it was really difficult to allocate PRH in five years and that they were facing a lot of difficulties. Why was a person of the opposition camp chosen to chair the Building Committee? The aim is to monitor the Government, not having him to recognize what a good job HA has done. If he is having a hard time, so what? Even if he is having a hard time, the people living in subdivided units are having an even harder time. It is not his duty to sing praises of HA, rather, he has to monitor it, see to it that it will accelerate the progress, so that people applying for PRH need to wait for three years only. In the Public Accounts Committee, we also urged the Government to exert its utmost to revert the waiting time to three years.

Just now, that Chairman suggested a vacancy tax. What is the use of a vacancy tax? How many people can it help? Yet, he is the Chairman of the Building Committee and even he said that there are a lot of difficulties. Some sites are too small and cannot be used for housing development. However, if a

lot is big, there are ways of building on it and if a lot is small, there are also ways of building on it, too. If Members care to take a look around Hong Kong, they will find that many small plots of land can also be used to erect buildings, so do not speak in defence of the Government anymore. Those people living in subdivided units or out there are trying very hard to hold on, Deputy President. How do I know? Because I represent the real estate sector. This issue has nothing to do with real estate developers at all. Those people are not our clients but we think society is unjust.

Why can members of the public not be allocated PRH even though they have waited for five years? The crux of the problem lies in the policy, the terrible policy of the Government. Do Members know what the Chief Executive, Mrs Carrie LAM, said in this year's Policy Address? It is "focus on home ownership". How can the focus be on home ownership? The Government should not assist the public in buying properties, rather, it should enable them to live in peace and work with contentment and it should speed up its efforts to help people without the means to buy properties move into PRH rather than assisting them in buying their properties. For example, if HA has any housing units to offer, it should arrange for these people to move into them, yet she is telling HA to provide units sought after by people who aspire to private property ownership, for example, through the White Form Secondary Market Scheme ("WSM"), the Green Form Subsidised Home Ownership Scheme ("GSH"), etc. Is this the Government's responsibility? Its responsibility is to enable those 290 000 people or 90 000 households waiting for PRH to move into PRH as soon as possible.

Just now, Dr KWOK Ka-ki directed some criticisms at real estate developers. By now, he should know that this has nothing to do with developers! This is all because of the terrible policies of the Government, is it not?

(Dr KWOK Ka-ki indicated his wish to raise a point of order)

DEPUTY PRESIDENT (in Cantonese): Mr Abraham SHEK, please hold on. Dr KWOK Ka-ki, what is your point?

DR KWOK KA-KI (in Cantonese): I have to make a clarification. I wonder if he has listened to my speech. I in fact ...

MR ABRAHAM SHEK (in Cantonese): I did not listen to his speech ...

DR KWOK KA-KI (in Cantonese): I did not criticize real estate developers. However, if developers really warrant any criticisms, they surely should be scolded even more.

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki, please let Mr Abraham SHEK speak.

MR ABRAHAM SHEK (in Cantonese): When it comes to who should be scolded, if a doctor is incapable of realizing who warrants scolding, he should not work as a doctor but then, I do not know what sort of work he should do.

Deputy President, there is another point I wish to raise. If the motion today is about enacting legislation to regulate subdivided units, we should ask ourselves: If legislation is really enacted and those people have nowhere to live as a result, in that case, are they supposed to sleep in the street? First, enacting legislation is easy but the implications of the law will be even wider. Will the Government be able to provide housing to those people? At present, it is necessary to wait five years for PRH, so how will those people be dealt with? Members cannot just engage in empty talk. All this talk is the talk of politicians. There is also talk of rent control. If all landlords increase their rents, does anyone mean that those of subdivided units should not be allowed to do so? Hong Kong is a capitalist society, so do you think you can do anything arbitrarily? Of course, winning votes is easy but we must also be responsible.

Introducing a vacancy tax, regulation, enacting legislation on this matter all seem to be very clear when we talk about them but we also have to look at how the problem can be solved. The Government should be the one to solve the problem and it should identify more land. At present, it is not true that there is no land, for example, in Shek Kip Mei, there are many old housing estates but the Government does not want to demolish them. Once those housing estates are demolished, a large quantity of housing can be built, yet the Government has cited a lot of reasons for not demolishing them. Why did HA say that it took seven years to complete the construction of housing? HA is really ridiculous. Why is it necessary to take seven years and why can it not be done faster?

Because under the entire government framework, wages are too high—because no imported workers are allowed—moreover, the supervision is also outrageous and everything is done slowly. Secretary Frank CHAN is responsible for providing more land and the Government has so much of it, so how come it is unable to provide any? How come there is no land in Hong Kong? So long as the Government wants, it can request the Mass Transit Railway Corporation Limited or the Urban Renewal Authority to build more public housing, so why does the Government not make such requests? Because you are incompetent, unable to make decisions on your own.

We have to see how social conflicts can be resolved and we must not fail to allocate PRH to those 290 000 people even after they have waited for five years. Deputy President, I can tell you, at present, a lot of people live in subdivided units and elderly people are the people who have made Hong Kong prosperous and affluent. They have made a great deal of contribution to make Hong Kong the way it is now but each year, 5 000 to 6 000 elderly people died while waiting for a place in care and attention homes. That Secretary surnamed LAW even said that problems could not be solved even though one had money, so just let them die! Deputy President, what kind of rationale is this? On the housing problem in Hong Kong, we talk about such things as focus on home ownership, introducing things like GSH and WSM, but we should serve the public properly and house them as soon as possible, so that the waiting time for PRH can return to three years and they can move into PRH as soon as possible.

DEPUTY PRESIDENT (in Cantonese): I wish to remind Members that if they found that any Member speaking has misunderstood what they said in their speeches earlier on, they should wait until the Member has finished speaking before raising their hands to indicate their wish to explain the part of their speeches which has been misunderstood. Members should not rise to make clarifications while other Members are speaking.

Does any other Member wish to speak? Mr Jeremy TAM, please speak.

MR JEREMY TAM (in Cantonese): Deputy President, it turns out that my entire script can be discarded because I was roused and exhilarated by the speeches made by two Honourable colleagues just now. Since Dr KWOK Ka-ki, sitting next to me, had spoken once, he immediately passed his tablet computer to me and asked me to look at the main points jotted down by him. I

will try to make a consolidated response to the great arguments presented by the two Honourable colleagues just now. I dare not say they are specious arguments.

Just now a Member of the Hong Kong Federation of Trade Unions alleged that the opposition camp had obstructed the construction of housing and creation of land. But the truth is exactly the opposite. Members may find this surprising. Deputy President, despite the broad smile on your face, actually this matter is also related to you because it concerns the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB"). The tablet computer passed to me by Dr KWOK Ka-ki just now has shown three news reports about DAB. The first one is about NGAN Chun-lim of DAB, an Eastern District Council ("DC") member, opposing the construction of public rental housing ("PRH") outside Oi Po House in Shau Kei Wan. Similarly, the second one is about Terry YIP of DAB, a DC member, opposing the construction of PRH in Hang Fu Street, Tuen Mun. The other one is about WONG Chau-pak of DAB, a DC member, opposing the construction of PRH at the Chung Nga Road East and West sites in Tai Po. Deputy President, what on earth has happened? This is not what the pro-Government camp should do. Hence, I must make it clear that the opposition or pro-democracy camp does not oppose the construction of housing. Rather, the local DC members, especially those of DAB, did so. After spending only a few minutes, we already found that at least three of their DC members having done so. Therefore, they should stop making such an allegation.

Back to Mr Abraham SHEK's speech. Just now he hurled his criticisms sharply with agitation, reproaching the officials at the same time. However, please clear up the truth first. Why do we hold that the whole housing problem is related to the developers? Because this is precisely the truth. What do Members think is the purpose of increasing land supply? An increase in supply implies that the land premium can be lower, right? Do Members agree with this point? If the increase in supply seeks to raise the land premium rather than making it go down, then the Government simply has no need to build artificial islands at Lantau East. If such a remark is right, we should build nothing because with lesser land, land will become cheaper. But this is impossible.

As Members have mentioned, when the land supply increases, the land premium will drop in principle. However, is that the case as shown by history? The last Chief Executive LEUNG Chun-ying introduced the "Hong Kong Property for Hong Kong People" measure—this is my pet example I like to

cite—intending to disallow the sale of such units to non-Hong Kong residents. They could not be used for speculation purposes and could only be used for self-occupation. It can be said that he had foresight, advancing the view that "properties are for accommodation, not speculation" even earlier than President XI Jinping. However, what happened in the end? Regarding the sale price of those two sites, the average per-square-foot price of the first one was \$5,427, and that of the second one, \$4,913. Those two sites were the only "Hong Kong Property for Hong Kong People", so to speak, but today they have become "One Kai Tak". The per-square-foot price of the units in Phases I and II of One Kai Tak built on these two sites is \$18,000. How can we say it is not related to the developer? Had the developer not chased such an extortionate profit, the sale price would not have been so high. We can do some arithmetics. The per-square-foot price of the land is \$5,000 to \$6,000, coupled with a construction cost of several thousand dollars. Even if the profit margin sought is 30%, the outcome cannot possibly be \$18,000. This is maximizing the profit. Do Members think selling the land for a lower price would help? No. The ultimate beneficiaries were not Hongkongers who purchased the properties. In the end, applications were made to let out a vast majority of these units or properties. In other words, they were not for self-occupation. The entire policy was a total failure.

How will the prevalent problems be unrelated to developers? The existing problems are closely linked with one another. Since property prices are high and unaffordable to members of the public, the number of applicants waiting for PRH increases, and the queue grows increasingly long. The exorbitant prices of private properties have caused the rents to rise. Comparing such rents with those for PRH, members of the public would rather wait for PRH. This is the reality.

Subdivided units are also private properties. If the selling price of private properties is not so high, how would subdivided units be so expensive? One problem is linked with another. Where do private properties come from? From new property developments. The selling price and supply of new property developments will, as a matter of course, stimulate the second-hand market. This is an unchanging law. Since the price in the first-hand market can be set by putting up a large number of units for sale in a single batch, the selling price of first-hand properties will definitely stimulate the second-hand property market. That is the case with both rises and falls. As in the case of SARS in 2003, property prices went down only because developers took the lead in cutting the

price when launching new property developments for sale. Consequently, the prices of second-hand properties were frozen and then adjusted downward. Such has always been the problem.

Hence, the argument that developers do not play any role in property prices cannot stand at all. The problem we are facing was precisely caused by property prices. Now the crux is not the lack of land. Rather, it is the exorbitant property prices. Now we do have land, as shown in the several examples cited just now. But the relevant DC members oppose the construction of housing on those sites. Why do they keep saying that reclamation is necessary? Because the Government or the pro-Government camp only wants to find land sites which are easy to handle. As regards those sites which involve difficulties, political pressure, and opposition from residents, green groups and other stakeholders, or land which is likely to involve container yards being operated by themselves, such various reasons have made us unable to construct housing on these visible sites. To the authorities, the simplest method is reclamation. As for those whales, sharks and dolphins, the authorities could not care less because they do not speak for themselves. The authorities will just reclaim land from the sea direct. We might as well play the electronic game "SimCity Built" and let it be. The Government adopts the simplest method to deal with this matter, but actually the problem remains unsolved. The present situation is similar to that of a factory which fails to make money because its workers cannot complete the work owing to poor operation, but the boss does not require the workers to think about how to raise efficiency first. Instead, he only wants to hire more workers to finish the orders, and that is all. The Secretary will not operate a company in this way, will he? Hence, will the authorities please make good use of their own land first.

MR CHARLES PETER MOK (in Cantonese): Deputy President, I did not intend to speak originally, but Mr Abraham SHEK's speech was really too remarkable. As I have said repeatedly, I always respect Mr Abraham SHEK because he often makes witty remarks at the end of the debate. I also find that sometimes we may not understand his logic even after thinking long and hard about it. However, he is indeed superior to others and unfathomable.

We heard Mr SHEK criticize many people just now, including Mr Dennis KWOK, the Government and the entire opposition camp. His position is very special. For instance, he accused Mr Dennis KWOK of being a member of the

opposition camp, yet, the Government appointed him as Chairman of the Building Committee under the Hong Kong Housing Authority. He talked as if Mr Dennis KWOK was exonerating the Government. I assume the Government or Honourable colleagues of the pro-establishment camp prefer pro-democracy Members to criticize less and show understanding for their difficulties. Yet, now that Mr Dennis KWOK shows understanding of their difficulties, Mr SHEK turns around and criticizes him. So, sometimes I do not know what he wants us to do. What exactly does he want us to do?

MR ABRAHAM SHEK (in Cantonese): Withdraw that remark ...

MR CHARLES PETER MOK (in Cantonese): Which remark should be withdrawn? Excuse me, Deputy President, we should not engage in an exchange.

DEPUTY PRESIDENT (in Cantonese): There should not be any direct exchange between Members in the Chamber.

Mr Charles Peter MOK, please continue.

MR CHARLES PETER MOK (in Cantonese): Although I did not understand it, Mr SHEK's remark was actually quite consistent. First, if there was something wrong, he would say that it was the Government's fault, just like what he did just now citing the names of Secretary Frank CHAN and Secretary Dr LAW. It was all the Government's fault. His remarks should have been to the liking of the opposition camp and the pro-democracy camp, except that he criticized us, too. His only consistent opinion was that it all has nothing to do with real estate developers. The developers have done nothing wrong.

Speaking of public housing construction, he said people on the public housing waiting list are not his clients, thus it has nothing to do with him. What I do not understand is that there is only so much land in Hong Kong. Even with reclamation, there is only so much land. It is entirely meaningless to argue whether developers have done a part in causing the situation. When it comes to

the debate on these issues, I find it unnecessary for the pro-democracy camp to hold the pro-establishment largely responsible, although it may very well be the case, because today is a rare occasion on which both the pro-democracy and the pro-establishment camps support the amendments. Of course, Members have to speak, vent their spleens and criticize each other for what they did in the past. However, despite the criticisms, I hope the Government will listen to the opinions of all Members. The Government's responsibility cannot be shirked. It is definitely responsible for any delays, mistakes or inadequacies in the policies in the past few decades. I hope the Government will see that both the pro-democracy and pro-establishment camps unanimously support the original motion and the amendments this time.

As for the responsibility of real estate developers, I believe it should be left to the public to comment and not for Mr SHEK and I to engage in arguments. There is really no need to argue whether developers have something to do with it here. However, I am interested to see how Mr SHEK will cast his vote later on.

Thank you, Deputy President.

(THE PRESIDENT resumed the Chair)

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mrs Regina IP, you may now speak on the amendments. The time limit is five minutes.

MRS REGINA IP (in Cantonese): Before all else, I need to thank various Members for their speeches and amendments, and quite a number of Members for their support for my motion. But I am greatly disappointed by the Government, especially the Secretary for Transport and Housing. Its response basically gives us the feeling that it is unwilling to make an effort to do something.

I wish to reiterate that not only are the living conditions in subdivided units terrible and the rentals excessively high. There are also serious safety problems resulting in seven deaths last year. Back then, in 1990, a fire broke out in the "caged homes" in Nam Cheong Street, Sham Shui Po, ending with seven people killed and 49 injured. At that time the Hong Kong British Government promptly introduced legislation and enacted the Bedspace Apartments Ordinance in 1994, requiring an apartment with 12 or more bedspaces to apply for a licence so as to ensure safety. However, the Government would not even conduct a study. I find such an attitude unacceptable. As pointed out both by me and Mr Dennis KWOK at the Legislative Council meeting last week, in respect of this kind of houses in multiple ownership, the United Kingdom has ...

PRESIDENT (in Cantonese): Mrs Regina IP, please speak on the amendments only.

MRS REGINA IP (in Cantonese): ... Regarding the amendments, I originally had reservations about the rental allowance because I was afraid it would go to the landlords' pockets. But I believe we can legislate on this point and provide protection through the provisions, thereby addressing unbridled increases in rental before the law comes into effect. For this reason, I will not oppose that amendment. I also call on Members who have reservations about my motion to lend me their support. After all, my motion only appeals to the Government to conduct a study. If the Government refuses to do so, I do not rule out the possibility of the New People's Party proposing a private bill to handle the matter for the Government and see if the Government will completely refuse to listen to the voices of Members representing the public.

President, I so submit.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, first of all, I thank Mrs Regina IP for moving the motion and Ms Alice MAK, Mr Vincent CHENG, Mr LEUNG Yiu-chung and Mr Andrew WAN for proposing the amendments. We are also very grateful to the many Members who have spoken and put forth valuable opinions on the motion today and last week.

In my opening remarks last week, I briefed Members on the regulatory work of the Buildings Department ("BD") on works associated with subdivided units. Apart from including commonly found works of subdivided units in the Minor Works Control System, BD inspects subdivided units through large-scale operations and handling of reports so as to ensure compliance with the Buildings Ordinance ("BO"). In this connection, since the launch of the large-scale operation against subdivided units in April 2011 until October 2018, BD has inspected approximately 1 300 domestic or composite target buildings containing some 6 300 subdivided units. BD has issued about 2 600 Removal Orders in respect of irregularities of works associated with subdivided units in these buildings, including rectifications to obstructed means of escape and affected fire resisting construction. Among them, about 1 500 Removal Orders have been complied with. BD has initiated approximately 670 criminal prosecutions against owners who failed to comply with the Removal Orders, of which 70% were convicted.

Insofar as fire safety in buildings is concerned, the Fire Services Department ("FSD") conducts inspections of old buildings and take enforcement actions in respect of fire service installations and equipment, means of escape, ventilation system and dangerous goods storage, etc in the buildings. In the event of obstructed or locked means of escape, damaged or inadequate fire service installations and equipment or over-storage of dangerous goods, FSD will take appropriate enforcement actions under the existing mechanism.

With regard to public education and publicity, BD has stepped up public education on common irregularities found in works associated with subdivision of flats, their potential risks and matters requiring attention when carrying out the the works through various channels, such as exhibitions, the annual Building Safety Week, Building Safety Certificate Course, online seminars, printed matter and advertisement.

Concerning transitional housing, to facilitate various transitional housing initiatives put forward and carried out by the community and supported by the Transport and Housing Bureau, BD issued a circular letter to the industry in October this year, indicating that it may grant modification or exemption to the transitional housing projects in view of the planning and design constraints in old

buildings. That said, compensatory measures must be taken so as to ensure a safe and reasonable living space for the residents while facilitating transitional housing projects.

Furthermore, the Government encourages owners of industrial buildings to collaborate with non-governmental organizations to provide transitional housing. Under the relaunched revitalization scheme for industrial buildings, the Government will allow wholesale conversion of industrial buildings in commercial, business, comprehensive development area and residential zones for providing transitional housing. We will exercise flexibility in applying the planning and building design requirements and charge a nil waiver fee on the condition that these industrial buildings will pursue wholesale conversion into non-industrial uses and their fire service equipment has been upgraded to protect public safety. Of course, relevant transitional housing projects must be supported by the task force under the Transport and Housing Bureau.

According to building regulations, the requirements on site coverage, plot ratio, surrounding open space and service lane requirements for domestic buildings, including transitional housing, are more stringent than those for non-domestic buildings (including industrial buildings). Generally speaking, unless demolished for redevelopment, it is difficult for the majority of industrial buildings to meet the requirements. In order to facilitate the implementation of transitional housing under the new revitalization scheme for industrial buildings, if owners provide transitional housing in portions or entire blocks of industrial buildings which have undergone wholesale conversion into non-industrial uses, BD is prepared to favourably consider granting exemption to the transitional housing projects by exercising its discretion under BO, so that the projects are not subject to these requirements, provided that they receive the support of the task force under the Transport and Housing Bureau and that the temporary use is limited to five years or less.

Here, I must stress that the measure allowing the wholesale conversion of industrial buildings into transitional housing mentioned just now seeks to remove the barriers for owners who are willing to provide transitional housing. It does not mean that we allow the provision of individual subdivided units in industrial buildings before wholesale conversion of the building. The relevant departments will continue to take appropriate enforcement actions against illegal domestic use in industrial buildings.

President, Members have also mentioned using the \$1 billion funding scheme for the use of vacant government sites to implement transitional housing projects. Here I would like to point out that the \$1 billion earmarked seeks to support the use of long-standing vacant government sites for various facilities beneficial to society, such as for arts and culture and community activities, instead of for transitional housing. As for the need to provide dedicated works funding for transitional housing projects on government sites, I understand that the Transport and Housing Bureau will give further consideration based on actual demand.

With regard to the question of whether to make it a statutory requirement for all subdivided units to install separate water and electricity meters, as stated in my opening remarks last week, the Water Supplies Department ("WSD") and the two power companies have mechanisms in place for the installation of separate water and electricity meters by tenants. The installation of separate water and electricity meters for subdivided units is constrained by the design and environment of the buildings. Therefore, the Government's current position is to provide assistance and facilitation so that the installation of separate electricity or water meters for subdivided units will be more feasible.

Insofar as electricity meters are concerned, the two power companies have announced that support will be provided to subdivided unit tenants through the Community Energy Saving Fund for the installation of separate electricity meters with the consent of the landlords and under safe conditions. As for water meters, WSD will explore more solutions, for instance, the pilot use of smart water meters which can facilitate the installation of separate water meters by subdivided unit tenants. We believe an across-the-board mandatory installation of separate water and electricity meters for all subdivided units is not practicable at this stage, as there are considerations in law and constraints in terms of building management and actual operation.

President, many Members mentioned subdivided units and land supply earlier on. Let me give a brief explanation here. The Government is making short-, medium- and long-term efforts in land supply by adopting a multi-pronged approach. We focus not only on the 1 000-hectares reclamation at Kau Yi Chau which will be ready for occupation in 2032. In the short and medium terms, we will provide 310 000 additional flats through rezoning, that is, increasing the

density of areas with infrastructure. Of course, there are difficulties in reality in increasing the density of densely populated areas with infrastructure, but the Government will not yield to such difficulties. We will persuade and communicate with the local communities to understand the issues facing them, such as transport issues or shortage of education facilities. The Government will need to discuss with various local communities and handle each issue in a responsible manner. We hope district representatives of various parties can help and support us in this regard.

In the medium and long terms, various new development areas can provide about 220 000 residential units. We are also preparing to seek funding approval from the Legislative Council in the first quarter of next year for the principal works of the Kwu Tung North/Fanling North New Development Areas, including the compensation required for land resumption. It is hoped that the Legislative Council will understand our pressing needs for land and support our funding application. Besides, the planning of the Hung Shui Kiu New Development Area has just been completed. We plan to seek funding approval from the Legislative Council next year for its principal works, which I also implore Members to support.

Various short-, medium- and long-term projects can provide 600 000 residents units. If Members are well versed in Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030 ("Hong Kong 2030+"), they will know that there is still a shortfall of 400 000 units as we will need about 1 million units in the next 30 years. Land acquisition by private developers, which is not something the Government has no control over, can provide an average of 4 000 to 5 000 units annually, thus 150 000 units in 30 years. Hence, there will still be a shortfall of 250 000 units. This is exactly why we have been pointing out consistently that if the 1 000-hectares reclamation at Kau Yi Chau (which can provide 150 000 to 260 000 units, of which 70% being public housing) is out of the question, it will be inevitable for us to consider deploying more people to the New Territories on top of the new development areas mentioned just now. Is this the most rational approach? I believe society will hold thorough discussions on these questions in the future.

Next, I will defer to the Under Secretary for Transport and Housing to talk on issues relating to housing policy. Thank you, President.

UNDER SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank the many Members who spoke just now. I will now make my concluding remarks as several supplementary points.

The first point concerns tenancy control. Many Members mentioned tenancy control, including rent control and the protection for security of tenure, in their speeches. The Government appreciates that amid the persistently high level of rentals, the housing burden on low-income households is very heavy. However, imposing tenancy control on a housing market with a serious imbalance between supply and demand may well be counterproductive. Far from benefiting grass-roots households as advocates have expected, it will inadvertently cause various side effects and unintended consequences that run counter to the overall interest of grass-roots tenants and the community. A Member also voiced concerns in his speech earlier that the introduction of tenancy control might be doing a disservice out of good intentions. Such harm includes, among others, reducing the supply of rental accommodation and encouraging landlords to be more selective about their tenants, making it more difficult for the disadvantaged groups to secure suitable rental accommodation.

There is this suggestion that the Government should impose tenancy control only on those units that fall below a certain size or rental level. However, as some overseas experiences reveal, the imposition of tenancy control even on a particular market sector (usually on lower-end residential properties) alone might have inadvertent spillover effects on the uncontrolled sector. For example, as some tenants would not be able to rent flats in the controlled sector, they might be forced to seek accommodation in the uncontrolled sector, hence pushing up the rental level of the latter. On the other hand, some overseas experiences also suggest that the introduction of tenancy control per se cannot effectively address the housing needs of grass roots, since the control measure primarily targets a specific type of buildings, not a specific type of tenants. Some overseas experiences also show that following the implementation of tenancy control, prospective tenants may have difficulties in renting a unit in the open market and thus have to resort to other indirect channels for information on rental properties, which is harder to come by for the disadvantaged groups.

It has been suggested that the Government should formulate a standard tenancy agreement and require that all tenancy agreements must be entered into in writing. I wish to point out that it is a time-honoured arrangement in Hong

Kong to allow landlords and tenants to enter into tenancy agreements verbally. Changing the relevant arrangement would require amendments to such legislation as the Landlord and Tenant (Consolidated) Ordinance, which would have a fundamental impact on the transfer mechanism of property interests (including the security of tenure) in Hong Kong. Hence, we must proceed with caution.

Moreover, since each tenancy situation is different, the Government considers that landlords and tenants should be allowed to negotiate and formulate the details of an agreement on their own, so that they will have more flexibility in coming to a tenancy arrangement that meets their specific needs. To minimize potential disputes that may arise in future, landlords and tenants should agree on the terms and conditions, including the notice period of and arrangement for tenancy termination, and the level and basis for calculating rents and other charges (e.g. water and electricity charges), before signing the tenancy agreements.

To learn more about the points to note on signing a tenancy agreement, the terms that should be included in it, their respective obligations and rights before and after the signing of a tenancy agreement, landlords and tenants can consult the pamphlets: Notes on Signing a Tenancy Agreement and A Guide to Tenancy, which is available at the offices and the website of the Estate Agents Authority. Those who need assistance can also approach the Rating and Valuation Department ("RVD") for its free enquiry service on tenancy matters. RVD also provides free mediation service on tenancy matters under the mutual consent of landlords and tenants.

As regards the suggestion of levying a sweeping vacancy tax, according to RVD's statistics, the vacancy rate of private residential units had dropped to 3.7% as at end of 2017, which was substantially lower than the long-term average vacancy rate of 5% from 1997 to 2016. These figures suggest that cases of properties being left idle are not common. Besides, it is inevitable for properties to be left vacant for a period of time when landlords seek buyers or tenants, engage in price negotiation, or refurbish their flats. This is a normal market phenomenon. Levying a sweeping vacancy tax at a time when the vacancy rate is low may not be an effective way to increase supply.

On other measures to help grass-roots tenants, a Member suggested that the Government should provide grass-roots tenants with a rental allowance. While the Government appreciates the heavy burden borne by grass-roots households, providing a rental allowance in the midst of the present tight housing supply, as

we have explained multiple times before, would only lead to rental increases, thereby turning the rental allowance into an additional rent and leaving the tenants with no effective assistance.

In fact, the Government has all along been providing appropriate assistance to grass-roots households from different perspectives including housing, social welfare, community support, etc. through the adoption of different measures. For example, eligible persons may apply for early allocation of public rental housing ("PRH") units through the Compassionate Rehousing or Express Flat Allocation Scheme. The Comprehensive Social Security Assistance ("CSSA") Scheme provides a safety net for those who are unable to support themselves financially to meet their basic needs. CSSA recipients living in PRH or rented private housing are both entitled to receiving an allowance that covers the expenses of rented accommodation. CSSA households living in rented private housing and paying actual rentals which exceed the maximum rent allowance under CSSA will also receive an extra subsidy under the Community Care Fund ("CCF"). Besides, other recurrent cash schemes implemented by the Government, such as the Working Family Allowance Scheme and the Work Incentive Transport Subsidy Scheme, also provide financial support to low-income households.

On transitional housing, the Government hopes that, in addition to cash measures, transitional housing can ease the housing difficulties faced by some households currently living in inadequate housing (including subdivided units). As I mentioned in my introductory remarks, a task force under the Transport and Housing Bureau will provide one-stop coordinated support for transitional housing. The Transport and Housing Bureau will, upon consulting relevant bureaux and departments, provide appropriate assistance and facilitation according to the needs of the proposed items of transitional housing. These include offering advice on administrative or statutory procedures and assisting applications 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 CCF. The Government will continue to proactively pool community efforts and resources in a bid to increase the supply of transitional housing.

Transitional housing is a short-term relief measure. The Government has repeatedly emphasized that, in order to avert the fundamental housing demand-supply imbalance at source and address the housing problem in the long run, the ultimate solution is to increase land and housing supply in a continuous and stable manner. Increasing supply helps stabilize the housing prices and rentals, which in turn will benefit people from all walks of life who intend to attain home ownership or rental accommodation.

The Government has all along been striving to meet the supply target under the Long Term Housing Strategy ("LTHS"), expediting the construction of PRH through a multi-pronged approach for the direct benefit of the grass roots. According to forecasts as at September 2018, the estimated total public housing production of the Hong Kong Housing Authority and the Hong Kong Housing Society in the five-year period from 2018-2019 to 2022-2023 is about 100 800 units.

Assuming that all sites identified can be smoothly delivered on time for housing development, about 237 000 public housing units can be built within the ten-year period from 2018-2019 to 2027-2028, which lags behind the ten-year supply target of 280 000 public housing units under LTHS. The Government will continue to spare no effort at increasing housing and land supply. In June this year, the Government decided to reallocate nine sites, which were originally intended for sale in the coming few years, at Kai Tak and Anderson Road Quarry for public housing. The sites are expected to provide some 10 600 public housing units, which will help narrowing the public housing shortage in later years.

In the 2018 Policy Address, the Chief Executive stated that the Government will allocate more land for public housing development, pledging that 70% of the housing units on the Government's newly developed land will be for public housing. The Transport and Housing Bureau will have full regard to the views from various sectors on the public/private split when presenting the next ten-year (i.e. from 2019-2020 to 2028-2029) housing supply target.

As for the supply in the private market, based on the Government's assessment of private residential developments known to have commenced or to be commencing on disposed sites as at end of 2017, the annual completions of private residential units are estimated at about 20 800 units on average between 2018 and 2022.

President, the Government is greatly concerned about the housing difficulties faced by the public and is determined to resolve them. We will continue to actively increase housing land supply in the short, medium and long terms through a multi-pronged approach and expedite the construction of public housing, so as to directly benefit the grass roots and effectively address their housing needs. Thank you, President.

PRESIDENT (in Cantonese): I now call upon Ms Alice MAK to move an amendment.

MS ALICE MAK (in Cantonese): President, I move that Mrs Regina IP's motion be amended.

The amendment moved by Ms Alice MAK (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 Ms Alice MAK 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)

Mrs Regina IP rose to claim a division.

PRESIDENT (in Cantonese): Mrs Regina IP has claimed a division. The division bell will ring for five minutes.

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

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, are you going to vote?

(Mr Tommy CHEUNG 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 LEUNG Yiu-chung, Prof Joseph LEE, Ms Starry LEE, Mr Steven HO, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr POON Siu-ping, Mr Jimmy NG, Mr HO Kai-ming, Mr SHIU Ka-chun, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr KWONG Chun-yu voted for the amendment.

Mr Tommy CHEUNG, Mr SHIU Ka-fai and Mr Tony TSE voted against the amendment.

Mr CHAN Kin-por, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok and Mr CHAN Chun-ying abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Ms Claudia MO, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Alvin

YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr Wilson OR, Ms YUNG Hoi-yan, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr Jeremy TAM, Mr Gary FAN, Mr AU Nok-hin, Mr Vincent CHENG and Ms CHAN Hoi-yan voted for the amendment.

Dr Priscilla LEUNG, Mr Michael TIEN and Dr CHENG Chung-tai abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 15 were in favour of the amendment, 3 against it and 8 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 27 were in favour of the amendment and 3 abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Members have already been informed that as Ms Alice MAK's amendment has been passed, Mr Vincent CHENG has withdrawn his amendment.

MS STARRY LEE (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Studying the enactment of an ordinance on regulating subdivided units" 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 "Studying the enactment of an ordinance on regulating subdivided units" 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): Mr LEUNG Yiu-chung, as the amendment of Ms Alice MAK has been passed, you may now move your revised amendment.

MR LEUNG YIU-CHUNG (in Cantonese): President, I move that Mrs Regina IP's motion as amended by Ms Alice MAK be further amended by my revised amendment.

The further amendment moved by Mr LEUNG Yiu-chung to the motion as amended by Ms Alice MAK (See the marked-up version at Annex 2)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr LEUNG Yiu-chung's amendment to Mrs Regina IP's motion as amended by Ms Alice MAK 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 LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung 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, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr POON Siu-ping, Mr Jimmy NG, Mr HO Kai-ming, Mr SHIU Ka-chun, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr KWONG Chun-yu voted for the amendment.

Mr Tommy CHEUNG, Mr Frankie YICK and Mr SHIU Ka-fai voted against the amendment.

Mr YIU Si-wing, Mr MA Fung-kwok, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHAN Chun-ying and Mr Tony TSE abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Ms Claudia MO, Mr Michael TIEN, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr Wilson OR, Ms YUNG Hoi-yan, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr Jeremy TAM, Mr Gary FAN, Mr AU Nok-hin, Mr Vincent CHENG and Ms CHAN Hoi-yan voted for the amendment

Dr Priscilla LEUNG and Dr CHENG Chung-tai abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 17 were in favour of the amendment, 3 against it and 6 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 28 were in favour of the amendment and 2 abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Mr Andrew WAN, as the amendments of Ms Alice MAK and Mr LEUNG Yiu-chung have been passed, you may move your revised amendment.

MR ANDREW WAN (in Cantonese): President, I move that Mrs Regina IP's motion as amended by Ms Alice MAK and Mr LEUNG Yiu-chung be further amended by my revised amendment.

The further amendment moved by Mr Andrew WAN to the motion as amended by Ms Alice MAK and Mr LEUNG Yiu-chung (See the marked-up version at Annex 3)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Andrew WAN's amendment to Mrs Regina IP's motion as amended by Ms Alice MAK and Mr LEUNG Yiu-chung 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 Andrew WAN rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew WAN 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, Ms Starry LEE, Mr Steven HO, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr POON Siu-ping, Mr HO Kai-ming, Mr SHIU Ka-chun, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr KWONG Chun-yu voted for the amendment.

Mr CHAN Kin-por, Mr Frankie YICK and Mr Jimmy NG voted against the amendment.

Mr Tommy CHEUNG, Mr YIU Si-wing, Mr MA Fung-kiok, Mr Martin LIAO, Ir Dr LO Wai-kiok, Mr SHIU Ka-fai, Mr CHAN Chun-ying and Mr Tony TSE abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Ms Claudia MO, Mr Michael TIEN, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr Wilson OR, Ms YUNG Hoi-yan, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr Jeremy TAM, Mr Gary FAN, Mr AU Nok-hin, Mr Vincent CHENG and Ms CHAN Hoi-yan voted for the amendment.

Dr Priscilla LEUNG and Dr CHENG Chung-tai abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 15 were in favour of the amendment, 3 against it and 8 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 28 were in favour of the amendment and 2 abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Mrs Regina IP, you still have one minute five seconds to reply. Then, the debate will come to a close.

MRS REGINA IP (in Cantonese): President, I thank Members for their speeches. I will support the amendments. President, I move the motion as amended by Ms Alice MAK, Mr LEUNG Yiu-chung and Mr Andrew WAN.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mrs Regina IP, as amended by Ms Alice MAK, Mr LEUNG Yiu-chung and Mr Andrew WAN, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is agreed by a majority 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 as amended passed.

PRESIDENT (in Cantonese): Debate on motion with no legislative effect.

PRESIDENT (in Cantonese): The motion debate on "Legislating for the protection of whistle-blowers".

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

I call upon Mr Jeremy TAM to speak and move the motion.

LEGISLATING FOR THE PROTECTION OF WHISTLE-BLOWERS

MR JEREMY TAM (in Cantonese): I move that the motion, "Legislating for the protection of whistle-blowers", as printed on the Agenda, be passed, urging the Government to expeditiously enact dedicated legislation to protect whistle-blowers and guard them against any unfair treatment.

As a representative of the people, it is my bounden duty to defend public interests. For this reason, I often received disclosure reports from the public. During the past two years of my tenure, I have received reports from frontline workers on various incidents, such as the breakdown of the air traffic control ("ATC") systems, the arrears of wages of the West Kowloon Cultural District Authority, and the report of various problems relating to leakage during the construction of the Guangzhou-Shenzhen-Hong Kong Express Rail Link by workers taking part in the construction works. I have to express my heartfelt gratitude to these courageous whistle-blowers. Due to their perseverance to uphold justice, they insist on making public incidents endangering public safety at the risk of being dismissed and facing reprisals by employers and at the expense of their future prospect. Not everyone has the courage to do so. They absolutely deserve greater protection.

Members may ask why do I call them "whistle-blowers of improprieties" ("揭弊者") but not "secret revealers" ("揭密者"). It is because whistle-blowers are not exposing secrets, as we do not want to know the secrets of a company or an organization. Their act of whistle-blowing is exposing "impropriety" which may include inadequacies, improper behaviour and even fraudulent acts. Many of the improper acts exposed by whistle-blowers may have serious impacts on public safety, and the timely exposure of such impropriety may prevent disasters and save numerous lives. The subjects of whistle-blowing may be business organizations or government organizations. More often than not, the inadequacies of an organization are known to insiders only. If whistle-blowers do not expose the incidents to outsiders, the public or the media, the incidents can hardly be verified. The incidents concerned may simply be ignored and the public will never know the truth.

Since there is no dedicated legislation in Hong Kong for protection of whistle-blowers, whistle-blowers standing up for justice are often subject to reprisals, including various retributive acts such as harassment, discriminatory actions, dismissal and litigation. Let me cite an example familiar to Members.

In 2016, the contractor responsible for processing leachate of the Tuen Mun Pillar Point Valley Landfill, SITA Waste Services Limited, discharged leachate in contravention of the standard requirements. Three artisans of the contractor refused to follow the instruction of their supervisors to take part in the fraudulent activities and reported to the Environmental Protection Department ("EPD") the illegal activities undergoing in their company. Though EPD had successfully prosecuted the company, the artisans involved were eventually dismissed by the company. In the face of these actions of reprisal on the part of arrogant employers, the three whistle-blowers are left helpless and their families affected.

Apart from business organizations, reprisals against whistle-blowers are also found in the Government. The incident also occurred in 2016. Back then, there were frequent glitches in the ATC system. Some frontline air traffic control officers disclosed to the media the actual situation concerning the breakdowns of the new ATC system. Yet, instead of reviewing the causes of the breakdowns of ATC system, the Civil Aviation Department ("CAD") reported the case to the Police and issued internal circulars warning staff members of the possible punishment for making public any relevant information. May I ask the government officials whether civil servants are serving the general public or their supervisors?

For this reason, be it in private organizations or government departments, more often than not, employers will give priority to their own interests, and they would rather see the incident deteriorates than to see it being exposed. However, such practice will not merely sacrifice public interest but will also bring forth extremely serious consequences.

Take the incident involving the shortened steel reinforcement bars of the Shatin to Central Line ("SCL") as an example. Had not the subcontractor China Technology Corporation Limited disclosed the incident, I am afraid the public would not have known the series of problems involving fraudulent acts, shoddy work and unauthorized alterations of works design even at the commissioning of SCL. Frederick MA will continue telling the public that, "When I say it's ok, then it's ok". More importantly, if the problem of shortened steel reinforcement bars is allowed to deteriorate, railway safety will be seriously affected. In the event of an accident, the casualties thus caused will be unpredictable. Certainly, hearings held by the Independent Commission of Inquiry are now underway, and we do not yet know who is right and who is wrong in the end. Yet, it can be

asserted that had not the whistle-blower exposed the incident, the Government would not have established the Independent Commission of Inquiry to find out the truth.

Why can employees hardly do whistle-blowing in Hong Kong? Why reprisals of employers can be carried to the extreme? This should be attributed to the absence of dedicated legislation in Hong Kong for protecting whistle-blowers at present. Such protection which is provided in scattered provisions in different laws is extremely limited. These provisions are scattered among several laws, such as the Employment Ordinance, the Organized and Serious Crimes Ordinance, the Drug Trafficking (Recovery of Proceeds) Ordinance, the United Nations (Anti-Terrorism Measures) Ordinance, the Prevention of Bribery Ordinance, the Securities and Futures Ordinance and the Competition Ordinance.

Now, I will explain one by one why these laws fail to provide genuine and comprehensive protection to whistle-blowers. First, if employees are dismissed because of whistle-blowing, in the overwhelming majority of cases, they will not be protected by the Employment Ordinance ("EO"). EO is only applicable in extremely restrictive circumstances. For instance, if the employee is dismissed due to the provision of information to the authorities concerned during the legal proceedings under EO, this will be regarded as unlawful dismissal which may include cases involving work-related injuries or wage disputes, and so on. Yet, in the great majority of cases, the information disclosed by whistle-blowers may not necessarily be related to EO. If the information disclosed by the whistle-blowers involved conduct endangering public interest, such as works-related scandals, breakdown in air control, and so on, the whistle-blowers will not be protected by EO.

Even if the impropriety disclosed is related to legal proceedings under EO, the protection afforded under EO is relatively limited. If employees are dismissed on the grounds mentioned just now, the Labour Tribunal is authorized to make an order for reinstatement or re-engagement to the employers. Despite that, the employer is not required by law to re-engage the employee. The employer may choose to resolve the issue with money by paying the employee a sum amounting to three times the employee's monthly wages, subject to a ceiling of \$72,500, as compensation. The employer may ignore the order of reinstatement and maintain that the employee be dismissed by making the

compensation. In gist, this ridiculous requirement allows employers to buy off an employee easily. It should be noted that the protection offered under the reinstatement order is only applicable in the case of dismissal. For other unreasonable treatment such as transfer, pay reduction, demotion or revocation of probation, and so on, whistle-blowers can only accept them helplessly. If the incident disclosed by the whistle-blower is not related to EO, which law can offer them protection?

When whistle-blowers learn of certain illegal acts, they will usually report to the Police first. Yet, according to the Organized and Serious Crimes Ordinance, the Drug Trafficking (Recovery of Proceeds) Ordinance and the United Nations (Anti-Terrorism Measures) Ordinance, a whistle-blower will be protected by the aforementioned laws and be immune from civil liability only if the subject matter revealed is related to organized and serious crimes, drug trafficking and the property of terrorists. Hence, Members should note that if the subject matter revealed by whistle-blowers is not related to illegally obtained property which I mentioned just now, they will not be protected by the relevant laws mentioned, and they may be liable to charges of slander and violation of confidentiality agreement and liability arising from legal proceedings.

Apart from reporting to the Police, whistle-blowers will be protected in various degrees when they report the cases to the Securities and Futures Commission ("SFC"), the Competition Commission of Hong Kong or the Independent Commission Against Corruption ("ICAC"). Yet, the protection is restricted in scope and lacks consistency. The protection offered by these three statutory organizations is completely different, so it is difficult for them to follow. For instance, when an employee reports to the Competition Commission a case of suspected bid rigging in his company, according to the Competition Ordinance, the employer cannot dismiss the employee on the ground of whistle-blowing, and the employer will be liable to criminal liability if he does so. Yet, this requirement is not included in the Prevention of Bribery Ordinance ("PBO") and the Securities and Futures Ordinance. Hence, if the employee reports the case to ICAC or SFC, he may be dismissed by his employer.

On the other hand, if an employee reports to SFC suspected improper management of financial resource in his company, the employee will be immune from civil liability under the Securities and Futures Ordinance. However, the same provision is not included in PBO and the Competition Ordinance. Hence,

anyone reporting the case to ICAC or the Competition Commission instead of SFC will also be liable to legal liability under civil laws involving slander or the violation of confidentiality agreement.

Finally, when an employee reports to ICAC suspected corruption acts of his employer, the employee will be entitled to personal protection for witness under the Witness Protection Ordinance ("WPO")—but it is confined to the protection of personal safety, and there is no guarantee that he will not be dismissed. As it is stipulated in WPO that only the Police and ICAC can provide witness protection programmes, people reporting to SFC and the Competition Commission will not be entitled to personal protection, just as I mentioned earlier. It is evident that protection for whistle-blowers is scattered among various laws of Hong Kong, yet the protection is limited in scope and lacks consistency. As I said just now, a more significant concern is that the protection provided varies according to the situation, which is really confusing and bewildering.

In Hong Kong, little protection is accorded to whistle-blowers. In comparison, the protection provided to whistle-blowers by overseas countries is comprehensive. Protection of whistle-blowers is a value recognized by the international community. Many countries in the world, including the United Kingdom, the United States and Japan, have already enacted dedicated legislation for protecting whistle-blowers to uphold public interests. In addition to this, a number of international conventions, including the United Nations Convention Against Corruption and the Inter-American Convention Against Corruption, have acknowledged the importance of whistle-blowers.

Among the many countries, the United States carries the longest history of protection for whistle-blowers. The former President of the United States, Abraham LINCOLN, enacted the False Claims Acts as early as 1863 to start protecting whistle-blowers. Later, in 1989 and 2002, the United States enacted the Whistleblower Protection Act and the Sarbanes-Oxley Act respectively to protect whistle-blowers working in the Government and private organizations. According to the laws of the United States, anyone taking reprisals in any form against whistle-blowers will be liable to imprisonment of up to 10 years. The Securities and Exchange Commission of the United States offers monetary awards to whistle-blowers, and it has issued awards amounting to US\$260 million since 2012.

We can see from the example of the United States that whistle-blowers can speak freely only when a dedicated and comprehensive whistle-blowing protection law is put in place to protect whistle-blowers. There is another case relating to the third biggest pharmaceutical company of the world, GSK. It is revealed that between the period 1998 and 2007, GSK was involved in selling a number of problematic drugs through dishonest acts, including the publishing of misleading articles and payment of unlawful commission as bribery to doctors. As a result, four employees took the initiative to provide certain important internal information to the authorities concerned to substantiate the defrauding acts of the company. Finally, in 2012, the Government successfully prosecuted the company.

For the various reasons mentioned just now, I implore Honourable Members to support my motion to protect whistle-blowers.

Mr Jeremy TAM moved the following motion: (Translation)

"That, unless insiders of business organizations or government agencies ('whistle-blowers') divulge that acts endangering public interests have occurred in their organizations or agencies, it is invariably difficult for the public or the media to verify the occurrence of such incidents; many past incidents involving significant public interests in Hong Kong, such as the unlawful sewage discharge by the sewage treatment contractor of Tuen Mun Pillar Point Valley Landfill in contravention of the standard requirements of the Environmental Protection Department, the frequent glitches in the new Air Traffic Control System of the Civil Aviation Department after its launch, and the shortened steel bars of the diaphragm walls at Hung Hom Station of the Shatin to Central Link of the MTR Corporation Limited, would have gone unnoticed if no one had blown the whistle, and the public would not have known the truth; since there is no dedicated legislation in Hong Kong for protecting whistle-blowers and those who stand up for justice are often subjected to reprisals, including various retributive acts such as harassment, discriminatory actions, dismissal and litigation, many insiders are afraid to blow the whistle; since many countries in the world, including the United Kingdom, the United States and Japan, have already enacted dedicated legislation to protect whistle-blowers, this Council urges the SAR Government to expeditiously enact a whistle-blowing protection law to protect whistle-blowers and safeguard public interests; the areas of legislation should cover:

- (1) providing statutory protection to whistle-blowers if the incidents disclosed involve criminal offences, breach of legal obligation, miscarriage of justice, threat to public safety or health, environmental damage, abuse of powers, waste of public money, etc., so as to guard them against any unfair treatment, such as punitive actions like dismissal, pay reduction, demotion, transfer, suspension, financial penalty and denial of learning opportunities;
- (2) requiring all business organizations and government agencies to formulate their own internal measures on protecting whistle-blowers, including the setting up of a well-defined mechanism respectively for reporting incidents and protecting whistle-blowers, so as to stamp out any possible retributive acts;
- (3) allowing whistle-blowers to disclose to the public incidents endangering public interests in ways they deem fit, including using the media or the Legislative Council as the channels, in addition to the internal reporting mechanism mentioned above;
- (4) requiring any persons or organizations responsible for handling the secrets divulged by a whistle-blower to maintain the strictest confidentiality of the whistle-blower's personal information; and
- (5) allowing whistle-blowers to apply for personal protection measures from the judicial authorities when they or their families feel their personal safety or freedom under threat."

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

PRESIDENT (in Cantonese): Three Members will move amendments to this motion. 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: Ms Claudia MO, Mr Kenneth LEUNG and Mr CHAN Hak-kan, but they may not move their amendments at this stage.

MS CLAUDIA MO (in Cantonese): President, first of all, I wish to consider some words together with Members. Right at the beginning of the Chinese version of the original motion, the two words "若非" are used and they perplexed me for at least five seconds. In the phrase "若非商業組織", does "若非" mean "if not", or does the phrase mean "non-commercial organizations"? Moreover, this sentence is also very long and the syntax of English is followed in writing Chinese, so this really perplexed me for a short while.

Certainly, how should the term "whistle-blower" be rendered in Chinese actually? Some people translated it as "泄密者" (someone who divulged a secret) but of course, this is not good enough. The word "泄" means to divulge, whereas "密" means secret, so it sounds as though something very shadowy is involved. This is not fair to the person who spills the beans, so rendering it into "whistle-blower" is far more appropriate. The "弊" in this term means that it is something bad no matter what. The word "弊" is used frequently in Cantonese and it always means something no good.

Members have probably all heard a children's rhyme in Hong Kong in the old days and one of the lines goes like this, "Men with big heads wearing green garb blowing a BB". "Men with big heads" refers to an ethnic minority (the Indians) in the past. They practise Sikhism and wear turbans. They came to Hong Kong to serve as police officers and following their tradition, they had to wear turbans, so they are called "big heads". Green was the colour of the police uniform in the old days, whereas "blowing BB" refers to the whistle we are talking about today, so it means "blowing a whistle". Members have all heard the expression "吹銀雞" (blowing a silver whistle). In the past, whistles were made of silver. If a whistle is blown, it means there is a thief and it is a call for help in catching the thief.

If Members use their imagination, this picture will appear in their minds: A whistle-blower means someone who exposes something bad and some people translated it as "舉報人" (someone who makes a report). However, I do not think this is good enough because if it is simply about making a report, just like reporting a case, anyone can go to a police station to make a report, so this does not feel very right.

If Members do not mind me being long-winded, in fact, it was in recent years that this term was first used. It was in the 1970s that a civil movement advocate in the United States thought that to call someone who divulged a secret

an "informant" or "informer" in English was not very good. There is another word with an even worse or more negative connotation and it is the word "snitch". If the word "snitch" is translated into Chinese, the fittest word is "二五仔", someone who disclosed information. He considered this word most inappropriate, so he adopted the whistle used by referees in American sports as the symbol—he believed it had nothing to do with the police—when a referee blows a whistle, it means you have committed foul play, you are involved in inappropriate conduct, etc. Therefore, Members have to understand the meaning of a whistle-blower.

If one cares to search for "whistle-blower" on the Internet, the very first explanation given by Wikipedia is, "... a person who exposes any kind of information or activity that is deemed illegal, unethical, or not correct within an organization that is either private or public".

In becoming a whistle-blower, what does a person expose? It may only be some information, or some acts may be involved. These acts may be illegal, professionally unethical, or simply not correct, that is, what we call "不對路" (something amiss) in Cantonese. I am here to spill the beans, so that you, in particular, law enforcement officers, can look into it. For this reason, I cannot possibly agree with Mr CHAN Hak-kan's amendment. He went so far as to limit the improprieties to unlawful acts only. Some matters may not necessarily be unlawful but are nonetheless not in line with the ethics nowadays: Some people are cronies who pat one another's shoulders and share common interests but this is not unlawful. However, they belong to the same circle and hire each other's relatives. Do you think that there is no problem with all of these, that there is no need to expose them and that there is no need to provide protection after the beans have been spilt? He has no understanding whatsoever of the most profound and broadest meaning of a whistle-blower, so I cannot possibly support his amendment.

Just now, I also mentioned that be it private or public organizations, the only thing I wish to add is basically to expand the scope of protection a bit further to cover public organizations in providing protection to whistle-blowers. Of course, as to the question of how public organizations should be defined, I will talk about this again later.

First, I wish to discuss some examples with Members. Just consider this: The former Chief Executive, LEUNG Chun-ying, was unwilling to issue a free television programme service licence no matter how, so what could be done?

He had the power to do so. In the final analysis, did he break any law? Apparently, no. There was not any problem. However, if some people want to spill the beans and divulge information about this Government or this Chief Executive, in the belief that there was inappropriate behaviour, these people are called whistle-blowers but basically, no one has broken any law. The Independent Commission Against Corruption would not go to anyone's home to make an arrest at 5:45 am at daybreak. Nothing like this would happen but the relevant deeds were inappropriate.

Of course, it can be argued that we have already in place the offence of misconduct in public office. Again, Members can consider this: If Mr LEUNG Chun-ying and Mr Holden CHOW were to discuss some phrases on the Internet in the middle of the night and were it not for the capable staff members of the Legislative Council Secretariat, who discovered some sort of strange symbols on the Internet and on looking closer, found that such a thing was going on—of course, fortunately, no such thing had happened—if they covered it up and did not report it, yet some colleagues of the Secretariat with a strong sense of justice could not put up with this and wanted to report this, then these people would be whistle-blowers. Technically, what law has been broken? It is really hard to say. Can it be said that a Legislative Council Member communicated privately with the then Chief Executive in the middle of the night? What kind of offence is it? They were only exchanging views. However, any normal person with common sense and common knowledge knows that this is absolutely problematic, so this kind of people are also whistle-blowers. Certainly, some people may argue that he has signed a confidentiality agreement, so this is a violation of the spirit of the contract but what Members have to consider is that the press often stresses the overriding importance of public interest. What is at stake here is public interest.

At one point, some people talked about criminalizing clandestine photo-taking in Hong Kong. All people consider clandestine photo-taking undesirable behaviour and that criminalizing it is very correct but buddy, reporters, particularly those of television stations, often use their video cameras to carry out clandestine video-taking and what video do they take clandestinely? Of course, they do not engage in "under-ladies' skirt" clandestine video-taking, rather, they take clandestine video of how some people cheat people like old men and old women, people who claim that a bottle of medicine selling for \$2,500 is really cheap, that it is guaranteed that one will not get cancer after taking it, and so on. This is public interest but at that time, some members of the legal

professional also came forth to tell people not to worry, saying that reporters did such things for the sake of public interest, so there would not be any problem with news gathering by reporters and that even if they were prosecuted and had to appear in Court, they only had to cite public interest as defence and that would do. If I have to go to work every day, how would I have so much free time to think about when I have to appear in Court to defend myself, citing public interest as the ground? Of course, I would not have the time.

If something unjust really occurred in society—not to mention unlawful things—if something unjust, immoral or unethical which the law may not be able to deal with happens, it is still necessary to speak up. Public organizations, for example, such government departments as the Legislative Council, the Executive Council, must of course be included but in addition, public organizations like the Airport Authority Hong Kong ("AA"), the Hong Kong Hospital Authority, etc., can also be included. The same applies to AA. Just now, the Honourable Captain Jeremy TAM also mentioned many problems related to aviation safety, that pilots learn about them only on being informed by whistle-blowers, so do Members not think that this is terrible? For this reason, it is a must to include public organizations. Thank you.

MR KENNETH LEUNG (in Cantonese): The so-called whistle-blowers refer to those people who disclose information for the sake of safeguarding public interests, and through such disclosure, they seek to hold the government agencies, organizations or enterprises involved accountable to the public and responsible for certain acts which violate the law, rules and regulations or endanger public interests.

As the information disclosed by the whistle-blowers may be confidential or its contents may be sensitive in nature, it is necessary for us to impose control by stipulating the circumstances under which these acts can be protected by the relevant legislation to prevent the name of whistle-blowers from being abused, so that those who wantonly divulged information or secrets for malicious purposes, imprudently, or for personal interests, are excluded from protection by the relevant law.

Actually, in 2016, I proposed a Member's Bill entitled Public Interest Disclosure Bill 2016 ("the Bill"), but as the Bill involved extensive legal aspects and significant public interests, it was unable to be arranged in time for discussion

by the panel of the Legislative Council. Therefore, I will introduce this Member's Bill again in the next few months, and I hope that the Government can consider legislating for it.

During the drafting of this Bill in 2016, I had taken several points into consideration. First, should the Bill cover all types of employer-employee relations? One of the considerations I made in drafting the Bill back then was the adoption of an approach of keeping to a minimum, and hence I excluded civil servants. I did so back then because I hoped to obtain the consent of the Chief Executive as soon as possible, so that this Bill could be tabled in the Legislative Council for First and Second Readings. But in retrospect, and having regard to the current circumstances, it is necessary to include organizations, enterprises and civil servants as well, or else this Bill would be rendered frail and weak.

Another group of people not included in the Bill on whistle-blowers proposed by me in 2016 were independent contractors of services. In retrospect, the developments in the last several years have actually made it absolutely necessary to include these independent contractors in the Bill on whistle-blowers, in order to accord them protection. In this connection, as the Secretary for Justice is in the Chamber, I think it is a good opportunity for the Government to state its position on this matter. If the Government agrees to the need to provide in law greater protection for whistle-blowers, I would be happy if the Government adopts the most basic proposals in my Member's Bill and legislate for them, because the Bill can be passed more smoothly in the Legislative Council if it is introduced by the Government.

I would like to talk about a few main points of the amendments that I have made to this Member's Bill. Which types of disclosures should be protected by law? Should all cases of whistle-blowing be brought under statutory protection? I think the statutory law should not be abused and should only apply to cases involving significant public interests. For instance, the Public Interest Disclosure Act 1998 enacted by the United Kingdom in 1998 provides for a total of five criteria for a disclosure to qualify as a protected disclosure, including firstly, a criminal offence has been committed; secondly, failure to comply with a legal obligation; thirdly, miscarriage of justice; fourthly, the health or safety of any individual has been grossly endangered; and fifthly, the environment has been damaged.

Of course, earlier on I heard Mr Jeremy TAM cite several examples, including the incident of sewage discharge by a sewage treatment plant at a landfill, the case relating to the air traffic control system, and the recent saga of the Shatin to Central Link. In fact, with regard to the sewage discharge by a sewage treatment plant at a landfill or the case concerning the air traffic control system, from time to time I, in my capacity as a member of the Public Accounts Committee, have been approached by many whistle-blowers who, whether with or without their names revealed, disclosed to me cases of violation of rules or regulations, and obviously, these are very serious cases, for they may be in breach of the law or pose serious threats to the safety and health of many people. Therefore, under these circumstances, these whistle-blowers should be protected by law.

As we have seen, there are at present several pieces of legislation affording protection to whistle-blowers but they do not provide full protection. Let us further look at this: At present, listed companies are required to establish an audit committee in accordance with the Corporate Governance Code. The objective is to enable employees of a company to raise concerns, in confidence, about possible improprieties in financial reporting, internal control or other matters, and the Corporate Governance Code also suggests that the audit committee should establish a whistle-blowing policy and system for employees and those who deal with the listed company to raise concerns, in confidence, with the audit committee about possible improprieties in any matter related to the listed company. So, we can see that actually listed companies have already put in place an internal reporting system, but I think the requirement of setting up a reporting system should be extended to all enterprises. Certainly, I understand that not all enterprises have such enormous resources and manpower to establish a whistle-blowing mechanism and for this reason, as I stated in my amended Bill, I propose that only companies employing a specified number of employees are required to put in place a whistle-blowing mechanism. Large-scale enterprises and non-governmental organizations or NGOs should also establish a reporting mechanism, for it will help the organizations and enterprises to address squarely the relevant problems and rectify them. Certainly, I also hope that all government departments and statutory bodies will put in place a reporting mechanism for the protection of whistle-blowers, in order to set an example. Having said that, disregarding what mechanism is put in place by organizations or government departments, it is necessary to enact legislation on the protection of whistle-blowers to enable them to be spared certain liabilities.

In my Member's Bill, I only wish to exempt whistle-blowers from civil liabilities under certain circumstances and guard them against unreasonable treatment due to their whistle-blowing, such as dismissal, removal from office or demotion in the context of employer-employee relations. These safeguards are indeed most humble, and I have no intention to exempt them from criminal liabilities in the Member's Bill, for I understand that the Secretary for Justice has the discretion to exempt a whistle-blower under certain circumstances from the liabilities for a criminal offence committed by him or her for purposes of whistle-blowing, and this falls under the ambit of the Secretary for Justice. But with regard to the civil liabilities borne by them due to confidentiality agreements or confidentiality provisions in contracts, such as compensation, etc., I think if the disclosure qualifies as a protected disclosure, their civil liabilities should be exempted.

Doubtless, some people may question that if such a law is enacted, many people would be prompted to become talebearers. But they must not do so for no good reasons, because their disclosure must fulfil the conditions of a protected disclosure and besides, especially if the business sector considers that they would often be made victims of talebearing, actually we can consider including in the Bill a clause to provide that if a whistle-blower made a disclosure recklessly to the neglect of the consequences and if such disclosure is ultimately established to be unfounded, we can consider subjecting this person to some civil liabilities and make this unruly whistle-blower face the civil consequences. This can also be considered, so that a person will blow the whistle only after careful, thorough consideration.

I have spoken in support of Mr Jeremy TAM's original motion and Ms Claudia MO's amendment, but I will not support Mr CHAN Hak-kan's amendment because he has indeed revised the original motion to the extent that it is (*The buzzer sounded*) ... a different motion.

PRESIDENT (in Cantonese): Mr Kenneth LEUNG, please stop speaking.

MR CHAN HAK-KAN (in Cantonese): President, I agree that for the sake of the public interest of Hong Kong, those people who expose malpractices in society

and unlawful acts should be afforded adequate statutory protection to ensure that these whistle-blowers would not be subject to acts of reprisal.

We can see there are relevant laws to protect whistle-blowers in quite a lot of overseas regions, and many of them also serve as an important mechanism for combating corruption. Apart from preventing corruption and dereliction of duty, in fact a whistle-blowing protection law can also ensure that many social problems can be exposed before the general public, such as the extravagant and squandering practice of public or private organizations, negligence of industrial safety, sexual harassment or discrimination, etc. The disclosure of quite a number of incidents posing a major crisis to the environment or food safety, as well as immoral behaviour, is also protected under the whistle-blowing protection law.

As Honourable colleagues from the pan-democracy camp mentioned earlier, there is no dedicated legislation to protect whistle-blowers in Hong Kong. However, we cannot jump to a conclusion arbitrarily, claiming that whistle-blowers lack adequate protection in Hong Kong as a result of this. In fact, there are already relevant laws in Hong Kong to protect whistle-blowers in respect of their personal safety, and to prevent them from being unreasonably dismissed or harassed because they have blown the whistle. The Ombudsman is also responsible for handling any maladministration and unlawful acts. The law also protects witnesses who have provided information to The Ombudsman. I am now going to cite a few examples.

The first example is unlawful acts relating to commercial entities. There are laws in Hong Kong which specifically offer protection in this respect. For instance, the Securities and Futures Ordinance guarantees that whistle-blowers would not have to bear civil liabilities for reporting financial irregularities of a company or its failure to comply with the codes governing financial matters. That is to say, no one will be charged with breach of contract or defamation because of spilling the beans.

On issues involving defamation, the existing legislation, which provides a number of defences, is rather mature. For instance, whistle-blowers can enjoy protection by resort to the defences of "justification" and "qualified privileges" under normal circumstances. The Employment Ordinance and the Competition

Ordinance both prohibit employers from dismissing, threatening to dismiss, discriminating against or intimidating employees because the latter have provided evidence or blown the whistle. As regards whistle-blowers reporting corruption cases, at present, personal data such as their names and addresses would also be kept confidential in accordance with the Prevention of Bribery Ordinance. What is more, whistle-blowers would be provided protection on various aspects, such as personal safety, in accordance with the Witness Protection Ordinance.

As a matter of fact, the protection of whistle-blowers has never been neglected in Hong Kong. In fact, many Honourable colleagues might have left some blank space when stating information. It is because the Legislative Council has in fact discussed with The Ombudsman on two occasions whether Hong Kong needs to enact legislation for protection of whistle-blowers. The first occasion can be traced back to 1998 when Andrew SO served as The Ombudsman, whereas the other occasion was in 2007 when Alice TAI was The Ombudsman. In the end, the two Ombudsmen both considered there was adequate statutory protection for whistle-blowers in Hong Kong at that time, rendering the enactment of new legislation unnecessary. They did not draw such a conclusion by merely engaging in empty talk. Instead, they had studied the whistle-blowing protection laws in two places in Australia, namely South Australia and New South Wales. Therefore, it is not the case that the legislature has not discussed this issue. The truth is, at that time, the Government and The Ombudsman both considered it unnecessary to enact the relevant legislation. We certainly cannot assert that Hong Kong does not protect and care about whistle-blowers simply due to the absence of a whistle-blowing protection law. Instead, we believe the existing legislation has already provided the relevant protection. That said, whether there is a need to conduct a review is a subject which can be further discussed.

We consider it necessary to review the existing legislation in a timely manner, lest it might become obsolete. Legislation considered as providing adequate protection in the past may not be sufficient in the future. Therefore, the Government should take this opportunity—as the legislature has raised this issue for discussion—to listen more to the suggestions made by the proponents and opponents of the motion, so as to ensure that our legislation can keep abreast of the times. Why am I saying this? Because every coin has two sides. President, if we deal with an issue with an inappropriate approach, we may make a good thing worse in fact. If we only mention the benefits of enacting legislation but ignore the problems which may be caused, the enactment may

affect the overall social development. For instance, we now assume that all acts of whistle-blowing are benign. Yet, some of these acts may not be actually intended to expose malpractices, but to do damage purposefully. In this way, we may probably do a disservice out of good intentions, as I mentioned just now.

In view of this, if we really wish to enact such legislation, we must carefully distinguish between these two types of whistle-blowing. Otherwise, the legislation may be open to abuse. Therefore, I have proposed an amendment to request the Government to review the existing mechanism for protecting whistle-blowers in Hong Kong by drawing reference from the experience of other countries and regions. Nevertheless, we must safeguard national security, public safety and public interests while refining the mechanism for protecting whistle-blowers. Since we cannot rule out the possibility that some acts of whistle-blowing may threaten national security and cause disruption to public peace, those who intend to do damage and the bad guys will become more fearless if statutory protection is provided for such acts. In order to uphold "one country, two systems" and maintain the prosperity and stability of Hong Kong, statutory protection should not be provided for this case. Therefore, I believe a satisfactory piece of legislation to protect whistle-blowers should strike a balance among the interests of all parties and take into account national security as well as the prosperity and stability of Hong Kong society. We should not enact legislation recklessly once such a proposal is put forth. It would be difficult for the legislature to engage in reasonable and fair discussions and judgment unless we have, before discussing the enactment of legislation, explored the issue in a comprehensive and in-depth manner, examined all existing practices as well as weighing the pros and cons of various aspects.

President, I hope to perfect the existing legislation to protect whistle-blowers, as I understand that encouraging and protecting the reporting of corruption and dereliction of duty can help enhance the level of governance of public and private organizations. Protecting the reporting of commercial crimes on the financial or corporate front can also ensure a fairer environment of competition. On the other hand, protecting those people who expose problems with poor quality products and food safety against acts of reprisal is based on the good intention of safeguarding public health and social interests. On the whole, protecting whistle-blowers through providing protection for their exposure of dereliction of duty, immoral or unlawful incidents can facilitate good governance, which is in public interest.

I consider that a review of the legislation protecting whistle-blowers will have far-reaching implications. We must study it carefully and decide whether there is a need to enact legislation to protect whistle-blowers with a view to enhancing the level of governance of public and private organizations, and in this course we should also take into account considerations regarding national security, public safety and public interests.

President, I so submit.

SECRETARY FOR JUSTICE (in Cantonese): President, I thank Mr Jeremy TAM for proposing the motion and the three Members for proposing the amendments. Whistle-blowers may be subject to unfair treatment in organizations after they have blown the whistle, which may involve enforcement and judicial proceedings. I will talk about the relevant judicial measures on protecting whistle-blowers.

The motion on "Legislating for the protection of whistle-blowers" covers a broad scope, which involves the policy areas of various government bureaux and may affect the substantive rights and obligations of various parties. For example, the regulation requiring business organizations to protect whistle-blowers against punitive actions like dismissal and suspension and formulate internal measures as proposed in the motion will necessarily involve employment relationship. The motion has also raised issues pertaining to the personal safety and freedom of whistle-blowers and their families, which concern personal protection measures, criminal liabilities and enforcement. The Department of Justice ("DoJ") will provide the relevant bureaux with appropriate legal advice on examining such issues.

I will explain the relevant legislation and measures on protecting and facilitating whistle-blowers in giving evidence in criminal proceedings as follows.

Under common law, for public policy reasons, both the prosecution and the defence generally should not disclose the identity of an informer, unless such information is necessary for proving the innocence of a defendant.

Moreover, under the Criminal Procedure Ordinance (Cap. 221), in the interests of justice or public order or security, the Court may order the exclusion of the public from criminal courts, and may order that any appropriate part of the criminal proceedings shall take place in a closed court, and that no question that might lead to disclosure of the name or address of a witness shall be put.

The Court may also grant a "gag order" or an "anonymity order" under its inherent jurisdiction, allowing a witness to use a screen when giving evidence and enter a court building and a courtroom through special passageways, so as to protect the identity of a whistle-blower.

The Criminal Procedure Ordinance also allows a witness in fear, i.e. a witness apprehensive as to the safety of himself or any member of his family, to give evidence by live television link in criminal proceedings.

In addition, DoJ will provide vulnerable witnesses, including witnesses in fear, with appropriate protection in various ways in accordance with the Prosecution Code.

Lastly, any person who interferes with or prevents a whistle-blower providing evidence to law enforcement agencies or testifying in court may commit the offence of criminal intimidation, blackmail or perverting the course of public justice, etc. subject to specific circumstances.

President, we will listen to the views on this issue expressed by other Members later before giving a concise response.

Thank you, President.

SECRETARY FOR SECURITY (in Cantonese): President, Mr Jeremy TAM's original motion urges the Government to legislate for the protection of whistle-blowers. One of the areas of legislation is the provision of personal protection measures to protect the personal safety or freedom of whistle-blowers and their families from threat.

It is a serious offence to inflict bodily harm on another person. Under the Offences against the Person Ordinance (Cap. 212), common assault, assault occasioning actual bodily harm, wounding or inflicting grievous bodily harm upon any other person and wounding any other person with intent to do grievous bodily harm are criminal offences liable on conviction to a maximum penalty of one-year to life imprisonment. Besides, homicidal offences, including inflicting bodily harm upon any other person with intent to murder, manslaughter, conspiring or soliciting to commit murder and murder are liable to life imprisonment.

The Government is committed to protecting the safety of the public whether their personal safety is at risk due to whistle-blowing or other reasons. Any person who experiences harassment or criminal intimidation and feels his personal safety at risk should report to the Police immediately. The Police will investigate and take appropriate follow-up actions based on the circumstances of the case with safety of the person being the primary consideration. Depending on the circumstances and evidence, the Police will take appropriate actions and measures, including arresting or laying charges against the persons concerned.

Mr TAM's original motion mentions that unless whistle-blowers divulge that acts endangering public interests have occurred in their organizations or agencies, it is invariably difficult for the public or the media to verify the occurrence of such incidents. In criminal investigations, whistle-blowers are important witnesses to law enforcement agencies who can provide crucial leads or act as the key to case-solving. As whistle-blowers are witnesses who provide crucial evidence to criminal investigations and prosecution proceedings, the Government will take all practicable and necessary measures to protect them.

In Mr Jeremy TAM's speech moving the motion just now, there was an misinterpretation of the circumstances under which protection of personal safety is provided to witnesses under the existing law. Just now, he said that the protection of personal safety of witnesses is limited to drug trafficking or terrorism-related crimes or offences under the Organized and Serious Crimes Ordinance. This interpretation is inaccurate. The existing law provides protection to witnesses who have provided information to a public officer in relation to any offence and whose personal safety is at risk as a result. Hence, the protection is not limited to offences under a certain ordinance.

Part II of the Witness Protection Ordinance ("WPO") (Cap. 564) stipulates that the authority shall establish a witness protection programme under which protection and other assistance are provided for witnesses whose personal safety or well-being may be at risk as a result of being witnesses. This is stipulated in section 3 of WPO. Then what is a "witness"? Under section 2, a witness is clearly defined as a person who has provided a statement or other assistance to a public officer in relation to an offence, meaning any offence. Moreover, a witness also means a person who, for any other reason, may require protection or other assistance under the witness protection programme or a person who, because of his relationship to or association with a person referred to just now, may require protection or other assistance under the witness protection programme.

The existing WPO provides a legal basis for law enforcement agencies in protecting the personal safety of witnesses. Under WPO, the Police and the Independent Commission Against Corruption have set up a witness protection programme under which protection and other assistance are provided for witnesses whose personal safety or well-being may be at risk as a result of being witnesses. The witness protection programme helps encourage witnesses to testify, ensure their personal safety and save witnesses from worrying about retaliation.

WPO provides a sound legal framework for the protection of witnesses in criminal cases. Therefore, the personal safety of whistle-blowers and their families in criminal cases are duly protected by sufficient provisions in law. I will give another response after listening to Members' comments. Thank you, Deputy President.

UNDER SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, according to the original motion proposed by Mr Jeremy TAM, incidents pertinent to significant public interests exposed by whistle-blowers are considerably wide-ranging, including criminal offences, breach of legal obligation, miscarriage of justice, threat of public safety or health, environmental damage, abuse of powers and waste of public money.

The original motion and various amendments intend to legislate for the protection of whistle-blowers, or conduct a review of the existing arrangements for protecting whistle-blowers, for the purpose of offering protection to them in

various aspects. As regards the proposed ways of protection, other than in general guarding them against unfair treatment, setting up a mechanism to stamp out retributive acts, maintaining their confidentiality, etc., Mr TAM has also proposed that whistle-blowers be allowed to apply for personal protection measures from the judicial authorities, etc. while Mr Kenneth LEUNG has also proposed that whistle-blowers should not bear civil liabilities due to their whistle-blowing.

The measures for the protection of whistle-blowers proposed by various Members also include guarding them against unfair or unreasonable treatment in employment. Examples cited by Members include prohibiting employers from dismissing or transferring whistle-blowers. Doubtless, I agree that a citizen who has come forward on the basis of facts and for the sake of public safety or significant interests of society should be afforded respect and protection. However, acts of whistle-blowing are very complicated. Firstly, under most circumstances, the authenticity of the matters exposed may not be easily verified. Questions, such as whether the matters involve genuine and significant interests of society, or whether they are directly related to the employers, are extremely complicated—but indeed not easy to answer—and must be dealt with. The proposed measures are also vulnerable to abuse or—quoting the speech of Mr CHAN Hak-kan just now—being used. In this connection, I am ready to listen to the views of various Members before giving another response.

Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, I rise to speak in support of the motion moved by Mr Jeremy TAM. Especially for some whistle-blowing acts which aim at protecting public interests and safety, as a responsible and progressive government, the Special Administrative Region Government absolutely needs to ensure that whistle-blowers have no worries about future consequences.

Recently, amid a series of construction problems and incidents regarding the Shatin to Central Link ("SCL"), we can see that once the monitoring imposed by the Government on public organizations becomes virtually non-existent, the function of whistle-blowers will then become vital. As regards the incident in which steel reinforcement bars on the platforms of Hung Hom Station were

allegedly shortened, the Government and the MTR Corporation Limited ("MTRCL") had completely no prior knowledge. Had it not been for the whistle-blower, I am afraid society at large would have still been kept in the dark. Subsequently, though the Government has set up an Independent Commission of Inquiry to inquire into the incident, which has the power to summon relevant parties to give evidence, it can only conditionally remove the restriction imposed by the confidentiality agreement and the whistle-blower still cannot freely disclose information to the public. Moreover, currently there is no legislation on the protection of whistle-blowers in Hong Kong. Even the allegations are proved to be true after inquiry and the contractors are found to have committed irregularities, should MTRCL and Leighton Contractors (Asia) Limited be recalcitrant, they can freely employ different commercial means of retaliation, such as making the whistle-blower—that is, the sub-contractor—lose the eligibility for bidding for works contracts in future.

President, will Honourable colleagues please come to think about this. If whistle-blowing brings forth serious consequences and enormous pressure, how many people would be willing to, for the sake of public interests, come forward and testify against commercial organizations, public organizations and even government departments and public figures that have violated the laws?

Perhaps some people would consider that the existing Hong Kong laws already provide some measure of protection for whistle-blowers. For example, the Employment Ordinance forbids employers to dismiss their employees on the grounds of the latter giving evidence in court. But the laws have rather limited binding effect on employers actually. The threshold for proving "unreasonable dismissal" by employers is extremely high. Even if it is proved to be true, the employer can simply settle the case by making monetary compensation. And the scope of "unlawful dismissal" is rather narrow.

Just now many Members have mentioned that other ordinances can also afford whistle-blowers some degree of protection. For instance, Mr CHAN Hak-kan has put special emphasis on the Prevention of Bribery Ordinance, the Organized and Serious Crimes Ordinance and the United Nations (Anti-Terrorism Measures) Ordinance. The acts of whistle-blowing are seemingly given legal protection to a certain extent. However, the relevant provisions in various ordinances are very much piecemeal, covering a very limited scope. Judging solely by the exposure of the SCL scandal in which steel reinforcement bars were

cut short, it is evident that the confidentiality agreements among commercial organizations are outside the coverage of legal protection. Another well-known case is the row over the free television programme services licence in 2013. At the time, the then Asia region director of the consultancy commissioned by the Government openly criticized the Government for misinterpreting the consultancy report and was dismissed by the holding company on the grounds of "violation of contract confidentiality" after having committed whistle-blowing. It has indicated the lack of a set of comprehensive laws in Hong Kong for the protection of persons who have bravely come forward for public interests, to the detriment of upholding justice and the public's right to know.

As a matter of fact, across the world whistle-blowers have pivotal influence. For example, the Panama Papers, which exposed the overseas assets of more than 70 former or incumbent national leaders all over the world, and the incident in which Facebook allegedly allowed the fraudulent use of information of over 8 000 users by a United Kingdom consultancy were both disclosed to the media by insiders.

Therefore, legislating for the protection of whistle-blowers has become a global trend not to be ignored. A number of countries in Europe, America and Asia have enacted legislation to this end, such as the United Kingdom, the United States and Singapore. This year, the European Union has also officially enacted legislation for the protection of whistle-blowers against any form of retaliation; and if whistle-blowers are subjected to retaliation, the burden of proof rests with the persons or groups whose secrets were divulged to prove that no retaliation has been made. Taiwan which is neighbouring has also just finished drafting the Whistleblower Protection Act, covering acts of whistle-blowing related to major mismanagement, waste of public funds, abuse of office, public safety, etc. Though not totally comprehensive, it represents an important step made after all.

In fact, before 2005, only four countries in the Organisation for Economic Co-operation and Development ("OECD") enacted dedicated laws for the protection of whistle-blowers. However, between 2006 and 2015, the number of countries having enacted relevant laws increased to 14. As a member of OECD, Hong Kong is still lagging behind others and has yet to make any efforts. If Hong Kong is to start studying such legislation, there are plenty of examples to draw reference from. The problem remains whether the Government has the enterprise and courage to do so.

Perhaps, the reality offers no free choice to the Government. The reason is that, as evidenced by a series of SCL scandals recently, the monitoring mechanism between the Government and public organizations has completely failed. Given the extremely close connection between the two, the governance culture of misinforming the superiors and misleading the subordinates is allowed to persist. And such a culture has already become deep-seated, causing people's confidence to hit rock bottom. Such a situation reflects even more the importance of whistle-blowers. President, I consider that, for the sake of public interests, and at the same time, as Hong Kong calls itself an international city, its laws should keep abreast of the times. Therefore, I urge the Government to expeditiously legislate for the protection of whistle-blowers, as so to strengthen the public's right to know while preventing more illegal practices from emerging.

President, I so submit.

DR PRISCILLA LEUNG (in Cantonese): President, Mr Jeremy TAM's motion seeks to provide more protection for whistle-blowers, so that the Government or society can provide them with a safety net when they risk their careers, jobs or personal safety to divulge cases of injustice. I think the direction merits our serious consideration.

I agree that the existing legislation on the protection of whistle-blowers in Hong Kong is rather fragmented with a somewhat narrow scope. They include the Organized and Serious Crimes Ordinance, the Drug Trafficking (Recovery of Proceeds) Ordinance and the United Nations (Anti-Terrorism Measures) Ordinance, to name a few. I shall not list them all now as a number of Members have already mentioned them. Can we provide a more comprehensive safety net in this regard? Many Honourable colleagues mentioned Jason POON, the whistle-blower of the recent Shatin to Central Link incident, who divulged the affairs between himself and Leighton Contractors (Asia) Limited ("Leighton") and wrote an email to the Transport and Housing Bureau, and as a result, succeeded in forcing the Government to establish an independent Commission of Inquiry. Although some facts remain controversial, Mr Justice Michael John HARTMANN, Chairman of the Commission of Inquiry, has recently rebuked Leighton for "distorting the truth". The public certainly wants to know the truth because it involves public safety.

I would like to make a declaration of interest, that I teach in a university. In fact, there were incidents of whistle-blowing in universities. As early as in 1976, the department head of the Department of Journalism of The Chinese University of Hong Kong lodged a judicial review, on behalf of the department, against the decision of the Senate. In that incident, *Shatin News*, a publication by the Department of Journalism, had divulged some facts that the university considered injurious to its reputation but members of the university were aware of. Consequently, the Department of Journalism was penalized and *Shatin News* was banned from publication. They therefore lodged a judicial review in which the Judge explained that, although the university management must ensure the right to hear of all persons affected, teachers and students, the teaching staff had signed an agreement which stipulated confidentiality. Hence, on the grounds of the so-called Contractual Obligation of Confidentiality, the university was acquitted.

A more recent example happened in 2002 at the City University of Hong Kong, where I teach. In that incident, the contracts of 10 professors of the School of Law were not renewed for no reason. We provided protection through the Legislative Council and the media to the whistle-blowers who were under tremendous stress as they could face disciplinary action and libel lawsuits. As we all know, even professors of law cannot afford the litigation costs. If the university sued them for libel, they could not protect themselves. Therefore, they had no choice but came to the Legislative Council, initiated public engagement and made use of the power of the media. Eventually, the professors succeeded and Dean McCONVILLE was reprimanded by the University. But initially the University did defend him and blamed the professors for whistle-blowing.

In the political arena, the SNOWDEN incident was the talk of the town because he exposed that the Government of the United States had monitored the communications of the people. Even the country which claimed to provide comprehensive protection to whistle-blowers issued an arrest warrant against him who was then forced to flee to Russia.

Why am I so concerned about Liberal Studies? As I mentioned in an oral question this morning, it was because in 2009, I received a report from a student of an elite school, claiming that a Liberal Studies teacher—I could not believe it until he handed me the recording—talked in a foul tongue 70% of the time in class. I then realized something was wrong with Liberal Studies. However, what happened to this student afterwards? As we frequently used that school as

an example in the Legislative Council, that student suffered from depression. He was a top student with many As originally, but the incident made him panic as he was neither protected by the teachers nor by the school. He was merely a 15-year-old student with some sense of justice. Therefore, I always remember that incident clearly.

We have to protect these people. I certainly agree that it is not necessarily possible to impose legal sanctions, so I also agree with the Tshwane Principles established by the Open Society Foundations which stated that if the information disclosed was reasonably necessary we should provide a safety net. On the contrary, what should we do when excessive and irrelevant information was disclosed? I think there are some principles for use as the basis, too. For instance, whether the persons concerned disclosed the information in good faith, for public interest, to avoid immediate reprisal or disciplinary action by the school; or whether the disclosure will lead to a civil libel lawsuit or constitute a criminal offence in different positions.

Hence, I appeal to Honourable colleagues who oppose Mr CHAN Hak-kan's amendment to give it a second thought. They have made a lot of efforts and I personally think their amendments are just fine, but judging from the present political situation, I believe Mr CHAN Hak-kan's amendment should stand a better chance of engendering a consensus. We may as well give it some consideration. I hope Members can join us in urging the Government, if Mr CHAN Hak-kan's amendment is passed, instead of paying lip service and trying to get by, to handle the matter in a more serious manner in public and private organizations by drawing reference from, for example, the approach in the Netherlands where enterprises are required to set up an internal reporting system to protect whistle-blowers. Another example is the United States where an award system has been set up, to name but a few. If Mr CHAN Hak-kan's amendment is passed, I hope the Government will continue to work on this. It should not assume that it can get by once Mr Jeremy TAM's motion is negatived (*The buzzer sounded*) ... I do not believe that is the right way to go.

Thank you. I so submit.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, please stop speaking.

MR CHARLES PETER MOK (in Cantonese): Sometimes I wonder whether the laws of Hong Kong serve to protect the interests of those who especially need protection, such as the disadvantaged. I thought this should be the fundamental spirit of law, but sometimes I see that a lot of laws are inclined to protecting powerful people and large enterprises, obviating the need for them to bear too many responsibilities. This even includes the Government itself. Sometimes the laws in place lack bite. Sometimes even no law is in place, and sometimes the laws came too late. Such cases are too numerous to count. "Toothless" laws include the Personal Data (Privacy) Ordinance which has been frequently mentioned recently, some laws for protecting consumers, as well as the competition law. When the legislation was eventually enacted, the effectiveness had already been greatly undermined. Some laws are yet to be introduced after lengthy discussions. Examples are legislation on access to information, archives law and legislation for the protection of whistle-blowers which we discuss today.

After checking the records on this issue, I found that in 2011, I had already written some articles requesting such legislation because back then, for there happened to be a case involving an invitation of tenders for a government project costing over \$100 million. At that time an official at the directorate level unexpectedly alleged that the tendering procedure had been subjected to unusual interference. Dominated by the pro-establishment camp, of course the Legislative Council did not investigate the issue at that time, and the whistle-blower was suppressed. Everyone accused him of lying. Eventually, his contract was not renewed by the Government, and the incident fizzled out. In recent years, there has been an increasing number of examples inside the Government, in enterprises outside or from the Government's contractors showing that the usual tactics adopted by those in power against whistle-blowers was to launch an attack on the latter's integrity. The purpose was to make people disbelieve the incidents exposed by them. These whistle-blowers enjoyed neither power nor protection by the law. Eventually, the incidents fizzled out as a matter of course.

Assuming what was exposed by the whistle-blowers in these cases was true. To expose the truth, they actually had to pay a big price. They might need to reveal their identity to make the exposure credible. Just now the public officer mentioned in his reply some methods of concealing a witness's identity, but in many situations, it is necessary for the whistle-blower to come forward to enhance the credibility. In respect of personal safety, is it really like what the

Secretary said just now, that protection is provided in the sense that if the whistle-blower is murdered, the murderer will be convicted? Certainly not. In my view, this does not seem to be relevant to the question today. To put it bluntly, it sounds more like an irresponsible comment.

After making their allegations, whistle-blowers are condemned by everyone. Not able to keep their "rice bowl", they are attacked by all parties. In most situations, they are like David facing the giant Goliath. Alone and powerless, they are not as strong and may not have as much money as other people. If they wish to resort to legal means, there is a lack of effective avenues. On the down side, their integrity will definitely come under attack. However, had it not been someone really in the know willing to blow the whistle, many incidents would have gone unnoticed. The truth would not have come to light, and no one would have been able to grasp the evidence. For this reason, while we protect whistle-blowers, actually we are also protecting the right and opportunity of the whole society to know the truth. Significant public interests are at stake. Many countries have therefore enacted legislation for protection of whistle-blowers, providing them with protection in law so that they will not be subjected to reprisal, dismissal, demotion, suspension from duty, transfer to another post, liabilities, etc. Certainly, whistle-blowers cannot just talk through their hat. If they lie, they may have to bear civil and even criminal liabilities. For this reason, they cannot make any accusation arbitrarily.

Such safeguards in law can be seen in many advanced countries, underpinned by their respective reasons, justifications and purposes. But there is no such measure in Hong Kong. The only reason I can think of is that after all, Hong Kong is a place manipulated by those with vested interests. For its own expediency, the ruling regime did not genuinely provide any opportunity or facilitation for upholding justice. It will have regard for administrative convenience only. When any problem emerges, it will simply sweep the problem under the carpet so that no one will know about it.

When the Professional Commons was established some 10 years ago, one of our principles was that being professionals, we must, with professional knowledge and scientific evidence, objectively and neutrally go beyond the interests of our own sectors, with a view to enhancing the overall governance of society. We also advocate that professionals should adhere to professionalism,

be accountable to the public and the whole society with integrity, and be prepared to and dare say no to the rich and powerful. Even when facing strong economic or political pressure from various quarters, we will insist on stating the facts, telling the truth, and making impartial remarks. Using our professional judgment and scientific evidence, coupled with the courage we hope we still have, we are not afraid of challenging and criticizing the rich and powerful. If there is a need to blow the whistle, we shall walk our talk.

Hence, if Hong Kong society fails to embrace such an important value and provide specific protection in law, how can we talk about developing Hong Kong into an international city or maintaining its status as an international city? And how will it deserve to be called an advanced society?

MR CHAN CHI-CHUEN (in Cantonese): This motion calls for legislation to protect whistle-blowers. I fully support such a proposition. In this day and age, it is not uncommon to find cases of senior management bullying frontline staff in the Government, public organizations, non-governmental organizations and the private sector. Moreover, given that the vast majority of the media are pro-Government and friendly to the rich and the powerful, we find it all the more necessary to protect whistle-blowers.

In recent years, quite a few whistle-blowers have gone to the media one after another to expose the ills of public organizations, from the instability of the New Air Traffic Control System as exposed by the frontline staff of the Civil Aviation Department ("CAD"), to the revelation by some sources of such problems as the unusual settlement near the construction sites of the Shatin to Central Link ("SCL") and the cutting of steel reinforcement bars therein. We can imagine that without these people taking the risk of blowing the whistle, these potential threats to public safety may never come to light and the public may remain totally ignorant of them. These problems may then fester, potentially causing losses of property, claiming lives or inflicting injuries as they implode.

Why do frontline staff turn to the media to expose wrongdoings? First, whistle-blowers may have reflected their views and concerns many times to the senior management within their organizations but to no avail. As senior management continue to turn a blind eye and a deaf ear to these concerns and the

problems grow increasingly serious, whistle-blowers have no choice but to expose the problems to the public in a bid to force the senior management to face and address these problems squarely.

The second reason is that these problems with significant public interests at stake are covered up by the superiors of whistle-blowers who place their own interests above those of the public, prompting those with public interest at heart to expose secrets to the outside world.

Another reason is that whistle-blowers attach great importance to their work and professions. When confronted with certain practices that run counter to their professionalism and code of ethics and pressurized by the senior management to disregard those professionalism and code of ethics, they blow the whistle out of a sense of professionalism and ethics in a bid to force the senior management to put a stop to certain practices that violate professional codes, even see them penalized and pay a price.

It is thus evident that those who engaged in whistle-blowing in recent years, be they internal staff or subcontractors of the Government, actually did so in the interest of the public and for the protection of professional ethics. Their whistle-blowing acts are matters of public interest. Upon the revelation of wrongdoings involving public interests, a government or a public organization that truly gives public interests priority will immediately carry out a review of itself and find the relevant staff members to discuss the issue, hoping that it will not be too late to put things right.

Unfortunately, instead of doing some soul-searching, the Government or the public organizations in Hong Kong these days would make an all-out effort to bully whistle-blowers, as the senior management of the MTR Corporation Limited has done. For instance, thanks to CAD insiders blowing the whistle on the litany of incidents that occurred after the launch of the new Air Traffic Control System, the seriousness of the problem came to public knowledge. Instead of conducting an immediate review of the problems of the system, CAD openly declared its intention of holding the whistle-blowers accountable. To cite another example, those sources who anonymously passed information to Members and the media in respect of the multiple works blunders of SCL had found themselves targeted by malicious attacks.

As the noxious trend of persecuting whistle-blowers has become prevalent among officialdom these days, those who blow the whistle for the sake of public interest and professional ethics have to live in fear. At the end of the day, having taken the risks of whistle-blowing in the overall interest of Hong Kong and out of a sense of dedication, they do not deserve living in fear and seeing their future ruined for their deeds. Given the indifference, if not animosity, shown by the Government, the business community or non-commercial organizations towards whistle-blowers, I fully support legislating for the protection of leakers of confidential information and whistle-blowers to ensure that they will not be persecuted for exposing secrets in their bid to safeguard public interests.

Indeed, with most media being pro-Government and friendly to the rich and powerful these days, those which are willing to take the initiative of investigating and reporting on social issues or policy blunders are few and far between. Under such circumstances, it is really necessary for insiders of the Government or commercial organizations to act bravely for a righteous cause by exposing to independent media or online media colossal blunders committed by their organizations and giving those media some leads to continue investigation. This will force mainstream media, and in turn the Government or the non-commercial organizations concerned, to address the issues squarely. Hence, I consider it necessary to immediately legislate for the protection of whistle-blowers so that the public can still learn about the problems occurring within the Government and non-commercial organizations through whistle-blowers in spite of the failure of the media in serving the function of monitoring the Government.

Next, I wish to comment on the amendments. I cannot support the amendment of Mr CHAN Hak-kan, not least because he imposes an additional condition on legislation for the protection of whistle-blowers. As Members can see, he set out in the amendment that "on the premise of safeguarding national security, public safety and public interests, review the arrangements for protecting whistle-blowers". What is the biggest problem with this? The phrase "national security". "National security" is defined by the powers that be. Nowadays, any comments we made that oppose the Government or question the Communist Party of China will be blown up out of proportions and elevated to the level of national security. If we indeed enact legislation in accordance with Mr CHAN's proposal, it cannot be ruled out that in future, those whistle-blowers who have

exposed wrongdoings to the detriment of the interests of the rich and powerful communists in Hong Kong would be smeared with allegations of being a threat to national security and public interests by the Hong Kong communist regime.

For instance, at a time when "the red line" can be redrawn arbitrarily, the disclosure by a member of the public of the People's Liberation Army dumping waste and occupying land across the boundary, or the exposure by a former frontline staff member of shoddy work undertaken by a contractor with state-owned enterprise association could be blown up out of proportions and branded as acts detrimental to national security with the whistle-blowers being held criminally liable for no more than acting in the interest of the public. Criminal liability aside, an ordinance formulated as such would indeed be useless if it serves to pressurize insiders into silence and keep mum about the truth out of worries and scruples. Given the conditional nature of Mr CHAN Hak-kan's amendment and the vagueness of its wording, I cannot support it.

MRS REGINA IP (in Cantonese): President, I rise to state that that the position of the New People's Party can be regarded as exactly the opposite of that of Mr CHAN Chi-chuen. We cannot support Mr Jeremy TAM's motion and the amendments of Ms Claudia MO and Mr Kenneth LEUNG, but can only support Mr CHAN Hak-kan's amendment. It is because I do not agree that a whistle-blower should be afforded general protection for disclosing certain matters for the sake of public interests. Because, rightly as the Secretary for Justice has pointed out, actually a lot of information needs to be protected—be it commercially sensitive information or information involving personal privacy. And I consider it very important that—my thanks go to Mr CHAN Hak-kan who has pointed it out in his amendment—protection of whistle-blowers must be afforded on the premise of safeguarding national security, public safety and public interests.

President, I will enumerate a few most well-known whistle-blowers in the last 20 years to illustrate my points. In 2010, a soldier serving in Iraq, Bradley MANNING, handed over to WikiLeaks a great deal of sensitive information of the United States armed forces relating to combat in Iraq. Mr CHAN Chi-chuen is not here in the Chamber now. But he should be quite familiar with Bradley MANNING as Bradley MANNING later underwent a sexual reassignment surgery. Other than being convicted by the United States court martial of violations of military laws, he was also charged with the offence of divulging

state secrets under the Espionage Act by the United States Government. He underwent a sexual reassignment surgery during his imprisonment and changed his name to Chelsea. President, it is thus evident that he simply could not hand over the information to WikiLeaks on the grounds of exposing the various crimes committed by the United States Government in Iraq for the protection of public interests. And the famous founder of WikiLeaks, Julian ASSANGE—the Australian who has long been taking refuge in the Embassy of Ecuador in London—has disclosed the military information on the United States' combat in Iraq stolen by soldier Bradley MANNING, and thus the United States Government now also intends to charge him for violation of the Espionage Act.

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

Moreover, there is the more renowned whistle-blower in history, Edward SNOWDEN, who had once been hiding in Hong Kong for a few months. In 2013, SNOWDEN, who was hiding in Hong Kong, discovered the operation of PRISM by the United States for worldwide surveillance. Targets being monitored included many notable figures, university professors and dignitaries of Hong Kong, whose telephone calls and communication information had all been intercepted. Considering such an act grave injustice, SNOWDEN then blew the whistle and divulged a large volume of information in Hong Kong. SNOWDEN is now hiding at a safe location in Russia. The United States Government has made it clear that, if he returns to the United States, he will be charged with violation of the Espionage Act.

Therefore, notwithstanding the public's right to know, society in fact cannot allow anyone to disregard national security, public safety and public interests and arbitrarily blow the whistle merely on the grounds of upholding the public's right to know and for the sake of public interests. No country and government can irresponsibly allow such a situation to occur. Of course, Mr CHAN Chi-chuen has also just asked: upholding the banner of "national security", will whistle-blowers then be subjected to arbitrary prosecution? Deputy President, such a situation will not arise neither because national security remains undefined in the laws of any country, and whether it involves national security has to be determined by actual circumstances.

Another famous case is the Pentagon Papers in 1971. In 1971, two very brave people, including the living former military analyst Daniel ELLSBERG—whose books I have read—discovered that since 1945, the United States had started preparations for a war in Vietnam, and a lot of confidential and secretive documents were involved. Therefore, he stole the relevant documents—later referred to as the Pentagon Papers—which were then exposed through the *Washington Post*. The story was made into a movie, *The Post*. In the movie, the role of the publisher of the *Washington Post* is played by the acclaimed United States movie star, Meryl STREEP. I have watched the movie and really liked it. Of course, the United States had also charged him under the Espionage Act with the offence of jeopardizing national security. But what was the outcome? The well-known case of the Pentagon Papers and the earlier Brandenburg litigation case both concerned disclosure of confidential information involving national security. The relevant whistle-blowers were all acquitted by the Court, which considered that it was consistent with public interests to disclose information under such circumstances.

In other words, despite the statutory stipulation that no arbitrary disclosure of confidential documents shall be made on the premise of national security, the Court will still make a fair judgment based on facts and the laws. For this reason, Mr CHAN Chi-chuen and other Honourable colleagues from the pan-democratic camp need not worry that, on the premise of national security, whistle-blowers cannot blow the whistle at all. I believe the Court will definitely examine all factors and strike a balance. Nevertheless, I do not accept that arbitrary protection be given to whistle-blowers with complete disregard of national security, public safety and the greatest public interests.

Therefore, Deputy President, I can only support Mr CHAN Hak-kan's amendment and will not support the original motion and other amendments.

DR KWOK KA-KI (in Cantonese): Deputy President, I rise to speak in support of Mr Jeremy TAM's original motion. Affording legal protection to whistle-blowers is definitely no novelty. As stated by many Members who have spoken, in the international community, including the United Kingdom, the United States and Japan, dedicated legislation has been enacted for the protection of whistle-blowers mainly because whistle-blowers can often cause public interests to be upheld through blowing the whistle.

Earlier on Members mentioned the case of sewage treatment at Tuen Mun Pillar Point Valley Landfill, that is, the incident of SITA, while Mr Jeremy TAM also mentioned the new air traffic control system, thus I will not talk about them in detail. I will cite several examples relating to the medical profession. GlaxoSmithKline, a well-known drugmaker and the world's third largest pharmaceutical, biological and health care company, engaged in many cases of serious fraud between 1998 and 2007, including selling drugs originally meant for adults only for underage use and providing drugs, such as those for weight loss and treatment of sexual dysfunction, for unsuitable users for reasons that had not been approved, publishing misleading articles in medical journals, and engaging in misconduct involving bribery such as providing doctors with illegal commission, spa services, hunting trips, services for conferences, and so on. The drugs involved included Paxil, Wellbutrin, Advair, etc., which generated profits in billions of dollars for this company. But these despicable acts have caused sufferings to many patients or people taking these drugs, especially the minors and people who are basically not suitable users of these drugs.

As there is a law protecting whistle-blowers in the United States, four employees of this pharmaceutical company who blew the whistle provided evidence in 2003 to prove engagement in fraudulent practices by this third largest pharmaceutical company in the world and succeeded in bringing the company to face prosecution. What these whistle-blowers had done cost them their jobs, but as the law of the United States provides protection to whistle-blowers, allowing them to claim compensation from the company in the name of the Government, they could eventually obtain compensation for the loss suffered by their families due to their unemployment and involvement in legal actions throughout the entire legal proceedings since 2002. However, this original motion which proposes to enact legislation on the protection of various agencies, members of the public and stakeholders is amended by Mr CHAN Hak-kan on the ground of national security to the extent that it is in tatters.

I do not know why Hong Kong has gradually slid into a state of national insecurity because everything is making the country unsafe. The Legislative Council election is unsafe; the oath-taking of Members is unsafe for the country; the articles written by them are unsafe for the country; the chanting of slogans is unsafe for the country; and what is more, according to the remarks made today by some pro-establishment Members who are downright leftist maniacs, putting up resistance against the Carrie LAM Administration in the Legislative Council to

reverse injustice is tantamount to acts that connive at Hong Kong independence and acts that connive at Hong Kong independence are, of course, unsafe. China is clearly a big country, a world power, and when has it become so insecure all the time? What is more, how come a most ordinary citizen of Hong Kong can make it feel so insecure? He has no guns, no cannons, no bullets; he has nothing, except the truth.

Now we have come to realize what it is all about. To some despotic countries, telling the facts is already a most awesome weapon. It is because Mainland China is a despotic society in which telling the facts is forbidden, and so is telling the truth. No one can tell the truth because once you tell the truth, you will be in trouble. This is why in the Mainland, whether with regard to the "tofu-dreg" construction works that we all know about, or the incident of tainted formula milk or many kinds of contaminated food causing damages to the public, all the people who bravely came forth to blow the whistle met the same fate of being persecuted by the Mainland Government. Even for the human rights lawyers who defended these people, as in the most notorious "709 incident" that we all know, all the human rights lawyers have been persecuted, resulting in their families being destroyed and torn apart.

All of these cases have shown that this reason of "national security" is very useful because on the premise of national security, the crimes of picking quarrels and provoking trouble and subversion of state power will surely be included, and all of these are what will come next.

Some people have cited many examples in the United States, and how I hope we can be compared to examples in the United States or examples in some other Western democracies, because in Western democracies, their governments and parliamentary assemblies are returned by fair elections of "one person, one vote". No person, not even the state leader and all principal government officials, has absolute power. In every election or situation, the citizens will, each with a vote in hand, put on a political trial of their governments engaging in abuse of power as well as officials and members of parliamentary assemblies engaging in abuse of power, and in other words, kick them out of their office.

Looking back on Hong Kong, there are the pro-establishment camp, the pro-Government camp, and functional constituencies, and under such a distorted political system, actually these Members can forever remain in office for many

more generations to come. The Chief Executive election is a small-circle election; the principal government officials are not accountable to the people. Under these circumstances, if the reason of "national security" can even be abused, which means that they can consider everything said as being likely to compromise national security and make the country unstable and even if you made only one remark, they can elevate it to the political plane, saying that you are advocating Hong Kong independence and that you are making the country unsafe, tearing the country apart, violating the Basic Law, and so on. There are indeed too many of these examples. Therefore, I do not wish to see that a law originally intended to protect whistle-blowers in making exposures for public interests will slowly be turned into a tool of suppression, a flagrant tool.

With these remarks, I oppose Mr CHAN Hak-kan's amendment.

MR AU NOK-HIN (in Cantonese): Deputy President, I rise to speak in support of Mr Jeremy TAM's motion.

I must raise an issue in talking about protecting whistle-blowers. WikiLeaks revealed in 2011 that Mr SHIU Sin-por, former Head of the Central Policy Unit, had provided intelligence to the "American imperialists" in 2009, disclosing the bottom line of Beijing on the political reform, and Donald TSANG's remarks that the settlement of dual universal suffrage during his tenure did not have the approval of the Central Government. The circumstances of the closed meetings between the Hong Kong Government and the National Development and Reform Commission were even exposed. After this had come into light, even the pro-establishment camp—I remember it should be Mrs Regina IP and Mr James TIEN, a former Legislative Council Member, if my memory has not failed me—criticized SHIU Sin-por for leaking state secrets, but they did not criticize WikiLeaks for disclosing such information. From this we can see that, in general, both the democratic camp and the pro-establishment camp welcome the leakage of information which is beneficial to society. This is a fair comment. Therefore, the crux of the problem does not simply lie in the protection of whistle-blowers, but in which types of whistle-blowing acts are worth protecting?

While there is no law protecting whistle-blowers in Hong Kong at present, there are some ordinances with scattered provisions protecting acts of whistle-blowing. Yet, these ordinances cover only serious crimes, but not wrongdoings such as environmental damage, abuse of power, waste of public money, etc.

Let me cite a few examples. The Employment Ordinance only protects employees from dismissal because they have given a statement or furnished evidence in legal proceedings. The Organized and Serious Crimes Ordinance provides that where a property is suspected to be the proceeds of an indictable offence, making a disclosure of it would be protected. The Drug Trafficking (Recovery of Proceeds) Ordinance provides that where a property is suspected to be the proceeds of drug trafficking, making a disclosure of it would be protected. The United Nations (Anti-Terrorism Measures) Ordinance provides that where a property is suspected to be terrorist property, making a disclosure of it would be protected. The Prevention of Bribery Ordinance requires that the identity of the informer be kept confidential. The Securities and Futures Ordinance provides that auditors reporting the misconduct of the management of a listed company would be exempted from civil liabilities.

Deputy President, there have been plenty of blunders committed by many large-scale organizations and even the Government in recent years, such as the shortened steel reinforcement bars of the Shatin to Central Link ("SCL"), the airspace control issue of the airport, as well as the leakage of personal data by the Cathay Pacific Airways Limited which occurred recently. More importantly still, with the growing sophistication of society, and as these issues often involve professional fields, it is difficult for the legislature, the Judiciary, and the regulatory bodies to identify problems. Both the Audit Commission and the Office of The Ombudsman have their respective limitations.

Let me quote a concrete example here. The Security Bureau has all along refused to disclose information such as (*A telephone rang*)—I am sorry—the code according to which the Police would deploy the water cannon vehicles, the implementation of cyber patrol and the use of hacking programmes. The Legislative Council can do nothing if no one discovers it. Take the air traffic control issue as another example, it is rather difficult for laymen to know what

problems are involved in the technical information regarding air traffic control. As a result, a just society needs insiders to alert the public to prevent unlawful acts from further undermining social interests.

In fact, quite a number of problems were exposed by whistle-blowers in the past, such as the exposure of problems with the new Air Traffic Control System through the media by staff of the Airport Authority Hong Kong ("AA"), and the exposure of problems with SCL by Jason POON, Managing Director of the China Technology Corporation Limited ("China Technology"). However, whistle-blowers need to pluck up their courage and pay a price. China Technology has been forced out by the MTR Corporation Limited for divulging its secrets, whereas the AA staff has been sanctioned by AA. If we believe that more people in society should come forward to speak out against injustices, it is even more necessary for us to protect their rights by way of legislation.

Perhaps many people may worry that such protection would be open to abuse, such that some people may act in the name of whistle-blowing with a view to achieving their aims, which will cause serious damage to certain companies, organizations and public interests. There are also some people who worry that in the event of a whistle-blower having misunderstood the nature of a matter, in which no improper behaviour is actually involved, what should we do then?

In fact, such misgivings are not new at all, and they have been discussed during the legislative process in many countries. The United States enacted the Whistleblower Protection Act as early as in 1989, whereas other countries (including Japan, the United Kingdom and Australia) have also enacted relevant legislation. The European Parliament even promulgated the Protection of Whistle-Blowers Resolution in 2010 requiring all member states to legislate for protection of whistle-blowers. Therefore, many issues have been discussed on various occasions with solutions identified, but Hong Kong has yet to do so. However, these are not the reasons for us to refuse enactment of legislation.

For instance, we can draw reference from the three-tiered protection mechanism adopted in the United Kingdom to prevent someone from revealing the information of a company and organization casually. This mechanism requires that the subject of disclosure and the evidence obtained to be in line with

the principle of proportionality which is frequently heard. Under the three-tiered mechanism, the law sets a very high threshold in regard to providing protection for making a disclosure to the media. Therefore, the interests of an organization would be undermined only in rare cases, as the majority of complaints would be settled only by the regulatory bodies and under the established mechanisms.

What does three-tiered protection actually refer to? The first tier involves internal disclosures. The informers need only provide evidence indicating that they reasonably suspect that misconduct has been or is likely to be committed for them to make a disclosure internally. The second tier involves making a disclosure to regulatory bodies and law enforcement agencies. Informers are required to have reasons to believe that the allegation is substantially true. Lastly, the third tier involves making a disclosure to third parties such as the media or Members of the Parliament. The informers may not gain any personal benefits by disclosing such information even if they have met the standards of the first two tiers. This is the three-tiered protection mechanism.

I have some opinions on the amendments. For instance, Mr Kenneth LEUNG's amendment proposes to delete the phrase "waste of public money". I am a bit puzzled since the item "waste of public money" is also included in the Whistleblower Protection Act of the United States. We must add this provision if we are opposed to those "white elephant" infrastructure projects which are a waste of public money.

Nevertheless, I disapprove even more of Mr CHAN Hak-kan's amendment, since we cannot say that protecting whistle-blowers by way of legislation is not practicable (*The buzzer sounded*) ... We hope that ...

DEPUTY PRESIDENT (in Cantonese): Mr AU Nok-hin, your speaking time is up. Please stop.

MR SHIU KA-CHUN (in Cantonese): Deputy President, I thank Mr Jeremy HO for proposing the motion on "Legislating for the protection of whistle-blowers". I rise to speak in support of this motion.

Legislating for the protection of whistle-blowers is an important trend in the global anti-corruption movement. In its proclamation in the summit in Seoul in 2010, the Group of Twenty ("G20") affirmed its support for various countries to legislate for the protection of whistle-blowers. In April this year, the European Union also requested all the member states to legislate for the protection of whistle-blowers. As clearly stated in a document of the G20 summit, whistle-blowers are one of the important media of remedying malfunctions of governments and markets. When actual public interests are involved, whistle-blowers can exactly serve the purpose of sounding significant warnings. In 1863, i.e. the era of former American President Abraham LINCOLN, the United States already started to protect whistle-blowers through legislation. The most classic example is the case of a large pharmaceutical company in 1998. The pharmaceutical company published misleading articles in medical journals and offered illegal commissions to doctors to sell its drugs. Four employees took the initiative to blow the whistle to the Government, resulting in successful prosecution against the pharmaceutical company.

In the past few years, there were several big scandals in Hong Kong which the Government had tried to conceal. It was not until the insiders broke the news that the truth came to light. Let me cite a few cases offhand, including shortened steel reinforcement bars in the Hung Hom Station of the Shatin to Central Link, settlement at the Exhibition Station, water leakage at the Express Rail Link terminus, illegal discharge from the Pillar Point Sewage Treatment Works, and LEUNG Chun-ying's distortion of the consultancy report on the licence application of Hong Kong Television Network Limited. These incidents were exposed solely because the subcontractors, consultancies and staff disclosed them to the media at the risk of dismissal for the sake of protecting public interests. The whistle-blowers became the people's heroes. However, on each occasion, the company or organization involved would not resolve the problem in the first instance. Instead, it would lodge a report with the Police, hunt down the snitch and dismiss the staff, going to any length to silence tongues. Subcontractors and consultancies may also be afraid of losing important clients if they expose the information. For this reason, I strongly support this motion proposed by Mr Jeremy TAM on enacting legislation to protect these heroes so that with protection in law, they can tell the truth without fears and will not be afraid of retaliation by the big companies afterwards.

In fact, early in 1998, the Provisional Legislative Council had conducted a study on legislating for the protection of whistle-blowers, but the Government said the existing provisions in law could already provide whistle-blowers with the necessary protection. Later, Members followed up the relevant issue one after another, but the government officials shelved it on the grounds that there was no strong demand in society for legislation for the protection of whistle-blowers. On the surface, some laws in Hong Kong seem to provide protection for whistle-blowers, such as the Employment Ordinance, the Prevention of Bribery Ordinance, the Securities and Futures Ordinance and the Organized and Serious Crimes Ordinance, stating that whistle-blowing may be exempted from criminal liabilities to a certain extent. However, these laws are too fragmentary after all. They cannot effectively protect whistle-blowers from targeted retaliation. For example, earlier on, it was exposed in a press report that three workers who had reported to the Environmental Protection Department unauthorized discharge of waste by their company were immediately dismissed afterwards.

As a matter of fact, whistle-blowing in public interest can ensure self-discipline of enterprises. It also plays a significant role in maintaining the quality of governance and preventing serious irregularities. Now Hong Kong is obviously caught in a great lag in the international trend of governance and legislation. Members may still remember that a few years ago, in the furore over the grant of free-to-air television licences, Ms Jenny NG, Director of the relevant consultancy, openly criticized the Government of quoting the consultancy report out of context. She was later dismissed. At that time Jenny NG broke her silence, claiming that government officials had deliberately distorted the report. Subsequently, Chief Executive LEUNG Chun-ying sternly said in a high profile that he would definitely follow up and deal with the matter, smacking of reprisal. Jenny NG is a classic example of a suppressed whistle-blower lacking protection in law. It is also a case of chilling effect which the Government took the lead in creating. On mentioning it, I find it shameful.

The international definition of whistle-blowing not only focuses on corrupt and illegal practices in public organizations and private enterprises. It also includes behaviour involving a government's abuse of power, abuse of public funds, wastage of resources and endangering the public good owing to conflicts of interests. Provided that the person concerned has grasped the evidence and reasonably believes that such behaviour is substantiated, he should enjoy

exemption from criminal liabilities and protection from retaliation after disclosing the truth. Regarding these whistle-blowers who can be named "truth fighters", their contribution to the public good is rarely known. According to statistics, one third of the corruption cases in the world were made public because of whistle-blowers, even more than those uncovered by auditors, security officers and the Police. In the United States alone, in 1986, the amount of public funds which whistle-blowers enabled the Government to recover from deception or wastage amounted to US\$35 billion.

I remember that at that time a reporter asked Jenny NG if she was afraid of not getting any more business from the Government. This question actually reflects a dangerous attitude in society, i.e. considering it acceptable for officials to attack and take revenge on the disobedient. The more we are worried about collapse of rites and decorum, the more we should support enactment of legislation for protecting whistle-blowers by the Government. If whistle-blowers need not be afraid of attack and retaliation, such acts of corruption and wastage of Raphael HUI, Timothy TONG and Donald TSANG spanning years might have been exposed at the initial stage. Apart from saving a lot of public funds, we could have set things right earlier. Had the perfunctory behaviour of some of the officials in the Marine Department over the past decade or so been exposed and rectified before the Lamma Island maritime disaster, quite a number of lives could have been spared.

Those in power are not happy to be touched on their sore spot. Large enterprises are not happy to have their business reputation tarnished. Hence, the main ally of "truth fighters" is the civil society. Many people admire the courage of whistle-blowers. The best way to requite them is to take action to ensure that they will not be alone. Please support legislation for the protection of whistle-blowers. Do not leave whistle-blowers alone. Thank you, Deputy President.

DR CHENG CHUNG-TAI (in Cantonese): Deputy President, Mr SHIU Ka-chun, in his speech just now, solicited our support for enacting a whistle-blowing protection law so that whistle-blowers would not feel lonely. Many Members have expressed their views as well. I wish to state my stance frankly that I somewhat disagree with the enactment of legislation to protect whistle-blowers.

Initially, under the established system of Hong Kong, we mainly resort to two types of powers to impose checks and balances on public powers or money power. First, we believed that the mainstream media had developed to a relatively peak level in the late 1980s to 1990s. I am referring to the checks and balances imposed by the mainstream media on the Government, the market, or even illicit affairs or man-woman relations at that time. The media sector in Hong Kong used to be blooming. This is why some people would comment that the mainstream media in Hong Kong, whether they belonged to the left, central and right, the Communist Party of China and the Kuomintang, as well as the media of other different factions, existed concurrently in those days. At that time, Hong Kong was essentially a relatively healthy civil society, and the mainstream media carried on their shoulders the bounden duty of exposing irregularities, which is also the most important component of whistle-blowing.

However, nowadays I understand the general public often holds an impression of whistle-blowing that—especially when considering it from the perspective of populism—as long as someone exposes the wrongdoings of the Government or some organizations, he would be regarded as a manifestation of justice. Yet, whistle-blowing or exposure of secrets is not necessarily an act of justice actually. Justice is often perceived from the fact that the result is righteous. That said, how do we judge that the result is righteous? There is no reason to leave it to the Court for judgment.

I wonder if Members are clear about my thoughts or arguments, but the bounden duty of the mainstream media is to expose irregularities. It would not tell the public which is black and which is white, pointing out that something should or should not be done. The mainstream media would only arouse discussion in society or by the public. This means that whistle-blowing or exposure of irregularities by the mainstream media must inevitably be a dynamic process itself. But speaking of enacting legislation to protect whistle-blowers, I actually lack confidence from the very beginning. I do not even believe a court judgment nowadays can certainly protect whistle-blowers, or a court judgment must be righteous. This is the reason why I consider that, instead of providing protection for acts of whistle-blowing by assuming that they are righteous, society should in fact have an adequate motive or confidence (底氣)—I am using a Mainland expression here—to protect whistle-blowers throughout the whole process.

Therefore, I think that when we consider providing protection for whistle-blowers initially, our mindset should not be too narrow, assuming that whistle-blowers would necessarily be suppressed or become vulnerable after their exposure of certain acts. Today, media reports do reflect such a situation. This is because we feel that—which is also the truth—Hong Kong society is gradually moving towards autocracy nowadays.

This is to say, no matter it is the withering of the mainstream media, or the complaint or internal handling mechanisms within the system itself—be it in a company or a government department—or the adjustment mechanism in society, such as the Independent Commission Against Corruption or the Office of The Ombudsman which are mechanisms within the system or the establishment, if these mechanisms are operating effectively, actually the current situation would not have arisen which drives us to think that the role of whistle-blowers is so crucial.

In the meantime, caught in such a dilemma, I would look back and ask this question. Speaking of protecting whistle-blowers, may I ask frankly is GUO Wengui a whistle-blower? I believe the Deputy President would see my point. Let me cite an example. Is GUO Wengui a whistle-blower? He surely is in the eyes of the Western society. Yet, he is in fact the tool of a certain faction for launching attacks or power struggles in the context of our social institution and system.

In other words, when it comes to enacting legislation to protect whistle-blowers, I lack the certain degree of confidence under the present circumstances, nor do I think the necessary conditions are present in society. It is also difficult to rule out that an individual is merely a tool for power struggles among different factions or interest groups. I think the law itself would not presume that someone must be righteous, or he comes forth necessarily for knocking down the giant. Against this background, Members may find my arguments rather confusing, but in fact, I cannot assert there is absolute black and white in this matter even now. Anyone who knocks down giants should be offered protection any way—this may not be the case in fact. Therefore, I think protecting whistle-blowers through legislation alone is inadequate, but should we do so? I hope more Members will participate in the discussion.

I so submit.

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

DR FERNANDO CHEUNG (in Cantonese): Deputy President, Dr CHENG Chung-tai raised a rather interesting issue. He pointed out frankly that protecting whistle-blowers may not be a solution and that it may not even be an appropriate solution. His rationale is that if the existing system as well as some institutions within the establishment already provide such channels as the Independent Commission Against Corruption and The Ombudsman, or an adequate mechanism that allows whistle-blowing is in place within an organization and adequate protection is also provided, and the mass media are also an effective medium, tool or force that can expose some existing ills or the ills of some organizations, companies or the Government, including instances of corruption and impropriety, actually, they may already be performing their even more important functions, so perhaps this is already sufficient. If civil society possesses such power and can already do this sort of things, it would already be sufficient.

However, as pointed out by Dr CHENG Chung-tai, and as we can also see clearly, at present, society is not becoming increasingly open, nor is it becoming increasingly tolerant of or conducive to people coming forth to expose corruption and impropriety. On the contrary, we are moving towards autocracy and the centralization of power and in civil society, even such efforts as charity and welfare are also gravitating towards the market but some modes adopted by the market, for example, outsourcing, are hotbeds of corruption, with a lot of exchanges of interest taking place in the process. Even the realm of welfare or public welfare is also becoming increasingly market-oriented and market values are adopted in the evaluation of the so-called performance. Therefore, I would say to Dr CHENG Chung-tai that given such a system, we should enact legislation to protect whistle-blowers as soon as possible.

In fact, I wish very much to talk about a case mentioned in Mr Jeremy TAM's motion, that is, the one related to the sewage treatment works at the Tuen Mun Pillar Point Valley Landfill. I have a deep impression of this case because a District Council member of our political party, Mr TAM Chun-yin, received requests for assistance from several workers and three of them were middle-aged people in their fifties and sixties. They were all frontline technical workers and

the situation they faced was that the company concerned required them to lower the temperature in the treatment of sewage. Lowering the temperature will result in excessive levels of pollutants in the process of sewage treatment. When the sewage is discharged into the sea, naturally, this will give rise to many pollution problems and if one swims, catches fish or eats seafood in the Tuen Mun area, one's health may also be affected. Of course, there are also significant negative impacts on the natural environment.

These three employees ran the risk of losing their jobs to expose the matter and one of the technicians surnamed CHU was even beaten up and injured by an engineer of the works because on several occasions, he had pointed out within the company the impropriety of such action. For some time, he had to use crutches and could not work. The three were sacked one after another and as a result, they had difficulties in making a living. I think we really have to salute these whistle-blowers here. They did this truly for the sake of justice and no personal interests were involved. Throughout this course, I could not see any cause for the kind of concern expressed by Dr CHENG Chung-tai, that is, what motives the whistle-blowers have, whether or not some of them may not be truly upstanding people, and so on. He cited GUO Wengui as an example but we really cannot rule out the fact that there are people who stand up bravely for just causes, like these three former employees of SITA Waste Services Limited, Mr LEE, Mr CHOW and Mr CHU, who really came forward bravely.

It was only after the incident had been exposed and *Ming Pao Daily* had reported it that the Government woke up to it and made further investigations. It was found that this company had indeed violated a number of rules and the violations numbered at more than 20. However, in the end, only a fine of several hundred thousand dollars was imposed. These three people lost their jobs and their livelihood and health were affected. Mr LEE had thyroid disorder and because of losing his job, he had to work as a casual worker at the airport. Each day, he had to travel for three hours and this led to a relapse. Therefore, their health and lives have all been affected.

In that case, do you think we have to enact legislation to protect whistle-blowers? Of course, we have to. The focus of whistle-blowing lies in the exposure of ills. We can see that be it the improper behaviour or corruption involving a former Chief Executive, a former Chief Secretary for Administration,

a number of moguls in the city and even the mammoth MTR Corporation Limited, they were all exposed by whistle-blowers. No matter if whistle-blowers have any undesirable motive or not, we think that a legal framework should be put in place to protect them.

Therefore, be it the relevant amendments or Mr Jeremy TAM's original motion, I support all of them.

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

MR WU CHI-WAI (in Cantonese): Deputy President, whistle-blowers may be the internal staff members of private or public organizations. They have exposed the illicit acts within an organization and the matters exposed must be related to public interests. The United Kingdom and the United States are countries that have long since enacted legislation to protect whistle-blowers.

At present, no law has been put in place to protect whistle-blowers in Hong Kong. For this reason, we can see that it is very likely for whistle-blowers to face such problems as litigation, dismissal, suspension, etc., and just now, Dr Fernando CHEUNG has cited a very obvious example, that is, three employees of the contractor of the sewage treatment works in Tuen Mun reported to the Environmental Protection Department how their company had lowered the standard of sewage discharge in order to save costs and consequently, they were dismissed. Of course, some people may say that there may be other laws in Hong Kong to help whistle-blowers. For example, can this instance be regarded as unreasonable dismissal? However, we all understand that according to the Employment Ordinance, even if the dismissal is unreasonable and a whistle-blower ultimately receives compensation, the compensation is made according to the provisions of the law but to the employees concerned, they still have to endure the tremendous pressure of retaliation. Moreover, since the circles of some trades are very small, even if the whistle-blowers can win all the lawsuits over the unreasonable dismissal, they still have to face difficulties in finding employment in the future.

In view of this, why is it necessary to enact legislation to protect whistle-blowers? One of the considerations is to protect the personal interests of whistle-blowers to prevent them from finding themselves in the situation of not being protected by law in any way after they have exposed problems in the quest for justice on behalf of the public. It is also in this way that when irregularities or unlawful and improper activities occur in an organization or company, the conditions will be present for informed people within it to come forward for the sake of public interest. I believe this is important.

Of course, this motion deals mainly with whistle-blowers in the form of individuals, for example, employees, partners, and so on, and does not include whistle-blowers in the form of organizations or companies. Take the exposure of the incident of cutting steel reinforcement bars in the Shatin to Central Link project as an example, if protection is afforded only to the whistle-blower, the issues that the company concerned will have to deal with in the future will not be simple.

I notice that in other countries throughout the world, in the discussions on legislation for the protection of whistle-blowers, often, there are some very important considerations. Just as pointed out by many Honourable colleagues in their discussions in the legislature today, the areas involved include the aim of legislation, the scope of the law, qualifying disclosures, the channels through which disclosures can be made, the actions to be taken and supervision to be exercised by the authorized agency, and in the process of accepting a case and in the course of investigation, how the confidentiality of the identity of the whistle-blower can be preserved, whether anonymous whistle-blowing is permitted and in the protection of whistle-blowers, what the exemption from liability, prohibition against retaliation, the criminal liability and relief measures are, etc.

Certainly, one viewpoint is related to the motives of whistle-blowers. Here, I wish to add that no matter what the motives of whistle-blower are, if they can expose the problems in their organizations, what they wish to defend is public interest, no matter what the speculations of various parties are. Even though we think that the Managing Director of China Technology Corporation Limited had his personal motives in blowing the whistle, the problem exposed by him is

precisely the part that must be dealt with due to its relevance to public interest. For this reason, I believe that if some Honourable colleagues look at this issue from the viewpoint of motives, they have overlooked the most important duty performed by whistle-blowers, that is, their exposure of the ills serves to uphold public interest and they are exposing, for the sake of public interest, matters within companies or organizations inconsistent with law or justice.

Even if whistle-blowers may be the tools of power struggles, as Dr CHENG Chung-tai put it, and he cited GUO Wengui as an example. This is not an important point either because when we judge a matter, it is not possible to do so on the basis of the motives of whistle-blowers, rather, we must do so on the basis of the nature and details of the problems exposed by them. It is only in this way that we can have a meaningful discussion about the extent of protection for whistle-blowers.

I also noticed that in this motion debate, some Honourable colleagues, or more specifically, Mr CHAN Hak-kan, proposed in his amendment that "That, unless insiders of business organizations or government agencies ("whistle-blowers") divulge that unlawful acts endangering public interests have occurred in their organizations or agencies, it is invariably difficult for the public or the media to verify the occurrence of such incidents ...". In other words, he added the words "unlawful acts" but I wish to point out that to limit the scope of exposure according to whether or not it is unlawful will take us back to the point raised by me earlier on, that is, when various countries deal with the issue of whistle-blowing, this is one of the focuses of discussion. However, just consider this: If we set the criteria of "unlawful" at this early stage of discussing a motion, the chaos caused by the New Air Traffic Management System certainly would not be considered an unlawful act, so according to the amendment proposed by Mr CHAN Hak-kan, the whistle-blowers in the Civil Aviation Department will not be protected. I believe this will limit the scope of discussion and study.

Similarly, Mr CHAN Hak-kan proposed in the second paragraph of his amendment that "... this Council proposes that the SAR Government should draw reference from the experience of other countries and regions and, on the premise of safeguarding national security, public safety and public interests, review the arrangements for protecting whistle-blowers ...". There are some difficulties in

implementing this proposal. For example, some time ago, employees of Google revealed that Google was developing a search engine, namely, the "Dragonfly", that meets the censorship requirements of China. "Dragonfly" can be used by China as a tool for maintaining stability and in the case of such an exposure, according to Mr CHAN Hak-kan's amendment, the employees concerned who alerted people to this issue probably will not enjoy any protection. Similarly, the concentration camps in Xinjiang violate human rights and are incompatible with public interests but under the tactics used by the Communist Party of China for maintaining the so-called national security, if anyone exposes the conditions therein, they may be regarded as having leaked national secrets. In view of this, I believe herein lies the problem ... (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Mr WU Chi-wai, your speaking time is up. Please stop speaking.

Does any other Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr Jeremy TAM, you may now speak on the amendments. The time limit is five minutes.

MR JEREMY TAM (in Cantonese): Deputy President, for starters, I thank the many Members for their speeches. I support the amendments proposed by Ms Claudia MO and Mr Kenneth LEUNG as well. Particularly, in fact I have also drawn reference from a Member's bill introduced by Mr Kenneth LEUNG to the Legislative Council of the last term—the Public Interest Disclosure Bill 2016—which was not enacted as the scrutiny of the Bill was not completed due to insufficient time in the last term. However, apart from the Member's bill introduced by Mr Kenneth LEUNG, in fact the Provisional Legislative Council also discussed this issue in the past. I believe Members from the pro-establishment camp would also receive complaints from whistle-blowers frequently. Mr Michael TIEN is not in the Chamber at the moment, but he must

have received more disclosures than me recently. Therefore, I believe that, on the premise of providing further protection for whistle-blowers, there is no divergence among us.

Next, I would like to focus on discussing the amendment proposed by Mr CHAN Hak-kan. I think the biggest problem is that he has deliberately added—Mr WU Chi-wai also mentioned it just now—the requirement that the information divulged must involve unlawful acts. Why am I saying this? It is because stipulating unlawful acts will give rise to problems. Mr CHAN Hak-kan has also mentioned in his speech earlier that the disclosures may be related to the possible extravagant practices and immoral conduct of enterprises. Yet, in fact these are not examples of unlawful acts. Just now Dr Priscilla LEUNG has even mentioned a case in which a teacher speaks swear words and a student makes a disclosure. Yet, it is not unlawful for a teacher to speak swear words per se. That said, according to the points of view and rationale put forward by Dr Priscilla LEUNG, should we protect the student from being treated unfairly or targeted? I believe, according to the examples cited by the pro-establishment earlier, it is necessary for these people to be protected. But unfortunately, Mr CHAN Hak-kan's amendment has precisely limited the contents of disclosure to unlawful acts, which I consider problematic.

In addition, the examples mentioned by Honourable colleagues earlier, such as the breakdown of the Air Traffic Control System or water seepage and leakage caused by works, are not unlawful acts either—or I should say they may be unlawful, but there are chances that they are not—yet, how can the informer ascertain whether an act is unlawful at the time of making a report? The informer has just seen something happen and exposes it as he finds it very inappropriate.

What is more, some Honourable colleagues have also mentioned the problem that a whistle-blowing protection law might be ruined or abused. Take the Public Interest Disclosure Act of the United Kingdom as an example, whistle-blowers would be offered protection only if they can convince the Court that they make the disclosure in good faith and they reasonably believe in the information disclosed. As a matter of fact, there is also the offence of "making false reports" in Hong Kong. In the event that an informer reports to the Police

that he has seen something happen but it is fictitious in fact, this is "making a false report" and the informer would be held criminally liable. Therefore, to address such worries, we can also add similar provisions in enacting a whistle-blowing protection law, stipulating that if someone performs such acts purposefully without any concrete evidence as support, the person would not be offered protection as he is "making a false report". The problem would then be resolved in this way, would it not? We can even make penalty provisions.

The Government mentioned earlier that there are already some forms of protection currently. Whistle-blowers can even raise the public interest defence. Yet, please do not forget that they can only make a defence for themselves. This is to say, if the person who imposes the pressure files a lawsuit against him, he can only make a defence ...

DEPUTY PRESIDENT (in Cantonese): Mr Jeremy TAM, are you speaking on the amendments now? You should speak on the amendments within the five-minute speaking time. If you wish to respond to the speeches made by government officials or other Members, you will have time to give a reply later on.

MR JEREMY TAM (in Cantonese): I got it. Thank you, Deputy President. I am going to finish this. It is because there would be no consequence on the person who exerts the pressure, whereas this motion seeks to make him bear the consequences. As a result, due to the reasons that I have given just now, please pardon me for not supporting the amendment proposed by Mr CHAN Hak-kan as he has narrowed down the entire issue to a very confined scope.

Nevertheless, Members on the whole agree with the general direction of these amendments. I reckon that the Government would probably tell us what protection is provided in this ordinance and what protection is provided in another ordinance. However, whistle-blowers will not look up all ordinances to ascertain what protection is provided for them before they decide whether to make a disclosure. This is the reason why foreign countries or other places have to enact legislation to provide such protection to whistle-blowers like an

umbrella, under which they would be protected anyway, no matter whether they are protected under ordinances A, B, C or E. In view of this, I hope Honourable Members will support my original motion as well as the amendments proposed by Ms Claudia MO and Mr Kenneth LEUNG.

Thank you, Deputy President.

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, I thank Members for expressing their views on this motion earlier.

First of all, I wish to respond to Mr Kenneth LEUNG who proposed in his amendment that whistle-blowers should not be subject to civil liabilities due to their whistle-blowing. I wish to point out here that various ordinances are already in place now to provide protection for whistle-blowers. For example, in the Organized and Serious Crimes Ordinance (Cap. 455), Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), the relevant provisions stipulate that a person who discloses information on suspected money laundering or other offences shall not be treated as in breach of contract or any enactment or rule of conduct, etc. Another example is that under the Securities and Futures Ordinance (Cap. 571), no civil liability, whether arising in contract, tort, defamation, equity or otherwise, shall be incurred by a person in respect of anything done or omitted to be done in good faith in the discharge of the duties or in the performance of functions as stated in the Ordinance.

As for the protection of the identities of whistle-blowers, at present we already have in place various ordinances to prevent the disclosure of the identity of a whistle-blower. For instance, the Copyright Ordinance (Cap. 528) and the Import and Export Ordinance (Cap. 60) provide that save where, in the opinion of the Court, justice so requires, the name or identity of any informer shall not be disclosed in any civil or criminal proceedings.

Regarding the possibility that whistle-blowers may face unfair treatment from employers or the protection of the personal safety of whistle-blowers, the

Under Secretary for Labour and Welfare and the Secretary for Security will give an introduction later on.

I have noticed that at present, there are already systems and measures providing protection by protecting whistle-blowers against civil liabilities, preventing the disclosure of the identities of whistle-blowers, and so on. Despite the absence of legislation enacted specifically for the protection of whistle-blowers, various existing ordinances can provide suitable protection in various situations and aspects and hence achieve the objective of affording protection to whistle-blowers.

I have also noticed that Members have put forward many examples and views earlier. The Government has listened to them. The Government has noticed that some of the amendments discussed earlier have actually highlighted some problems relating to this motion, such as how should we determine a specific scope of whistle-blowing? Should we, as suggested by some people, include all unethical dealings, rather than including only situations in breach of the law or contrary to significant public interest? In considering these issues, it is necessary for us to have regard to the fact that the existing ordinances are already providing the relevant protection, and an extensive scope of whistle-blowing will make it difficult for us to cope in law and cause confusion to the public.

I have also noticed that during the discussion earlier, various Members mentioned whether the exemption of liabilities should be absolute or the exemption can apply only on certain premises. Here, I wish to say that the laws of Hong Kong have already provided suitable protection and therefore, I urge Members to vote against the motion.

The Department of Justice will continue to listen to the views of Members and to provide suitable legal advice for policy bureaux on the civil and criminal matters relating to the relevant ordinances, in order that whistle-blowers can access suitable protection in accordance with the laws of Hong Kong. I so submit. Thank you, Deputy President.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I will respond to the issues pertaining to personal safety raised by Members just now.

The Police and the Independent Commission Against Corruption ("ICAC") have established the witness protection programme ("the programme") under the Witness Protection Ordinance (Cap. 564) ("WPO") to provide appropriate protection and assistance to witnesses included in the programme for the sake of their personal safety and well-being. WPO has been operating well since its enactment, providing witnesses, including whistle-blowers, whose personal safety may be at risk, with comprehensive and strong protection with legal backing.

The protection provided under the programme does not just cover witnesses testifying against terrorist and drug offences, offences under the Organized and Serious Crimes Ordinance or certain specific offences, as stated by Members speaking on the motion just now. Under section 3 of WPO, the programme seeks to provide protection or other assistance to witnesses whose personal safety or well-being may be at risk as a result of being witnesses. Section 2 of WPO defines the meaning of a "witness", which does not impose any restrictions on the types of offences for which a witness has given evidence or provided a statement or other assistance to a public officer. The programme covers witnesses whose personal safety may be at risk as a result of testifying against any offence under the laws of Hong Kong, regardless of its nature.

In deciding whether or not to include a witness in the programme, the Police Force or ICAC will conduct a comprehensive evaluation of a host of factors. In addition to the nature of the perceived danger to a witness, the relevant authorities will also consider the risk levels of such danger, and whether or not there are viable alternative methods of protecting the witness, etc. The relevant authorities will conduct a professional and comprehensive risk assessment of each case on its merits to ensure that witnesses whose personal safety may be at risk are provided the most appropriate assistance.

The relevant authorities will take necessary and appropriate action to protect the safety and well-being of witnesses. The protection provided to witnesses under WPO is comprehensive. In addition to routine protection of the

personal safety of witnesses, special protection is also provided to witnesses giving evidence in court. Under section 19 of WPO, where a witness is to give evidence in legal proceedings, the Judge or Magistrate may, upon an application by the prosecution, authorize a police officer or an officer of ICAC to require all members of the public entering the courtroom to identify themselves to the satisfaction of the officer, and undergo such search as the officer may require to ensure that they are not carrying into the courtroom anything which would pose a threat to the security or well-being of the witness.

Deputy President, inflicting bodily harm or even endangering life is a very serious offence. The SAR Government will not tolerate any violent acts. The Police have a duty to protect the safety of all members of the public either through the programme or otherwise. Should there be indications or suggestions that the personal safety of any person may be at risk, the Police will assess the threat and adopt appropriate measures commensurate with the threat level. For a witness of a criminal case, the Police will, having regard to the wish of the witness and the actual situation, work out feasible arrangements, including the provision of safety advice and measures specific to residence, workplaces, engagements undertaken, etc.

(THE PRESIDENT resumed the Chair)

A comprehensive legal framework is in place under the existing criminal legislation for various offences of inflicting bodily harm and endangering life, and witnesses who require personal protection due to provision of any information on criminal offences are also provided comprehensive and professional protection under WPO. President, given the adequate personal protection provided to witnesses, including whistle-blowers, under the existing legislation, I oppose the proposal for providing personal protection set out in the motion and amendments. I implore Members to vote against this motion.

I so submit.

UNDER SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to thank Mr Jeremy TAM again for proposing the motion today and the three Members, namely Ms Claudia MO, Mr Kenneth LEUNG and Mr CHAN Hak-kan, for proposing the amendments, as well as a number of Members for giving their speeches.

At present, the Employment Ordinance ("EO") imposes restrictions on dismissal by employers on the basis of certain conditions or behaviour of employees. It is a breach of law if an employer dismisses the relevant employee under such conditions or on the basis of such behaviour. The circumstances under special protection include the periods when employees are pregnant and taking paid sick leave and have been injured at work pending closure of the work injury case. Apart from these three circumstances, no employer shall dismiss their employees under the following two circumstances, i.e. employees' membership of trade unions or participation in trade union activities; or by reason that the employees have agreed to give evidence in the relevant proceedings for the enforcement of the specified labour laws or give information to a public officer in respect of related matters. The existing labour laws have already afforded employees adequate employment protection.

All employees to whom EO applies are entitled to relevant protection under EO subject to their employment conditions, such as payments of wages on time, entitlement to rest days, statutory holidays and paid annual leave and leave pay, prohibition of illegal wage deduction, restrictions on layoff, immediate termination of employment contract under special conditions, severance payments, long service payments, as well as the rights to recovery of compensation for "unreasonable dismissal", "unreasonable variation of terms of employment contract" and "unreasonable and unlawful dismissal".

In case of the employer's failure to provide for employees their due rights and benefits pursuant to EO or employment contracts, employees may file civil claims against the employers. At the same time, employers may be liable to criminal prosecution for violation of the stipulations of EO. Moreover, employees subjected to "unreasonable and unlawful dismissal" have the right to claim compensation under employment protection, including making a claim for

compulsory reinstatement, or for terminal payment and compensation amounting to \$150,000 at the maximum.

The act of whistle-blowing does not necessarily have any bearing on the various types of protection provided for employees under labour laws. And the illicit activities disclosed by the whistle-blowers may not be directly related to their employers either. Under such circumstances, it is inappropriate to deprive employers of the rights they can lawfully and reasonably exercise under the employment contract.

For any measure that deals with employment protection provided by employers for employees, a definite mechanism must be put in place to clarify the facts and help adduce evidence. The act of whistle-blowing, should it be unverified or controversial, may create confusion among employers on the one hand, and, on the other, give some people the opportunity to abuse the protection mechanism for obtaining personal gain or serving personal purposes on the pretext of whistle-blowing or public interest.

It is evident from the debate held just now that we have not observed a clear and undisputed definition of whistle-blowing. At present, there is also no mechanism in society to determine whether the information disclosed is true or pertinent to public interest. Therefore, a clear definition of whistle-blowing must first be given and then an effective mechanism will be formulated to examine whether a certain act qualifies as whistle-blowing. Without the aforementioned conditions, if employers are easily forbidden to exercise their rights under EO or the employment contract in respect of the employees who claimed to have committed whistle-blowing, some people will then be able to distort facts on the pretext of whistle-blowing while escaping punishment. It runs contrary to the original intent of protection, destroys labour relations and damages the cooperation and trust among colleagues in the workplace. I believe it is not a situation Members look forward to seeing.

Any employee who considers his or her rights under EO or an employment contract being infringed upon by his or her employer may seek assistance from the Labour Relations Division of the Labour Department and file a claim. If the employer has allegedly breached EO, the Department will conduct an

investigation and bring prosecution against the employer in the light of sufficient evidence.

The measures Members have suggested for the protection of whistle-blowers involve complicated legal issues across different policy areas, carrying far-reaching implications and thus requiring holistic consideration. EO is not the appropriate law enacted for the protection of whistle-blowers. As regards provision of information by employees to law enforcement officers within the realm of employment or even them giving evidence in legal proceedings, the existing labour laws can already offer adequate protection. Therefore, I implore Members to negative the motion.

President, I so submit.

PRESIDENT (in Cantonese): I now call upon Ms Claudia MO to move her amendment.

MS CLAUDIA MO (in Cantonese): President, I move that Mr Jeremy TAM's motion be amended.

The amendment moved by Ms Claudia MO (See the marked-up version at Annex 4)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Ms Claudia MO 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)

Ms Claudia MO rose to claim a division.

PRESIDENT (in Cantonese): Ms Claudia MO has claimed a division. The division bell will ring for five minutes.

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

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

Functional Constituencies:

Mr LEUNG Yiu-chung, Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr SHIU Ka-chun, Dr Pierre CHAN and Mr KWONG Chun-yu voted for the amendment.

Mr Jeffrey LAM, Mr CHAN Kin-por, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Ms Starry LEE, Mr Steven HO, Mr POON Siu-ping, Mr HO Kai-ming, Mr LUK Chung-hung and Mr LAU Kwok-fan abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

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 LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung, Mr Jeremy TAM and Mr AU Nok-hin voted for the amendment.

Mrs Regina IP and Ms YUNG Hoi-yan voted against the amendment.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Mr Wilson OR, Mr CHEUNG Kwok-kwan, Dr CHENG Chung-tai, Mr Vincent CHENG and Ms CHAN Hoi-yan abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 9 were in favour of the amendment, 9 against it and 6 abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 13 were in favour of the amendment, 2 against it and 14 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 "Legislating for the protection of whistle-blowers" 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.

PRESIDENT (in Cantonese): I order that in the event of further divisions being claimed in respect of the motion on "Legislating for the protection of whistle-blowers" 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): Mr Kenneth LEUNG, you may move your amendment.

MR KENNETH LEUNG (in Cantonese): President, I move that Mr Jeremy TAM's motion be amended.

The amendment moved by Mr Kenneth LEUNG (See the marked-up version at Annex 5)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Kenneth LEUNG 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 Kenneth LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Kenneth LEUNG 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 SHIU Ka-chun, Dr Pierre CHAN and Mr KWONG Chun-yu voted for the amendment.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr CHAN Kin-por, Mr Frankie YICK, Mr MA Fung-kwok, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Ms Starry LEE, Mr Steven HO, Mr YIU Si-wing, Mr POON Siu-ping, Mr HO Kai-ming, Mr LUK Chung-hung and Mr LAU Kwok-fan abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Dr Priscilla LEUNG, 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 LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung and Mr Jeremy TAM voted for the amendment.

Mrs Regina IP and Ms YUNG Hoi-yan voted against the amendment.

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Mr Wilson OR, Mr CHEUNG Kwok-kwan, Dr CHENG Chung-tai, Mr AU Nok-hin, Mr Vincent CHENG and Ms CHAN Hoi-yan abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 9 were in favour of the amendment, 9 against it and 7 abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 13 were in favour of the amendment, 2 against it and 14 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 negated.

PRESIDENT (in Cantonese): Mr CHAN Hak-kan, you may move your amendment.

MR CHAN HAK-KAN (in Cantonese): President, I move that Mr Jeremy TAM's motion be amended.

The amendment moved by Mr CHAN Hak-kan (See the marked-up version at Annex 6)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr CHAN Hak-kan 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 Jeremy TAM rose to claim a division.

PRESIDENT (in Cantonese): Mr Jeremy TAM 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 Abraham SHEK, Mr Jeffrey LAM, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG

Kwok-pan, Mr HO Kai-ming, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr Tony TSE voted for the amendment.

Mr LEUNG Yiu-chung, Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr SHIU Ka-chun and Mr KWONG Chun-yu voted against the amendment.

Dr Pierre CHAN abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan, Mr Vincent CHENG and Ms CHAN Hoi-yan voted for the amendment.

Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM and Mr AU Nok-hin voted against the amendment.

Dr Fernando CHEUNG abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 16 were in favour of the amendment, 8 against it and 1 abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 15 were in favour of the amendment, 13 against it and 1 abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Mr Jeremy TAM, you still have 47 seconds to reply. Then, the debate will come to a close.

MR JEREMY TAM (in Cantonese): I wonder if the Administration has mistaken my remarks, so I have to make a clarification. Instead of saying just now that only those witnesses who have provided information on organized and serious crimes, drug-related offences or terrorist acts will be provided with personal protection, I said that only this type of witnesses alone would be free from being held liable for any legal responsibility. The Administration wasted a lot of time just now explaining personal protection, but the point of this motion is whether whistle-blowers are treated fairly, not about personal protection for them.

As a final note, I wish to point out that in April this year, the European Commission proposed legislation for the protection of whistle-blowers, and the relevant directive would be applicable to all member states in future. To wrap up this debate, I wish to quote the saying of Frans TIMMERMANS, First Vice President of the European Commission, at the relevant press conference: "Many recent scandals may never have come to light if insiders hadn't had the courage to speak out". (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Mr Jeremy TAM, please stop speaking.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Jeremy TAM as amended by Mr CHAN Hak-kan be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Jeremy TAM rose to claim a division.

PRESIDENT (in Cantonese): Mr Jeremy TAM 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 Abraham SHEK, Mr Jeffrey LAM, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr HO Kai-ming, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr Tony TSE voted for the motion as amended.

Mr LEUNG Yiu-chung, Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr SHIU Ka-chun and Mr KWONG Chun-yu voted against the motion as amended.

Dr Pierre CHAN abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan, Mr Vincent CHENG and Ms CHAN Hoi-yan voted for the motion as amended.

Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM and Mr AU Nok-hin voted against the motion as amended.

Dr Fernando CHEUNG abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 16 were in favour of the motion as amended, 8 against it and 1 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 15 were in favour of the motion as amended, 14 against it and 1 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion as amended was negatived.

PRESIDENT (in Cantonese): Motion for the adjournment of the Council under Rule 16(4) of the Rules of Procedure.

PRESIDENT (in Cantonese): In accordance with Rule 16(6) and (7) of the Rules of Procedure and rule 18(b) of the House Rules, the time limit for this debate is one and a half hours, of which up to 75 minutes are for speeches by Members ...

(A number of Members spoke in their seats)

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

The time limit for reply by the public officer is up to 15 minutes. Therefore, if the total speaking time of Members reaches 75 minutes, and a Member is still speaking, I am obliged to direct the Member to stop speaking immediately, and ask the public officer to reply.

Each Member (including the motion mover) may only speak once and speak for up to five minutes. Members who wish to speak on the motion will please press the "Request to speak" button.

PRESIDENT (in Cantonese): It is now 6:51 pm. Members may speak up to 8:06 pm (namely 75 minutes later). The debate now begins.

I now call upon Mr CHUNG Kwok-pan to speak and move the motion.

**MOTION FOR THE ADJOURNMENT OF THE COUNCIL UNDER
RULE 16(4) OF THE RULES OF PROCEDURE**

MR CHUNG KWOK-PAN (in Cantonese): President, I move that this Council do now adjourn for the purpose of debating the following issue: the impact of the recent China-United States relations on Hong Kong's economy.

President, I express my gratitude to all Members who spoke and supported this motion at the meeting of the House Committee last week, which enabled us to proceed with the motion of adjournment today, and it is evident that trade between China and the United States has great impact on us. President, we businessmen are most anxious about uncertainties. Last week, President XI Jinping and President Donald TRUMP reached a 90-day trade truce in Argentina. Yet, two days later, they disagreed on the commencement date of the truce, that is, whether it should start on 1 January or 1 December. It is evident that the United States Government is not simple-minded. Members can imagine that the United States Government will not stick to the previous or conventional approaches in handling the issue this time around.

President, the sensitivity and sense of crisis of the business sector must be better than other people and officials of the Special Administrative Region ("SAR") Government. The situation in four areas which we notice today prompts us not to take the situation lightly. First, it is naturally the trade dispute between China and the United States. Second, the United States Government is now led by the TRUMP administration. Third, two points mentioned in the report of the committee on economic and technology of the United States are targeted at Hong Kong. One of them is on the importation of technology into Hong Kong. Another point is whether or not Hong Kong will become a city of China and thus should fall within the same customs area. Fourth, the report mentions the legislation on Article 23 of the Basic Law. Against this background, I have withdrawn my motion concerning Article 23 of the Basic Law. Honestly, as I have already submitted the motion, I should have no fear to discuss the issue. Why did I withdraw the motion then? Because I consider this a very important issue, and I wish to urge the SAR Government to take more

precautionary measures. I am not saying that the Government has done nothing, yet I think it can do more and what it has done is inadequate. Regarding the work it has already undertaken, the authorities should not indulge in this "feel-good" sentiment, thinking that the authorities have already implemented some measures and if Members do not appreciate it, it is their problem.

Honestly, today, no one will criticize the authorities of taking too many precautionary measures, particularly when the measures are intended to protect Hong Kong against risks. This is the most important point. As in the case of the strike of typhoon Mangkhut which obligated the hoisting of Typhoon Signal No. 10, the SAR Government would give an advance notice to the public about the hoisting of Typhoon Signal No. 10. It would alert the public to take precautionary measures, such as putting masking tape on windows in advance but not after the hoisting of Typhoon Signal No. 10.

Hence, I urge the SAR Government not to take the situation lightly. In fact, the simplest approach is to step up its work in lobbying and explanation, so that the world knows that Hong Kong is different from China in economic and customs terms. Though Hong Kong is part of China, it practises "one country, two systems". We have to tell the world that "one country, two systems" is enormously conducive to Hong Kong and the world. If others lose their confidence in "one country, two systems" of Hong Kong, this will be a crisis to us. Hence, in my view, if we can handle the situation properly in various aspects today, we will definitely be able to turn this crisis into business opportunities.

Thank you, President. I so submit.

Mr CHUNG Kwok-pan moved the following motion: (Translation)

"That this Council do now adjourn for the purpose of debating the following issue: the impact of the recent China-United States relations on Hong Kong's economy."

MR CHARLES PETER MOK (in Cantonese): Under the shadow of the China-United States trade war and with increasing economic integration between Hong Kong and China, the resultant impact is bound to become greater and greater. We feel the imminence of the threats certainly because of the report published recently by the United States-China Economic and Security Review

Commission of the United States Congress. Section 4 of a chapter in the report mentioned the situations of China and Hong Kong and pointed out direct some problems currently faced by Hong Kong, including Beijing's direct intervention in the implementation of "one country, two systems", and how our freedom of speech and freedom of assembly are affected by, for instance, cases of some journalists being denied visas; and the challenges faced by us in respect of academic freedom, and so on, are also mentioned. I will not go into the details here.

However, I wish to point out that with regard to the lobbying work suggested by Mr CHUNG Kwok-pan just now, it means not only telling other people that our "one country, two systems" is safe and sound and telling them to rest assured, saying, "Oh, this is just a misunderstanding of you Americans." No, this is not the way, because actually other people will also look at our actions. So, I hope that the Government of the Hong Kong Special Administrative Region really has to inspire confidence in other people by telling them that cases similar to that of Victor MALLET will not happen again. If the Secretary will further carry out lobbying work overseas, he can no longer adopt the past approach of stating our case, saying that "everything is fine, we have autonomy over these matters and so, there is no need for explaining". This is not going to work no matter how they did it in the past, and actually they should not have done it that way before. It is best to tell other people that similar incidents will never happen again. Otherwise, how will the international community continue to have confidence in Hong Kong?

Several recommendations made in the report are particularly of concern to us, including the recommendation concerning dual-use technology as the United States may probably impose export control on Hong Kong and China at the same time. It is also mentioned that the European Union, the United Kingdom, etc. should conduct a biennial review to examine whether there are problems in the implementation of "one country, two systems" and the Basic Law in Hong Kong and then compile a report on it. Another recommendation is that during their normal contacts with officials in Hong Kong and the Mainland, Members of the United States Congress are required to continuously emphasize that the implementation of "one country, two systems" and "a high degree of autonomy" in Hong Kong is stipulated in the Basic Law and must be genuinely upheld. This is a requirement on their Congressmen and has nothing to do with us. However, as we can see clearly, some time ago the media in Hong Kong particularly expressed concern because as we are striving for innovation and

technology, we should therefore examine the impact in this respect but the report does not make it too clearly as to the kinds of technologies to be affected. If we look at the definitions drawn by the United States Government, emerging technologies can really include everything from artificial intelligence, design of electronic chips, data analytics, 3D printing, robotics, advanced materials to advanced surveillance technology, and so on. They can be all-encompassing. Their coverage can be very extensive and the impact can be enormous.

As I pointed out some time ago, I understand that there are actual cases in which some Hong Kong enterprises that always purchase electronic chips from overseas were informed by the suppliers that the sale of these products had to be suspended. While this may not be related to the report, I do not know why some of the sanctions have already taken effect, and I hope the Administration can probe into the reasons because some have even been brought into force now. This will deal a heavy blow to our promotion of innovation and technology in Hong Kong.

In view of this, I would like to say this to the Government: For the sake of the Hong Kong economy, the Government must find out about the areas to be affected directly. And, it is absolutely necessary for Hong Kong to put across to the international community the message that unlike what foreign countries think, we will not become a place where sensitive technologies are re-exported to China. We must give this assurance to the international community.

Besides, the Chief Executive has said that she is the authority. She said that if it is necessary to lobby support from foreign governments, no matter what you Members said to them, only she has the authority to do it. If so, I urge the Chief Executive to conduct more overseas visits, rather than just making these remarks in Hong Kong. Even if she is willing to go overseas to give explanations on the strength of her authority, I have to point out that foreign governments wish to listen to each and every voice, and this is the difference between foreign governments and the Chinese Government. Therefore, I hope the Secretary will understand that it is absolutely meaningful for us Members and even non-governmental organizations to go overseas to express our views. (*The buzzer sounded*)

PRESIDENT (in Cantonese): Mr Charles Peter MOK, please stop speaking.

MR AU NOK-HIN (in Cantonese): Anyone who has an idea of some background as well as the ins and outs of this debate will find it quite an irony. Mr CHUNG Kwok-pan originally wished to propose a Member's motion to debate Article 23 of the Basic Law. But the passage of that motion will mean that the Legislative Council has passed a motion to make a formal request to the Government to legislate on Article 23 of the Basic Law. Unexpectedly, USCC (the United States-China Economic and Security Review Commission) of the United States has stated in its report that the legislation on Article 23 of the Basic Law by the Hong Kong Government may be deemed a threat to the "high degree of autonomy" of Hong Kong, and mentioned the possibility of examining the status of Hong Kong as a separate customs territory.

Soon after the release of the report, the Liberal Party made an about-turn. Mr CHUNG Kwok-pan has become "pro-United States", immediately withdrawing the motion on Article 23 of the Basic Law and moved a motion on discussing the trade war between China and the United States instead. It can be seen from this example that every single move of Hong Kong, as an international city, is easily linked to international politics.

The international status of Hong Kong is attributed not just to its position as an international financial centre or its robust import and export industry and the logistics industry. Our current international status is actually underpinned by the long-standing position of Hong Kong as the intermediary between China and the Western community, going freely between both sides before the handover of sovereignty. And that is also why some say that Hong Kong belongs to not only China, but also the world.

Regrettably, a number of Legislative Council Members, particularly the extremely pro-Beijing group in this Council, have long been holding the view that after the reunification, Hong Kong should be totally submissive and ready to surrender everything to China. But when it comes to the trade war between China and the United States, it appears they seem to have sensed something wrong with such a mentality.

I know it will be Mr LUK Chung-hung's turn to speak next, and I would like to seek some enlightenment by him. As far as I know, he has queried what it has got to do with the United States since the Basic Law provides that Hong

Kong is a separate customs territory. Speaking of this, the Basic Law certainly mentions the international status of Hong Kong with which it may, among others, participate in international organizations and conclude economic and trade agreements with other countries as a separate entity. But today we are talking about bilateral relations to be established between Hong Kong and other international cities or countries. There is no reason for us to wrap up ourselves to the neglect of the other side.

Last week, we discussed the taxation agreements with India and Finland, which all involve bilateral relations. While the Basic Law provides that Hong Kong may, using the name "Hong Kong, China", participate in international organizations, permission from other countries is required, and consent needs to be obtained from the other side for conclusion of any agreement. If a country proposes that Hong Kong be "DQ", i.e. disqualified from membership, at a meeting of the World Trade Organization, we cannot settle the issue simply by offering an explanation based on the Basic Law. We will be able to maintain our status only if we can convince the international community that "one country, two systems" functions well in Hong Kong.

Leaving China aside, if we conclude a separate bilateral trade agreement with the United States, which offers us the same terms as those to Mainland China, it would mean that Hong Kong is no longer different from Mainland China. Now some members from the business sector also say that this is not the way things should be. What should we do by then? Can we again settle the issue by offering an explanation based on the Basic Law?

Hence, my argument, which is simple and also political common sense, is that economic and political issues cannot be discussed separately. Even if the pro-establishment camp keeps saying that we should "put livelihood issues first and political disputes aside", as long as international politics is involved, economic issues will necessarily be linked to politics.

Lastly, I would like the Secretary to enlighten me on one point. One of the reasons as alleged in the report for reservations about the status of Hong Kong concerns "dual-use technology". May I know how the SAR Government defines "dual-use technology" in its mind? How will the Government convince the

other side that its concerns about Hong Kong do not exist, so as to maintain the status of Hong Kong as a separate customs territory?

I very much hope Members will appreciate that a number of Members from the pro-democracy camp have been lobbying the international community in order that Hong Kong can maintain its status as a separate customs territory. *(The buzzer sounded)*

PRESIDENT (in Cantonese): Mr AU Nok-hin, please stop speaking.

MR LUK CHUNG-HUNG (in Cantonese): President, many members of the public are concerned that the China-United States trade war will affect the Hong Kong economy. Being a Legislative Council Member, I also feel concerned. But I am more concerned that a group of opposition Members blatantly side with the United States, fishing in troubled waters against the interests of Hongkongers.

Why did I say that the opposition camp has hurt and even betrayed Hongkongers? Because they have repeatedly sold Hong Kong out to the United States and bad-mouthed "one country, two systems" of Hong Kong, giving the United States an excuse or pretext for sanctioning us. Before the United States talked about reviewing Hong Kong's status as a separate customs territory, Alan LEONG of the Civic Party and its Leader Alvin YEUNG went to the United States, stating that they would request the United States to put Hong Kong back on its radar, that means requesting the United States to pay close attention to the so-called "problems of Hong Kong" raised by them. For example, we said we should combat "Hong Kong independence" in accordance with the law, but they vilified it as ruining "one country, two systems"; we said Members who support "Hong Kong independence" should be disqualified in accordance with the law, but they said democracy and freedom would be undermined.

Fine. Now the United States has not only put Hong Kong on its radar. It is simply pointing its gun at us, ready to fire. This time the opposition camp has indeed succeeded in fighting for what they want. Well done! Then they pretend they have done nothing wrong and play the good guy as though they are

very worried for members of the public. And then they side with the United States again, criticizing Hong Kong and telling Hongkongers to yield to the United States in these issues of principles. The opposition camp is really awesome. They can both sell us out and play the good guy. As the saying goes, they play both God and the devil.

There was a classic scene in the recent Kowloon West by-election. Members may take a look at the picture here: Alan LEONG, the Chairman of the Civic Party, said in a video, "If LEE Cheuk-yan loses the election, Hong Kong will definitely be unable to keep its status as a separate customs territory." How ridiculous! Why did Alan LEONG not make a greater exaggeration? Some netizens said he might as well say the earth would explode and the world would be destroyed. To cheat votes, the opposition camp went so far as to treat Hongkongers as idiots, deceiving Hongkongers and threatening us, with an attempt to turn Hongkongers into political chips. Hence, we must stay alert and never be deceived by fraudsters. Fortunately, in this by-election, most voters were smart and not influenced by fraudsters.

Back to the trade war. As we all know, the United States practises hegemonism. Any country challenging the interests and position of the United States will be suppressed all the same even if it is its ally. As we all know, in the 1980s and 1990s, the economy and technology of Japan were booming, thus threatening the position of the United States. For this reason, the United States stifled it with a trade war and the Plaza Accord. Subsequently, Japan suffered an economic crash and its economy has remained stagnant for more than 20 years. Hence, China is not the first and absolutely will not be the last country suppressed by the United States.

Donald TRUMP, who never keeps his promises, frankly said that Chinese people had lived too well for too long. He said the China-United States trade war was directed at the "Made in China 2025" programme. Why? Because the United States is worried about the rise of China and China's economic strength, especially its enhanced strength in science and technology. It is thus obvious that this time the United States has waged the trade war in order to turn China into another Japan or even Soviet Union so that the hegemonist position of the United States will last forever.

The national economic development and Hong Kong hinge on each other. But some opposition Members in Hong Kong went so far as to turn round the gun, claiming that the China-United States trade war broke out because our State was perfidious, and the United States was the victim. Do these opposition camp Members actually represent the interests of Hongkongers or those of the United States? Who have betrayed Hongkongers? It is crystal clear to the discerning public.

Let me reiterate that this time around the United States has resorted to political fraud, commonly known as "bluffing". Not only is Hong Kong's status as a separate customs territory clearly stated in the Basic Law. Such a status is also recognized by the World Trade Organization. This is common knowledge. Hence, its status as a separate customs territory is not a grace bestowed by the United States. It will not be gone even if the United States says so.

Lastly, how should Hong Kong respond to the trade war? We have a history of humiliation for over a century in the past. It tells us that if we wish our country to be strong, we must first strive to become stronger ourselves. Moreover, as Hong Kong is a special administrative region, a part of China, no matter how the China-United States trade war develops in future, the United States may still target Hong Kong. Hongkongers should unite together and strive to become stronger. Since we know the United States is the second largest economic partner of Hong Kong but the Donald TRUMP Government is so capricious, we should reduce our reliance on the American market. For example, internally, we should enhance the innovation and technology industry, and externally, we should explore more international markets (*The buzzer sounded*) ... This is the way out for Hong Kong.

PRESIDENT (in Cantonese): Mr LUK Chung-hung, please stop speaking.

MR LUK CHUNG-HUNG (in Cantonese): ... Thank you, President.

MS CLAUDIA MO (in Cantonese): This is indeed so laughable. I have originally prepared a script for my speech but I do not need it now, for it suffices to simply respond to his remarks. He said that it all boiled down to hegemony practised by the United States in an attempt to reign eternally and that it was only bluffing. On 1 December just past, Chinese President XI Jinping and President

of the United States, Donald TRUMP, met at the summit conference held in Buenos Aires. They talked about China-United States trade and of course, Hong Kong was included as well. Now you sounded as if the Chinese President is so ignorant that he has to be told by a small fry in Hong Kong that the United States is only bluffing, and what a fool he was in still going there! Is there anything wrong with you? It is grossly discourteous, improper and most unpatriotic to make those remarks. I must put it on record in the history of the Legislative Council. How dare you said such things. You are downright insulting the national leader, and it is a crime in Mainland China, for you are insulting the national leader. How ridiculous! And you call this patriotic?

Frankly speaking, with regard to this report published by a commission under the United States Congress, we can see that the business sector is worried and as a matter of fact, there is every reason for them to feel worried because if we look at the incident of Victor MALLET, we can see that even the American Chamber of Commerce had come forth to say something. But Carrie LAM just pretended that nothing had happened, thinking that these isolated incidents would pass like a fleeting cloud. She has completely underestimated international diplomacy. She simply knows nothing about it. She thinks that overseas visits are what she does day in day out and she has been received by so many senior officials in foreign countries. So what? This is simply irrelevant.

Seldom do I support the business position of Mr CHUNG Kwok-pan and the Liberal Party but the people's lot is involved this time around. You should not have sent these fools here yelling that the United States is ungrateful and that we are pissed off and so on and so forth. Don't be that childish. Then there is this Mr LUK Chung-hung again. I originally did not wish to talk about him, and he is not mentioned in my script. But he was saying here that the Basic Law clearly provided for our status as a separate customs territory. Are you nuts? The Basic Law is Hong Kong's own mini constitution, not a law of the world. Is it international law? Is it an obligation for other people to comply with it? How nonsensical you are.

I also call on him to read an article in *Wen Wei Po* on 24 November 2018. In this article it was pointed out that the continuation of Hong Kong's status granted by the United States as a separate customs territory—the wording is consistent with that in the Basic Law—would benefit not only Hong Kong but also the overall interest of the United States in Hong Kong. This was written by a representative of the Bank of China (Hong Kong) in a leftist newspaper which

is a patriotic mouthpiece of the State. The word used was "granted", and you nevertheless said that we need no mercy or alms from others. You do not have the least understanding of the national policy. This is unimaginably low in quality.

To put it plainly, the report said that the freedoms in Hong Kong seemed to have been infringed upon in many aspects, citing such incidents as that of Victor MALLET. You people think that it is only a trivial matter, an isolated incident, and then Carrie LAM was awesome at the time as she was even telling people not to look at Hong Kong through "tinted glasses". She should have carried out lobbying properly, rather than refuting other people's remarks.

It is true that the United States and Hong Kong have bilateral trade relations but we are not their largest trade partner; nor do we top the list of places for direct investment by their whole country. Do they really care so much about us? This is really ridiculous. Never mind. We can hold discussions properly, for this is an issue relating to the people's livelihood, and I thank Mr CHUNG Kwok-pan for proposing it for discussion. But I hope that the leftist small fry will stop insulting the national leader and stop wreaking havoc on the people's livelihood in Hong Kong. In any civilized society, politics and the people's livelihood must go hand in hand. Thank you.

I have to add one final note: Shame on you!

MR ALVIN YEUNG (in Cantonese): President, Ms MO needs not be so agitated. Today we may just see it as a chance to know what it is like to be a role model of loving the country and Hong Kong, and the quality of those who love the country and Hong Kong! Right, Donald TRUMP will be scared off by some condemnatory words, and the hegemonic United States will back off because of some condemnatory words. President, it must be like that!

This May, when I, Alvin YEUNG, was in the United States calling on the Americans to exempt Hong Kong from the sanctions relating to the "Section 232 investigation", where was Mr LUK Chung-hung? Where was the Hong Kong Federation of Trade Unions? Where was the pro-establishment camp? When we tried hard to speak well of Hong Kong and do something for this city, where were these people professing their love for the country and Hong Kong while criticizing the hegemonic United States? President, what is the use of knowing

only to blow one's own trumpet? The only thing they can tell Hong Kong people is that Members from the opposition camp are obsessed with speaking ill of Hong Kong. What a joke.

President, as stated by President XI, "It takes a good blacksmith to make good steel". If there is something wrong with us, people will see that even if no one speaks ill of us. Are the Americans morons? Does their consulate in Hong Kong serve no purpose? Could it be possible that the Americans have no idea at all about what is going on with Hong Kong, and that they will sanction Hong Kong only because Members from the opposition camp speak ill of Hong Kong out there? Is that the case? If this were the case, the world would have been at peace already. I am not as agitated as Ms Claudia MO is because, once again, if those who love the country and Hong Kong are of such quality, so be it.

President, today we do not have much time to discuss the issue raised by Mr CHUNG Kwok-pan. But I wish to get a few points across in particular. Doing business is a two-way process, so is international trade. Even with the beautiful wording in the Basic Law, if the other side does not believe the system of this city will continue to function, no matter how well we package ourselves, no one will come here to do business. Certainly, those with no experience in doing business may not truly grasp the subtlety of it. But to me, President, this is common sense. Hence, even if I have no experience in doing business, I consider that these things should be readily known to all.

That said, no matter how well the Basic Law packages the whole thing, we have missed one point this time, and that is the position of Hong Kong in the general strategy of the United States. Indeed, with the ongoing trade war between China and the United States, this is a delicate moment. If we have done nothing wrong, there is no justification or ground for the other side to impose sanctions. President, what is the difficulty currently faced by Hong Kong? Under "one country, two systems", foreigners or Hong Kong people now deeply feel that the undertaking made to us in the Sino-British Joint Declaration and the Basic Law back then has been disintegrating bit by bit in front of us. While Hong Kong people are definitely suffering from it, to those foreign countries, seeing that "one country, two systems" in Hong Kong is falsehood, is there any reason left for them to grant Hong Kong a special status? That is the crux of the issue.

In view of this, the challenge before Hong Kong now is to come up with ways to rebuild the confidence and trust of the other side, particularly the United

States, in Hong Kong, instead of closing our own door, saying that "I am the authority. Hong Kong is not in trouble, and everything is no big deal". That is not going to help. We can win the trust of others only if we keep our system running well.

When foreign investors, particularly sizeable organizations, invest in Asia, they often inject hundreds of millions of dollars. They look at the long-term picture, investing over a period of 10 or 20 years. If they assert that Hong Kong is a region troubled by political instability, they will simply leave Hong Kong out of the list. They will just pass us by and invest in our competitors instead. These will not be reflected in the statistics about Hong Kong, as they will not tell the Secretary that they are not going to invest in Hong Kong due to their lack of confidence in us.

Our concern is about the current prevalence of an unsettling mood in the community of foreign businessmen, yet Hong Kong remains ignorant without a clue about it. President, by the time we see that our competitors have capitalized on our misfortune, it will be way too late. This is exactly why we are anxious and care about it. The SAR Government actually needs not put in much effort or do anything. President, as long as it upholds the undertaking made to us in the Basic Law and refrains from further undermining it and driving away foreign correspondents, we will already be grateful.

MR CHAN CHI-CHUEN (in Cantonese): The reason why Mr CHUNG Kwok-pan withdrew his original motion urging the Government to launch the legislative exercise expeditiously to implement Article 23 of the Basic Law and proposed today's adjournment motion instead is very clear. It is hoped that opinions on maintaining Hong Kong's unique position in China-United States relations can be expressed in this adjournment motion debate, so that Hong Kong will suffer minimal damage amid the China-United States conflict.

The annual report published by the United States Congressional-Executive Commission on China ("CECC") earlier on claimed that Hong Kong's "one country, two systems" was being eroded and recommended the United States Congress and Government to enact the Hong Kong Human Rights and Democracy Act to monitor the state of Hong Kong. In view of this, Mr CHUNG did not want to add fuel to the fire, and thus withdrew his original motion and proposed today's debate instead. Unfortunately, many lousy teammates of his are still fanning the flames, which is really ironic.

Since the reunification, whether Hong Kong continues to enjoy unique treatment under the China-United States relations depends entirely on the United States' understanding of the social and political situation in Hong Kong. Hence, it is up to the United States to decide whether the United States-Hong Kong Policy Act will continue and whether Hong Kong can remain a separate customs territory. Therefore, both the Government and the Council should calmly try to understand whether this report reflects Hong Kong's situation according to objective, comprehensive and multi-dimensional information, based upon which the recommendation to review Hong Kong's unique position under the United States law was made.

Whenever we talk about these issues, some pro-Government Members will—as everyone has seen just now—jump out immediately and accuse the democrats of bad-mouthing Hong Kong, causing CECC to make recommendations possibly detrimental to Hong Kong. I have carefully read the part on Hong Kong in the report and found it rather objective actually. The recommendations in the Executive Summary were made based on the analysis of the current situation in Hong Kong and Macao in Part VI of the report. The main text in Part VI has 2 600 words, while the footnotes are 4 300-word long. There are 100 footnotes for a text of merely 2 600 words.

One may wonder: are these reports or comments made by the democrats or pro-democracy media? Not at all. The most-cited media was the *South China Morning Post* bought by Jack MA, which was cited 20 times in the report. Besides, documents of the Hong Kong Government and Chinese Government were cited no less than 10 times. Court judgments were cited at least four times, so were statements of the Hong Kong Bar Association. To put it simply, in a text of some 2 600 words, a large amount of information came from pro-Government media reports, official documents and statements as well as court judgments. So, the claim that CECC recommended to repeal the United States-Hong Kong Policy Act due to the bad-mouthing by the pro-democracy camp does not hold water.

In fact, this report is an objective and meticulous analysis. The information in the report shows that the Hong Kong communist regime has taken many unnecessary actions to suppress dissidents and restrict the freedom of the press. Even the pro-Government media who wanted to cover up the faults and publicize only the merits had no choice but to report these actions. Hence, even

by reading and citing the *South China Morning Post*, the evidence was concrete enough to convince CECC that Hong Kong is no longer the same, and thereby recommended the Government and the Congress to consider enacting the Hong Kong Human Rights and Democracy Act to monitor Hong Kong's autonomy.

Returning to the topic of today's adjournment motion on the impact of the recent China-United States relations on Hong Kong's economy, if we do not want most politicians in the United States to regard Hong Kong as just another Mainland city with no rule of law and no freedom, that United States technology in Hong Kong may be transferred to Mainland China and American businessmen may be driven out of Hong Kong at any time or may not re-enter Hong Kong after exit, and therefore, should not continue to enjoy special treatment by the United States, what should the Government do? It is very simple. The Hong Kong communist regime should stop suppressing dissidents immediately. Its lackeys should stop making xenophobia remarks in the Council. It should also stop taking pointless actions to disqualify Members and deprive candidates' right to stand for election, so that the United States can see from the media, official documents and court judgments that Hong Kong is still the same; that Hong Kong is still free, civilized and embraces universal values. Only in this way will Hong Kong be able to continue to enjoy special treatment by the United States and recognition of the international community which will then feel assured that they are not subject to political interference when doing business with Hong Kong. Only in this way will Hong Kong be able to save itself (*The buzzer sounded*) ... amid the increasingly tense relations between China and the United States.

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, please stop speaking.

DR CHENG CHUNG-TAI (in Cantonese): All the three oral questions I have raised in this session are about the United States-Hong Kong Policy Act. Some pro-establishment Members asked why I am so interested in this topic, I will explain it here.

The XI-TRUMP meeting on 1 December after the G20 Summit ended with a 90-day truce which stipulated that the additional 10% tariffs imposed by the United States effective from September will remain in place; China must buy a substantial amount of United States products and eradicate the problem of drug

export. The United States had obviously seized the initiative in the negotiations and it was quite clear who held the upper hand. How should Hong Kong position itself at this moment? Not many people, within or without the establishment, seem to be in the game.

At this point, we must admit that the China-United States Cold War of the 21st century has well begun. Allow me to re-create a famous speech by CHURCHILL to illustrate this: "Around the borderline of the People's Republic of China, a cyberpunk curtain has descended. Behind that line lies Hong Kong, once a free port, which is subject in one form or another, not only to Chinese communist influence but to a very high and, in many cases, increasing measure of control from Beijing." The point is, what is a cyberpunk curtain? The opposition camp should certainly feel the pain judging from the DQ (disqualification) incidents over the past couple of years and various insults directed at the legislature.

However, all parties in the Council must admit that most of us here belong to the capitalist class. Key members of both the pan-democracy camp and the Liberal Party are well aware that hostility between China and the United States will put their interests in Hong Kong at risk. Both sides want to prove to the United States that the situation in Hong Kong is still acceptable. The pan-democrats went to the United States and forcibly described a harsh winter as an early autumn; while the Liberal Party restrained slightly the aggressive manner of its camp. Their motives are actually the same but their actions are swapped, which people cannot help but find laughable.

We must admit that the recovery of Hong Kong by the Communist Party of China ("CPC") and the subsequent economic miracles in Hong Kong and China were, in fact, possible with the connivance of Pax Americana, a term which is now replaced by another academic term, that is, a liberal myth. As CPC revealed its ambition to take over, the attitude of the United States and the West would naturally saw a complete turnaround. Unfortunately, many Hong Kong people who have been controlled and fed on gains by CPC for a long time believe that China will emerge the ultimate winner. They do not know a catastrophic disaster is coming their way and do not know how to resolve the crisis, hence they are still changing their stances constantly now.

In fact, many young people in Hong Kong mentioned "scorched earth" in the by-election. Actually, "scorched earth" can be explained with an incident. It is just like what WANG Lijun said before entering the United States Consulate in Chengdu, that he wanted a total destruction together with BAO Xilai. To Beijing, Hong Kong plays the irreplaceable roles of "white glove" and "small coffers", which once lost, will waver the foundation of the entire China. It is hard to estimate the subsequent changes and how Hong Kong and China can break away from troubles. Worse still, the assets of Hong Kong people will dwindle, nothing like the good old days.

I have briefly summarized my arguments here. So far, the pro-establishment or pan-democratic Members, and even the Hong Kong public have focused only on the United States-Hong Kong Policy Act. As a matter of fact, it is not necessary to repeal the United States-Hong Kong Policy Act completely, conditions can be added instead to render Hong Kong a place for the United States to plunder, and Hong Kong people have no way of predicting how so. The "scorched earth" movement in Hong Kong may not need to act hands-on like Napoleon. The communists in Hong Kong or the Chinese may act for us. In this case, how should we end it or be prepared for it?

In fact, in order to keep Hong Kong safe in the "second Cold War", the top policymakers in Beijing simply have to be smarter and restrain their evil deeds in Hong Kong. They should launch the constitutional amendment procedures to give Hong Kong permanent autonomy or neutrality before devolving the powers to Hong Kong as soon as possible. Although I am alone in the Council, things can actually be achieved in this direction. That is to say, the Basic Law must be amended so that Hong Kong's independence and autonomy in the international community can be sustained.

Together with my political party, Civic Passion, I will (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Dr CHENG Chung-tai, please stop speaking.

DR CHENG CHUNG-TAI (in Cantonese): I so submit.

MR TONY TSE (in Cantonese): President, the implementation of the so-called "America first" policy characterized by unilateral protectionism since Donald TRUMP, the President of the United States, has taken office has stirred up conflicts in many places around the world, including the launch of a trade war of the largest scale in history with China, thereby bringing about negative impact on the global economy which encompasses the Mainland, Hong Kong, and even the United States. Earlier on, the United States-China Economic and Security Review Commission of the United States has even issued a report adding fuel to the fire of the trade war, including making the recommendation that the United States should review whether it should continue to regard Hong Kong as an independent customs territory and impose restrictions on Hong Kong's exports of high and new technology products, etc. on the basis of some specious rationale and biased arguments.

The heads of state of China and the United States have reached a truce agreement during the G20 Summit (Group of Twenty Leaders' Summit) convened recently. Yet, nobody can predict what actions Donald TRUMP will take after three months. At this critical moment, for the good of Hong Kong and the well-being of Hongkongers, the various sectors of Hong Kong should stand united to fight external challenges, demonstrating to the United States and the international community the achievements we have made in all aspects under "one country, two systems". Hongkongers enjoy human rights, freedoms and the rule of law on an extensive basis.

Take the legislature of Hong Kong as an example, during the British Hong Kong colonial era, a vast majority of the Members of the former Legislative Council were appointed by the Hong Kong Governor who was appointed by the British Government. Today, all Members of the Legislative Council are elected by Hong Kong people, whereas the Chief Executive is also returned by election, thereby realizing the principle of "Hong Kong people administering Hong Kong". In addition, in the British Hong Kong Government in the past, the salaries, fringe benefits and promotion opportunities, etc. of expatriate civil servants, especially those of British nationality, were more generous than that of local Chinese civil servants. Now, the SAR Government has achieved equal pay for equal work.

Yet, the opposition camp will never mention these changes. Instead, they seem to highly treasure the report issued by the United States, accepting in full all the arguments and conclusions therein. The opposition camp urges the SAR

Government to evaluate the impact of the possible sanctions once imposed by the United States on Hong Kong on the one hand, and keep on sending people to Europe and the United States on a roving tour to bad-mouth Hong Kong and China on the other, helping Donald TRUMP to trample on ourselves.

In fact, speaking of human rights, freedom and the rule of law, the current-term Government of the United States has sent troops and launched tear gas grenades to drive away refugees from Central America, disqualified journalists whom they dislike from entering the White House to cover news, and criticized the judges for having a political stance when they lost a lawsuit. Has the opposition camp in Hong Kong voiced out for these matters? On the contrary, the opposition camp was very picky when the Hong Kong Garrison of the People's Liberation Army volunteered to assist in cleaning up fallen trees after a typhoon. Why do they apply double standards on outsiders and our Government and the State?

I hope people from the opposition camp in Hong Kong can listen to the expectations of the majority public, and listen to the voices of those supporting a middle and pragmatic course for improving people's livelihood and pursuing economic development. Please do not be obsessed with causing troubles and promoting confrontation anymore. We should work together for the development of Hong Kong.

President, I so submit.

MR JEFFREY LAM (in Cantonese): President, the good news last Saturday that China and the United States agreed to a truce slightly eased the tensions between both sides over the past months. But we must not lower our guard or overlook the impact on Hong Kong brought by developments of the trade war in the future.

In fact, the impact of the trade war on Hong Kong has gradually surfaced. A number of manufacturers have forecast a drop in orders after the New Year. Banks have tightened credit, while the stock market has also seen substantial fluctuations. In case the trade dispute cannot be resolved, and should the scope of tariffs imposed by the United States be further expanded, small and medium

enterprises ("SMEs") are bound to bear the brunt of the impact, and in the coming year, the overall economy of Hong Kong will also suffer.

What is even more worrying is that the annual report released earlier by the United States-China Economic and Security Review Commission ("USCC") under the United States Congress has alleged that Hong Kong's autonomy and freedom of speech are subject to serious erosion by Beijing, urging the United States to examine the status of Hong Kong as a separate customs territory.

President, I must solemnly point out that Hong Kong, as the freest economy in the world, is a separate customs territory under the world trade framework. Since the reunification, Hong Kong has made a continued effort to implement the principle of "one country, two systems" in accordance with the Basic Law. Foreign countries should not intervene in Hong Kong's affairs on any pretext or in any form. Nevertheless, since the outbreak of the trade war between China and the United States, those who harbour an ulterior motive often fan the flames by citing some cases which are economical with the truth, and the USCC report has also accepted the so-called cases cited by the opposition camp in full. I really wonder if it is just a coincidence or collusion.

I have also noticed that over the past few years, some in the opposition camp have been arranged on visits to countries in Europe and America. On the pretext of reflecting the situation of Hong Kong, they actually stated that our rule of law has been undermined and the principle of "one country, two systems" shaken. I think they are bad-mouthing Hong Kong instead of reflecting our situation. Hence, I strongly call on Members from the opposition camp to not go overseas to smear Hong Kong and Beijing anymore, which will otherwise cause the international community to take punitive measures to the detriment of Hong Kong as a result of misunderstanding. In fact, the trade war may be likened to a demon detector with which we can easily tell who work for the good of Hong Kong and who are untrustworthy, not practising what they preach, and distinguish humans from demons.

President, some members of the community have indicated their wish that the business sector can speak more on this issue. In fact, since the beginning of this year, members of the industrial and commercial sectors (including the Hong

Kong General Chamber of Commerce and members from various trades) in Hong Kong have repeatedly relayed our concerns on the trade war to representatives of the business sector, Congressmen and government officials of the United States and briefed them on the actual situation of Hong Kong through various channels. I am most happy to see that such effort has started to bear fruit. I believe we will keep going and make relevant efforts through various channels.

Coming back to the trade war, no one can tell how long it will last and how far-reaching its impact will be. The SAR Government should plan ahead to assist SMEs in developing emerging markets and spreading risks. Moreover, targeting at the credit crunch imposed by banks, the Government needs to strengthen the protection provided by the SME Financing Guarantee Scheme and relaunch the Special Loan Guarantee Scheme, thereby assisting SMEs in obtaining loans to meet their liquidity needs. The Hong Kong Export Credit Insurance Corporation should also raise the insurance amounts and allow greater flexibility in taking out insurance to help reduce the losses sustained by Hong Kong businesses.

President, this year marks the 40th anniversary of China's reform and opening up. We see that our country continues to thrive just for improving people's lot—more than half of the population of China have now got out of poverty. China will only become more and more open, willing to share the fruit of its economic growth with the whole world. The United States needs not worry about a burgeoning China affecting its status.

President, I so submit.

MRS REGINA IP (in Cantonese): President, Mainland China and the United States are the principal economic, trade and investment partners of Hong Kong. Any retrogression in the China-United States trade relations would deal a severe blow to Hong Kong. Hence, Hong Kong has always been extremely concerned about the China-United States trade relations. President, we have actually accumulated ample experience in this respect. In particular, President, your goodself comes from the textiles industry. I believe you must remember clearly that before China became a member of the World Trade Organization ("WTO")

on 11 December 2001, the United States would have to extend the most favoured nation ("MFN") status granted to China on a yearly basis—the President must have a clear memory of this—When the United States granted the MFN status, i.e. MFN treatment, to China at that time, who undertook the lobbying on behalf of China? The answer is Hong Kong. I believe Mr Jeffrey LAM, the President and many Members from the business sector would still remember that in those years, delegations comprising of officials of the Hong Kong Government as well as members of the business sector and the United States Chamber of Commerce would visit the United States to do lobbying. The Hong Kong Economic and Trade Office in Washington DC also employed seven firms as legal advisers and lobbyists during the peak, canvassing the Washington Government to not revoke the MFN treatment granted to China. As such, Hong Kong has accumulated ample experience in this regard.

President, I must quote the saying by an important person of great wisdom whom I believe many Members from the pan-democracy camp present in the Chamber admire very much. He is Chris PATTEN. When delivering his policy address to the Legislative Council on 5 October 1994, he remarked that: "As a matter of principle, Hong Kong believes that trade issues should be tackled strictly on their own merits and that there are other, more effective avenues to discuss issues such as human rights. We shall go on developing our trading links with China in the remaining years of the transition and Hong Kong, together with Britain, will go on supporting China's re-entry to the General Agreement on Tariffs and Trade ("GATT") and its right to founder membership in the GATT's successor body, the World Trade Organization."

President, I was serving in the Trade and Industry Branch of the Trade and Industry Department at that time, so I can recall very clearly that the British Hong Kong Government, upon thorough consideration after British officials and Hong Kong officials had listened to the views of the business sector, held the view that "Trade should not be mixed with human rights". Trade is trade and it should not be mixed with human rights. In other words, in canvassing the United States to not revoke the MFN status of China, our rationale is: First, not to harm Hong Kong. Second, Hong Kong upheld the free market principles. Third, the United States could benefit a lot from its trade with Hong Kong. On a per capita basis—Secretary Edward YAU may advise me whether my memory has failed

me—Hong Kong is the largest market of the United States. The United States has all along maintained a huge favourable trade balance against Hong Kong. In fact, such an economic and trade relation is mutually beneficial, even the economic and trade relation between China and the United States is also mutually beneficial. I am aware that nowadays there is a view held by the Government and people of the United States that since the accession of China to WTO, the United States has opened its market to China and granted MFN status to China such that China has benefited a lot from the United States, but it has failed to honour its WTO accession commitments. Yet, the State has indicated its willingness to engage in negotiations. The China-United States trade relations are mutually beneficial as well. Having lived in the United States for a total of four years, I have seen that since the reform and opening up of China, the Chinese workforce has provided many consumer goods for the Americans. Members can take a look at Costco and Target in the United States, and they will find a large number of goods sold in these stores, such as daily necessities, jeans, home repair tools, etc., are produced by the Chinese people for their consumption. From this we can see that this is a mutually beneficial relationship which should be considered solely in terms of economic and trade benefits. It should not be mixed with human rights issues as such issues can be discussed at other forums. I think if any Honourable colleagues of the Legislative Council conceive that they can make use of the possible revocation by the United States of the MFN status granted to China or Hong Kong as a means to compel the Hong Kong Government or China to succumb to the United States on human rights issues, they are injuring the interests of Hong Kong.

President, I so submit.

DR KWOK KA-KI (in Cantonese): President, now who exactly is injuring the interests of Hong Kong? As we all know, at this time when it has been 21 years since the reunification of Hong Kong, the greatest difficulty that we face is how we can differentiate Hong Kong from other cities in China and how Hong Kong is viewed by other territories elsewhere in the world that are Hong Kong's major trade partners, such as the United States. We all know that the Hong Kong Policy Act is premised on the implementation of "one country, two systems" mentioned in the Sino-British Joint Declaration. Had there not been the

Sino-British Joint Declaration and the Hong Kong Policy Act, the status of Hong Kong as a separate customs territory granted by the United States naturally would not have come into being. This is all very clear.

Earlier on I heard Mrs Regina IP talk about history. Let me remind her to be careful because two decades after the reunification, the views of the Chinese leaders on Hong Kong, from what I have heard, are just the opposite as they think that Hong Kong has achieved its present level of development all because of the Mainland "turning on the tap". As to how the businessmen in Hong Kong lent their support to the modernization of China four decades ago, that has been clean forgotten. Were it not for the emergence of the China-United States trade war, Hong Kong is not even worth mentioning in the eyes of many more Mainland businessmen and Mainland leaders. They would even say that China is rich and powerful now and has risen to be the world's second largest economy, so Hong Kong should really just step aside! Why is Hong Kong still considered important now? Because Hong Kong has been a window on China for over a century. Since as far back as the Qing Dynasty, Hong Kong has already been an important window in such areas as commerce and trade, culture and education. This actually has not changed for a century. When China was still a closed, autocratic society, Hong Kong all along maintained the status of "one country, two systems" which is our most basic difference from China. This is why people have come to Hong Kong for investment, signing contracts and setting up regional headquarters. If they wish to do business, why do they not go to so many other places such as Guangzhou, Shanghai, Beijing and Hangzhou but have to choose Hong Kong?

We are exactly destroying this unique status of Hong Kong, thus prompting other people to re-examine Hong Kong's status as a separate customs territory. In this connection, Mr CHUNG Kwok-pan of the business sector has rightly raised this issue to call on the Government to take this matter seriously. What did Carrie LAM say in the beginning? The first thing she did was, of course, hurling abuses at people. I would say that what she said on that occasion was even more leftist than the Foreign Ministry Spokepersons of China. They sang from the same hymn sheet, alleging that the entire report of the United States had basically deviated from the truth, and they were almost like saying that the report was fabricated, arguing that the situation inside Hong Kong was unlike what the report said. What do the people see from everything she did in Hong Kong? It is "one country, two systems" being destroyed, and there are the incident of Victor MALLET, the incidents of Members being disqualified or "DQ", and the

Legislative Council has been changing constantly. All these are there for us to see. Go ask the people of Hong Kong. Do not bury your heads in the sand and then say that you feel fine.

In fact, Hongkongers have emigrated now, and the children of Hongkongers, such as those of the officials sitting on the opposite side, have been sent abroad for study. The children of the Secretary for Education also study abroad. This is a fact. The children of the Chinese leaders are all hiding in the European countries and United States and they have moved their money there. This is a fact. All these are facts. Therefore, what we need to look at is that for the sake of protecting Hong Kong, it is necessary to ask the Central Government to not tamper with the affairs of Hong Kong anymore. Hong Kong does not need two power centres—one in the Western District and the other in Central. Other people are aware of all this. You think that they are fools? You think that the European countries and the United States have no idea about what is happening in Hong Kong?

Today, a British Minister in charge of Asia-Pacific affairs made it very clear that from what he has seen, Hong Kong's "one country, two systems" is at stake. If this message is spread to the European countries and the United States, why should they confer on Hong Kong a special status? If they do not grant Hong Kong this status, the entire business sector would be finished. Now you people are helping the Government and Carrie Lam to play with fire but Hong Kong cannot afford it, because if we continue to take a confrontational approach, rather than resolutely standing by "one country, two systems" and maintaining the unique status of Hong Kong while upholding the rule of law and the core values of our own, the business sector would be finished and all the people of Hong Kong would also be finished.

Therefore, most importantly, I wish to remind the Government and the Secretary, in particular, that he is duty-bound to tell his boss, including Carrie Lam, not to push Hong Kong further towards the cliff and not to raise any matters to the detriment of Hong Kong, including legislation on Article 23 of the Basic Law. What we want is Hong Kong remaining normal and a unique city where "one country, two systems" is implemented.

I so submit.

MR DENNIS KWOK (in Cantonese): President, I will visit the United States this Friday. In fact, the visit is an invitation from many different think tanks, legal and financial organizations, as well as Republicans and Democrats in the United States.

The visit has been in the making since a few months ago. At the time, the United States-China Economic and Security Review Commission had not yet published its annual report. However, I believe now it seems this visit will take place at a more opportune and necessary time. Rightly as the Chief Executive has said, engagement in overseas visits is a right to which every Member is entitled, and travelling abroad is also the right of every Hongkonger. But what I cannot agree is that she thinks she is the most authoritative person to talk about Hong Kong. In fact, the world strives not for authority but for facts and reasons. Why did a foreign country invite a lawmaker from the pro-democracy camp—or myself as a representative of the legal sector—to make a visit? Because they want to listen to different viewpoints. Is it true that if we do not talk about disqualification, Victor MALLET, interpretation of the Basic Law by the National People's Congress and the incident of Causeway Bay Books, other people will think nothing has happened?

Mrs Regina IP said just now economy and trade cannot be discussed in conjunction with human rights, but separately. I do not know if she is indeed extremely ignorant or naive? If Mrs IP has read the report, she would have realized that foreign countries have already linked all problems and incidents together. Mr CHUNG Kwok-pan made a most correct viewpoint earlier, that he urged us never to take the report lightly. Some people have told me that the report was published by just a commission under the United States Congress, whose members are all very low-ranking. Pardon me, now the report is given to the entire United States Congress for consideration. The contents of the report will become reference for many Senators of the United States Congress or the United States Government in considering the issues of Hong Kong. Please do not say people are low-ranking and do not say they made biased statements. I have met with people who wrote the report many times. They have a thorough understanding and a firm grasp of the situations in Hong Kong.

Honourable colleagues who assume that only some officialise can be uttered while the discussion on some issues can be avoided during overseas visits are indeed too naive. Even when posed questions during visits, we can only

objectively state what has happened. In this regard, how will the Secretary reply? What ways will the Secretary use to convince the United States that "one country, two systems" is still safe and sound? How will he explain such incidents? When asked similar questions, how will the Secretary answer them? I also very much hope to hear what he will say. The Secretary said we should be objective. I will very objectively explain that such incidents did happen, to the detriment of "one country, two systems". But Hong Kong is still judicially independent. The quality of the judicial and the legal sectors of Hong Kong is among the best in the world. However, the rule of law in Hong Kong cannot be defended solely by reliance on the judicial and the legal sector.

I hope the visit to the United States will send a message to the local political and business sector that Hong Kong is in dire straits and we are very worried. However, they must continue to keep a close eye on what is happening in Hong Kong. Hong Kong once disappeared from their radar but I hope they can make Hong Kong its focus again and pay attention to the implementation of "one country, two systems" in Hong Kong. And yet, I ask them not to push us down the cliff at this stage. How to push? That is by repealing the Hong Kong Policy Act or abolishing the status of Hong Kong as a separate customs territory, which will do enormous harm to Hong Kong. However, we also need to clearly explain to the Government and China that if "one country, two systems" continues to deteriorate, the differences between the "two systems" continue to be destroyed and the core values of Hong Kong continue to be undermined, very serious consequences will result. Hong Kong will then have to pay a terribly high price. And no one—including the however authoritative Chief Executive—is capable of bearing such a weighty responsibility.

MS STARRY LEE (in Cantonese): President, the current China-United States trade war is not simply an "economic war" in essence. If Members have paid attention, they would have noted many analyses telling us that it is a war of ideologies, one not merely about money.

President, although President XI and Donald TRUMP have reached a 90-day truce during their meeting last weekend, we can only breathe a sigh of relief for a moment and should not be overly optimistic. We all know that it is

pretty difficult for both parties to reach an agreement within 90 days. Because we all know very well that both the Republican Party and the Democratic Party of the United States regard China as their enemy, and they have been looking for opportunities and justifications to suppress the rise of China. President, Hong Kong as a part of China enjoys the highest degree of freedom among all cities in our country. In fact, Hong Kong could easily become the puppet of the United States due to the implementation of "one country, two systems" and, therefore, becomes a drag on China.

President, many Members from the opposition camp have mentioned earlier the report of the United States Congress. We are now talking about politics and a trade war, which is not an "economic war" but a war of ideologies. Honourable colleagues, why does the United States Congress issue a report at this juncture? We know very well that, during the China-United States trade war, issuing a report to criticize the implementation of "one country, two systems" and linking it with the status of Hong Kong as an independent customs territory in the conclusion is obviously an act of playing the "Hong Kong card" to enhance its bargaining power, while pulling the legs of China on the other hand.

President, we should not be so naive and childish. The United States has all along been making use of Hong Kong to suppress China. Why does the United States Congress frequently issue a number of reports to criticize Hong Kong? There are so many issues in the world that warrant our attention. There are plenty of problems, contradictions and conflicts in the Middle East, has the United States Congress issued any report for study and criticism? Why did they not do so? Because the United States itself has created many contradictions there. The European Union ("EU") now faces many problems. All of us are aware of the various crises which have arisen. Why has the United States Congress not issued a report to criticize EU? There is no reason, it is simply because EU is an ally of the United States, so the latter would not do so.

Therefore, President, we actually should not be so naive and childish as to simply believe that we can persuade the United States to treat Hong Kong favourably solely with our own power. In fact, in the overall environment of a war, we would understand through deep thoughts that as Hong Kong is a part of China, we must count on the consolidated power of Hong Kong or even the State

to enable Hong Kong to maintain its position or minimize the impact on us this time.

President, I also wish to talk about why I often make the criticism of people keeping bad-mouthing Hong Kong. President, we all understand that there is nothing wrong with lobbying itself. Yet, we can see clearly that a group of people look at our country through "tinted glasses", and they would accept in full every report issued by the United States Congress without any queries, thinking that all the contents are true and they even tell others how poor the situation in Hong Kong is nowadays, claiming how the "one country, two systems" principle has been distorted. President, what is it if they are not bad-mouthing Hong Kong? The Government is promoting Hong Kong in various places, a move of which I absolutely approve as there are in fact a lot of merits and matters in Hong Kong which many Americans do not know indeed. There is no problem for the business sector and even different people of Hong Kong to visit the United States, but if they put on a pair of "tinted glasses" and tell others how poor the situation in Hong Kong is whenever they talk about Hong Kong, President, it would certainly deal a severe blow to Hong Kong.

President, coming back to the MALLET incident, I wish to tell Members that the incident is irrelevant to freedom of speech. If people want to prevent the MALLET incident from occurring, why did they not criticize the Foreign Correspondents' Club, Hong Kong for hosting the forum? Have they done anything?

Next, let us talk about the incidents concerning disqualification. We often ask people not to advocate "Hong Kong independence" or "self-determination". Why did they refuse to sign the Confirmation Form? Why did they not acknowledge that self-determination is not an option? Were they just bringing the trouble on themselves? The bottom line is crystal clear, and in fact all of these would not have happened if they did not touch the bottom line. They just push all the responsibilities onto the Government and the others, but do they have no responsibility at all?

President, I so submit.

IR DR LO WAI-KWOK (in Cantonese): President, President XI Jinping and United States President Donald TRUMP reached a consensus on a 90-day truce in the trade war after a meeting a few days ago. Both sides will continue negotiations in the hope of reaching a mutually beneficial agreement. However, given the rise of trade protectionism and the unpredictability of the United States, global economic and trade development is likely to face greater downturn pressure. As Hong Kong is an externally-oriented economy with the Mainland and the United States as its major trade markets, the business sector is inevitably subject to various degrees of impact. Uncertainty in the global political and economic environment, coupled with the complexity of the trade war, can be as destructive as the super typhoon Mangkhut.

As a matter of fact, the Business and Professionals Alliance for Hong Kong ("BPA") and I have submitted policy proposals to the Chief Executive on the 2018 Policy Address, urging the Government to prepare for the crisis by evaluating the possible impacts of external factors on various local trades and industries and formulating a comprehensive strategy of counteracting all this in order to provide timely support to the business and professional sectors, in particular, to strengthen the resilience of medium, small and micro enterprises against external impacts. Nevertheless, not much has been said in the Policy Address in this regard.

President, according to many members of the business and professional sectors, in view of the deliberate hostility of the United States towards our country, the China-United States trade dispute will not be settled easily once and for all. It is likely to cause disturbance to a greater or lesser extent to various sectors in Hong Kong. BPA holds that a dedicated inter-departmental working group led by the Chief Executive should be set up in response to the trade war. It should be comprised of officials from relevant bureaux and departments, heads of economic and financial institutions, experts and scholars, as well as representatives of the business sector, who should evaluate and analyse the developments of the trade war, take the initiative to understand the difficulties and demands of various industries, and formulate short-, medium- and long-term countermeasures.

In fact, during the 2008 global financial tsunami, the inter-departmental group set up by the Government played a positive role in formulating and implementing a series of measures to support enterprises. The Administration

can draw reference from that and introduce relevant support measures, such as enhancing the SME Financing Guarantee Scheme by further increasing the maximum loan amount, lengthening the guarantee period and reducing the guarantee fee, etc. If necessary, the Administration should re-launch the Special Loan Guarantee Scheme to assist enterprises in applying for loans from commercial banks so as to ease their pressing needs.

President, measures to tackle the strong thunderstorm are only expedient solutions. In the medium-to-long-term, the Government should formulate a long-term, comprehensive and balanced industrial policy, as well as allocating resources to strengthen the foundation of Hong Kong economy. It should consolidate the pillar industries, including finance, logistics, tourism and professional services, while fostering the development of emerging industries, such as environmental protection, innovation and technology, testing and certification, and the cultural and creative industries. It is also supposed to revitalize the traditional industries, such as food manufacturing and processing, so as to enable the development of Hong Kong in the direction of diversification and high value-added. Meanwhile, the Administration should make effective use of the network of the Economic and Trade Offices overseas to strengthen promotion and lobbying so as to help industries in exploring sources and markets.

More importantly, President, Hong Kong should give full play to its unique advantages in professional fields, such as international transportation, scientific research, market experience, legal arbitration, infrastructure and testing and certification, in order to foster collaboration in the Guangdong-Hong Kong-Macao Greater Bay Area and construction under the Belt and Road Initiative, so that Hong Kong can integrate into the overall development of the country and explore new opportunities.

All in all, the Government should plan ahead by formulating short-, medium- and long-term solutions in the light of the circumstances of the trade war. It should also make effective use of the fiscal surplus to provide timely support to the business and professional sectors, in order to maintain the stability of the employment market and promote the sustainable development of Hong Kong economy.

President, I so submit.

PRESIDENT (in Cantonese): Mr WU Chi-wai, I will ask you to stop at 8:06 pm. You may now speak.

MR WU CHI-WAI (in Cantonese): Members have mentioned the impact of the China-United States trade war on the industrial and commercial sectors and various trades and industries. They have also pointed out that the China-United States trade war is not only a dispute over interests, but also a war of ideologies. For this reason, in response to the China-United States trade war, the prime consideration is how Hong Kong can avoid being pulled into the vortex of the trade war.

Earlier, Mr CHUNG Kwok-pan stated that the trade war might deal a heavy blow to Hong Kong economy if we do not properly manage the possible risks. However, judging from the Government's response to Members' questions on the China-United States trade war, I have serious doubts about the Government's attitude.

First of all, when asked by the pro-democracy camp whether assessments or researches were conducted, the Government often simply replied, "Do not worry, as the United States is Hong Kong's second largest trading partner, and that Hong Kong is the place with which the United States has the biggest trade surplus, the relation is mutually benefiting, so there will be no problem whatsoever." I wish to point out our concern is that if the United States makes decisions on the basis of ideology, as Honourable colleagues have said, what will happen to us? In view of this, we often ask the Administration whether assessments and preparations have been made, whether corresponding strategies have been formulated, so that the public can prepare for the storm in advance. Otherwise, people will be caught completely unawares when the storm arrives. As Mr CHUNG Kwok-pan said, Hong Kong would be over once the trade war breaks out.

Hence, despite its disapproval of the practice or approach of some Honourable colleagues, I hope the Government will recognize where the problem actually lies because the Chinese-United States trade war may not simply be a question of distribution of interests, but a question of ideology. For this reason,

we have to be extra cautious. Some people said Hong Kong is still enjoying preferential tariff treatment from other countries, which shows an effective implementation of "one country, two systems" in Hong Kong. However, this depends on other countries' perception of Hong Kong and whether profits can be made in the course of trade (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Mr WU Chi-wai, please stop speaking.

PRESIDENT (in Cantonese): The total speaking time for Members is up. I now call upon the public officer to reply. Secretary for Commerce and Economic Development, please reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I have carefully listened to the speeches made by various Members just now on the adjournment motion proposed by Mr CHUNG Kwok-pan. Members have placed different focuses on this motion, but I think we should first respect the subject matter raised in this motion by the proposer. The subject matter is "the impact of the recent China-United States relations on Hong Kong's economy". If I have not got it wrong, what he referred to as "recent" is actually not the recent days. Rather, it refers to the impacts brought by the trade conflict between China and the United States over the past 10 months or almost a year on not only Hong Kong and the two countries but also global economic and trade relations. Certainly, I believe the Honourable Member has proposed the motion so as to look into the impacts and threats brought to Hong Kong by this issue and how we should respond in the interest of Hong Kong.

As a matter of fact, starting from February, the United States first unilaterally announced the imposition of tariffs on imports from China in an attempt to affect the trade balance through tariffs. In fact, the trade conflict has already occurred, so this is not merely a concern. In reality, it has affected the economic and trade conditions of the two countries, as reflected in the investment market. As in the wording of the motion proposed by Mr CHUNG Kwok-pan, what is the impact of this issue on the Hong Kong economy? As I have

mentioned repeatedly in the Legislative Council, be it in committee meetings, Council meetings or question and answer sessions, the impact on Hong Kong in terms of trade can be calculated. Hong Kong's annual exports may drop by about 0.1% to 0.3%. It certainly has a direct impact on trade. As we can see, since the occurrence of the trade conflict, our originally robust import and export trade has undergone adjustment, though an abnormal phenomenon has emerged owing to rush orders in the short term. While the situation has become more worrying, import and export trade has, on the contrary, increased. No matter what, our concern is not just about the present or existing impact. Rather, it is about the long-term impact because if the two largest economies in the world impose tariffs on each other, the overall operational and trading costs will definitely increase. Such costs will be borne not only by the exporter party. The importer party and consumers may also need to bear a share. Regarding the assessment on the relevant impacts, let me cite the research findings released by the Director-General of the World Trade Organization ("WTO") three months ago. He pointed out that at worst the trade war would cause global trade growth to decrease by 17% and drag down global economic growth by 1.9%.

As Members can see, if the trade conflict continues, there will indeed be immense impacts. For this reason, several months ago I mentioned both to the industry and in the Legislative Council that in respect of the trade conflict and dispute between China and the United States, we need to make long-term corresponding preparations because the United States has repeatedly tried to escalate the trade war. Both the types and rates of tariffs have progressively increased. It has even threatened to raise the tariff rate to 25% on 1 January next year, and it will impose additional tariffs on imports worth US\$267 billion from China. It is thus imperative for us to make preparations.

I have also noticed that the China-United States trade conflict may extend beyond the scope of trade and may continue with or without intention. Before the emergence of any adverse impact among the two countries, it seems both parties may not back off readily. Such being the case, the Government has basically responded in five directions over the past 10 months. Firstly, we have exerted our best efforts to grasp the relevant situation and take corresponding actions jointly with the industry. This is most important. Not being one of the parties provoking the trade conflict and dispute, Hong Kong is in a passive position. It can also be described as the most related third party because China and the United States are the two largest trading partners of Hong Kong. It is

crucially important to accurately grasp the situation and respond jointly with the industry. For this reason, we wish to obtain the relevant information direct from the American or Mainland government departments, or through business associations or our offices or advisers in the United States. When there is any change, we will communicate with the industry in the first instance. Hence, Members representing business associations are especially well aware that we have met with business associations more than 10 times, including meetings with 10-odd business associations together and those with individual business associations. We have worked together in this regard. We have also received various requests from the Legislative Council, suggesting what work should be done or what corresponding measures should be adopted, and we have done so in a timely manner. As I have also mentioned at this meeting, some suggestions made by Members at the meetings have already been put into practice.

Secondly, we must take decisive, fast and targeted measures because the impacts produced by the trade war are direct. Some have already emerged. For example, tariffs of 10% to 20% have been imposed on some goods. The delivery of some goods may have been scheduled already, but because of such impact, factory operators are gravely concerned. Hence, measures adopted by the Government must be decisive, fast and targeted. For example, measures for export credit insurance precisely aim at assisting the industry in addressing problems arising from uncertainties. The Government has also introduced precautions to facilitate early corresponding actions. For example, measures concerning credit guarantee proven in the past can relieve the cash-strapped conditions of small and medium enterprises.

Thirdly, we need to take countermeasures early in the medium-to-long term. This is not merely for addressing problems arising from the trade war today. Rather, it is for improving the trade condition of Hong Kong at root. As mentioned by some Members, we should examine how best to expand the room for procurement as well as that of the markets, and how to enhance competitiveness in trade, including the introduction of tax reduction measures, and encouraging the industry to invest in upgrading, branding, market development, etc. We have all along been doing such work in respect of support and collaboration. We have also made joint efforts with the industry in such work through the Hong Kong Trade Development Council and other public organizations.

Fourthly, we also understand that Hong Kong is not a directly affected party because the additional tariffs levied by the United States in response to the "Section 301 investigation" report are not directly imposed on Hong Kong, but being a member of WTO which supports the multilateral trade regime, Hong Kong can make use of this position. If any unilateral situation, discrimination or non-compliance with the terms of WTO agreements appears in any country, we must fight with justifications. Capitalizing on Hong Kong's position, we can make such efforts through the organization jointly with other like-minded economies cherishing the same belief. Hence, this is what we have been doing in WTO now. While expanding the markets, we also spare no effort in doing such work. Although it seems the trade prospects presently have been affected by the China-United States conflict, we also see that since Hong Kong itself may enter into free trade agreements ("FTAs") with other parties, we have negotiated with other places one by one and signed five new FTAs over the past one and a half years. All of these can make Hong Kong more competitive in the international market and better equipped to respond to sudden or unexpected situations.

Fifthly, we have conducted explanatory and lobbying work mentioned by Members. This is carried out not only from Hong Kong's perspective. For example, our delegation, consisting of 16 people comprising representatives from various business associations, professional bodies and the American Chamber of Commerce, visited the United States. We explained why Hong Kong does not agree with the adoption of tariffs or trade barriers affecting the two countries as well as other places. We also explained that Hong Kong does not only represent its own interest. Among some 8 700 foreign companies in Hong Kong, 1 400 which have established regional headquarters or regional head offices in Hong Kong are from the United States. Therefore such analyses made by Hong Kong also partly represent sectors including the interests of the United States. Such lobbying work is conducted pragmatically.

Regarding the consensus recently reached by the two heads of states in Buenos Aires on the China-United States conflict, our view after reviewing the situation is, like I said to the media yesterday, in the short term, we think the impact on Hong Kong will be relieved because originally, we were worried that a new round of tariffs would be implemented early next year, but now it is temporarily postponed. In the medium term, we must stay tuned because at the present stage, not only we but also China and the United States are unable to tell

precisely what changes there will be in 90 days. However, in the long term, we must take corresponding actions. Such long-term corresponding actions are the work we have been doing in five aspects as mentioned by me just now.

Let me state it beforehand. If any Member or the industry holds that Hong Kong can unilaterally call a halt to this trade conflict, I believe such a view will be mere fantasy. Also, if Members think this trade war will not affect the Hong Kong economy even if it continues, I consider this unrealistic, too. Under the present circumstances, if any foreign groups, political parties or local organizations add questions outside the scope of commerce and trade, including political issues and stances, to the discussion, I think it will bring unnecessary effects at this juncture. When handling these issues, we have got to be careful. Otherwise we will do more harm than good. We should have such an awareness in our discussion.

If, owing to the China-United States trade conflict or a recent report of the United States, we say that Hong Kong is facing its doom or our original edges will go down the drain, as though the sky is collapsing, I think we are only scaring ourselves with imaginary fears. When I replied to two Members' questions this morning, I made a comprehensive response to the recent report of the United States-China Economic and Security Review Commission ("USCC") through my main replies and subsequent replies. In short, we understand that USCC has its own political stance, but we also hope it will stick to the facts. Hence, if the series of questions raised in the report do not tally with the facts, the Hong Kong Government is duty-bound to point out the fallacies because we hope this report will respect the actual situation in Hong Kong when it is eventually submitted, be it to the United States Congress or the American Government. I also sincerely advise those willing to visit the United States to stick to the facts when doing lobbying work, giving explanations or responding to enquiries.

I see that part of this report has cited the facts. For example, it has stated the actual situation of the trade control system in Hong Kong. But of course, we must point out the fallacies in certain points expressing its stance. In particular, on the mention of some political incidents, the community, media or people with different stances may worry that these incidents will affect "one country, two systems". However, from the standpoint of the Government, Hong Kong has acted in accordance with law in handling these incidents. As mentioned by me this morning, in some cases, when adopting certain measures, the government

departments would invoke the existing laws of Hong Kong to deal with the problems. I believe this is also the Government's stance in dealing with the more sensitive issues.

Last but not least, Members have asked about how problems outside the scope of trade arising from this trade conflict can be addressed. In short, we will respond in four aspects. First, we will maintain a pragmatic attitude, making responses based on facts and unremittingly work in accordance with law in an unswerving manner. Second, I must point out that bilateral and multilateral economic relations are definitely mutually beneficial. That is the case with the United States-China relations. So are the relations of the United States with the world. Third, neither overbearing nor servile, we will not yield to a certain party because of strong pressure. Nor will we depart from the established principles in Hong Kong for the sake of interests. Lastly, in our view, the greatest backing for Hong Kong is its three edges. The first one is the edge under the Constitution, i.e. the rights vested in us by the Basic Law. The second one is the edge in terms of systems, including our trade control system. The third one is Hong Kong's uniqueness. *(The buzzer sounded)*

PRESIDENT (in Cantonese): Secretary, the time for your reply is up. Please stop.

PRESIDENT (in Cantonese): As the debate on this motion has reached one and a half hours and the motion has not been agreed to, in accordance with Rule 16(7) of the Rules of Procedure, the motion shall not be put to the vote.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11:00 am on Wednesday, 12 December 2018.

Adjourned accordingly at 8:22 pm.

Annex 1

**The marked-up version of the amendment moved by Ms Alice MAK
(Translation)**

That ~~at present, there are in Hong Kong~~ *the housing problem of grass-roots families in Hong Kong is acute and there are* over 150 000 families and elderly singletons waiting for public rental housing, with an average waiting time of 5.3 years, and quite a number of applicants live in units of flats subdivided into separate units (commonly known as 'subdivided units'); according to the estimate of the Government in 2017, there were about 91 800 households living in subdivided units across the territory; the Chief Executive has undertaken in the newly released Policy Address that the Government will actively facilitate various short-term community initiatives to increase the supply of transitional housing and allow wholesale conversion of industrial buildings for transitional housing; in the light of these new initiatives, it is believed that quite a number of transitional housing units leased out in the form of subdivided units will emerge in Hong Kong, but the existing Buildings Ordinance cannot comprehensively regulate the safety of flat subdivision works; in this connection, this Council urges the Government to ~~study~~ *adopt appropriate measures to regulate subdivided units by, among others, studying* the enactment of an ordinance ~~on regulating subdivided units, the contents of which;~~ *the relevant measures* include:

- (1) by drawing reference from the Housing Act 2004 of the United Kingdom, *and the experience of other countries, formulating policies on the regulation of subdivided units, which include* establishing a licensing system for regulating the operation of subdivided units, and setting standards for the facilities, number of occupants and area of units, so as to ensure a comfortable and safe living environment for households;
- (2) ~~requiring~~ *enacting legislation to require* the installation of separate water and electricity meters for each subdivided unit to prevent overcharging of water and electricity tariffs by landlords; ~~and~~
- (3) *enacting legislation to regulate the rental of subdivided units, including* regulating the rate of rental increase for subdivided units to prevent the households from being heavily burdened by rental;

- (4) *before legislating for regulation, expeditiously providing a rental allowance for all grass-roots families which have been waitlisted for public rental housing for over three years and living in subdivided units;*
- (5) *reviewing the Landlord and Tenant (Consolidation) Ordinance to provide tenants of subdivided units with appropriate tenancy protection, e.g. requiring landlords to sign stamped tenancy agreements with their tenants, stipulating such information as the charging mode for electricity and water tariffs and the notification period for deferred vacation in tenancy agreements; and*
- (6) *establishing a dedicated fund for transitional housing to be used for, among others, supporting the conversion of industrial buildings into subdivided units as transitional housing to ensure that the transitional housing units leased out in the form of subdivided units after conversion and their facilities are compliant with the legal requirements, so as to improve the living environment of grass-roots families.*

Note: Ms Alice MAK's amendment is marked in *bold and italic type* or with deletion line.

Annex 2**The marked-up version of the further amendment moved by Mr LEUNG Yiu-chung to the motion as amended by Ms Alice MAK (Translation)**

That the housing problem of grass-roots families in Hong Kong is acute and there are over 150 000 families and elderly singletons waiting for public rental housing, with an average waiting time of 5.3 years, and quite a number of applicants live in units of flats subdivided into separate units (commonly known as 'subdivided units'); according to the estimate of the Government in 2017, there were about 91 800 households living in subdivided units across the territory; the Chief Executive has undertaken in the newly released Policy Address that the Government will actively facilitate various short-term community initiatives to increase the supply of transitional housing and allow wholesale conversion of industrial buildings for transitional housing; in the light of these new initiatives, it is believed that quite a number of transitional housing units leased out in the form of subdivided units will emerge in Hong Kong, but the existing Buildings Ordinance cannot comprehensively regulate the safety of flat subdivision works; in this connection, this Council urges the Government to adopt appropriate measures to regulate subdivided units by, among others, studying the enactment of an ordinance; the relevant measures include:

- (1) by drawing reference from the Housing Act 2004 of the United Kingdom and the experience of other countries, formulating policies on the regulation of subdivided units, which include establishing a licensing system for regulating the operation of subdivided units, and setting standards for the facilities, number of occupants and area of units, so as to ensure a comfortable and safe living environment for households;
- (2) enacting legislation to require the installation of separate water and electricity meters for each subdivided unit to prevent overcharging of water and electricity tariffs by landlords;
- (3) enacting legislation to regulate the rental of subdivided units, including regulating the rate of rental increase for subdivided units to prevent the households from being heavily burdened by rental;

- (4) before legislating for regulation, expeditiously providing a rental allowance for all grass-roots families which have been waitlisted for public rental housing for over three years and living in subdivided units;
- (5) reviewing the Landlord and Tenant (Consolidation) Ordinance to provide tenants of subdivided units with appropriate tenancy protection, e.g. requiring landlords to sign stamped tenancy agreements with their tenants, stipulating such information as the charging mode for electricity and water tariffs and the notification period for deferred vacation in tenancy agreements; and
- (6) establishing a dedicated fund for transitional housing to be used for, among others, supporting the conversion of industrial buildings into subdivided units as transitional housing to ensure that the transitional housing units leased out in the form of subdivided units after conversion and their facilities are compliant with the legal requirements, so as to improve the living environment of grass-roots families; *and*
- (7) *extensively consulting the community on the study of the enactment of an ordinance on regulating subdivided units and the review of the Landlord and Tenant (Consolidation) Ordinance.*

Note: Mr LEUNG Yiu-chung's amendment is marked in *bold and italic type*.

Annex 3

The marked-up version of the further amendment moved by Mr Andrew WAN to the motion as amended by Ms Alice MAK and Mr LEUNG Yiu-chung (Translation)

That the housing problem of grass-roots families in Hong Kong is acute and there are over 150 000 families and elderly singletons waiting for public rental housing, with an average waiting time of 5.3 years, and quite a number of applicants live in units of flats subdivided into separate units (commonly known as 'subdivided units'); according to the estimate of the Government in 2017, there were about 91 800 households living in subdivided units across the territory; the Chief Executive has undertaken in the newly released Policy Address that the Government will actively facilitate various short-term community initiatives to increase the supply of transitional housing and allow wholesale conversion of industrial buildings for transitional housing; in the light of these new initiatives, it is believed that quite a number of transitional housing units leased out in the form of subdivided units will emerge in Hong Kong, but the existing Buildings Ordinance cannot comprehensively regulate the safety of flat subdivision works; in this connection, this Council urges the Government to adopt appropriate measures to regulate subdivided units by, among others, studying the enactment of an ordinance; the relevant measures include:

- (1) by drawing reference from the Housing Act 2004 of the United Kingdom and the experience of other countries, formulating policies on the regulation of subdivided units, which include establishing a licensing system for regulating the operation of subdivided units, and setting standards for the facilities, number of occupants and area of units, so as to ensure a comfortable and safe living environment for households;
- (2) enacting legislation to require the installation of separate water and electricity meters for each subdivided unit to prevent overcharging of water and electricity tariffs by landlords;
- (3) enacting legislation to regulate the rental of subdivided units, including regulating the rate of rental increase for subdivided units to prevent the households from being heavily burdened by rental;

- (4) before legislating for regulation, expeditiously providing a rental allowance for all grass-roots families which have been waitlisted for public rental housing for over three years and living in subdivided units;
- (5) reviewing the Landlord and Tenant (Consolidation) Ordinance to provide tenants of subdivided units with appropriate tenancy protection, e.g. requiring landlords to sign stamped tenancy agreements with their tenants, stipulating such information as the charging mode for electricity and water tariffs and the notification period for deferred vacation in tenancy agreements; and
- (6) establishing a dedicated fund for transitional housing to be used for, among others, supporting the conversion of industrial buildings into subdivided units as transitional housing to ensure that the transitional housing units leased out in the form of subdivided units after conversion and their facilities are compliant with the legal requirements, so as to improve the living environment of grass-roots families; and
- (7) extensively consulting the community on the study of the enactment of an ordinance on regulating subdivided units and the review of the Landlord and Tenant (Consolidation) Ordinance; *and*
- (8) *enacting legislation to allow tenants of subdivided units to open water and electricity accounts of their own for paying tariffs;*

moreover, this Council also urges the Government to establish a registration system for households of subdivided units or conduct an annual survey on households of subdivided units (including those living in factory buildings) through the Census and Statistics Department, so as to ensure that the Government can grasp the actual number of households of subdivided units, thereby formulating appropriate regulatory policies for them.

Note: Mr Andrew WAN's amendment is marked in *bold and italic type*.

Annex 4

The marked-up version of the amendment moved by Ms Claudia MO (Translation)

That, ~~unless~~ *in many incidents involving significant public interests in recent years*, insiders of business organizations ~~or~~, government agencies (~~'whistle-blowers'~~) *or public bodies ('whistle-blowers')* *are invariably the ones who* divulge that acts endangering public interests have occurred in their organizations or agencies; *without whistle-blowers*, it is invariably difficult for the public or the media to verify the occurrence of such incidents; many past incidents involving significant public interests in Hong Kong, such as the unlawful sewage discharge by the sewage treatment contractor of Tuen Mun Pillar Point Valley Landfill in contravention of the standard requirements of the Environmental Protection Department, the frequent glitches in the new Air Traffic Control System of the Civil Aviation Department after its launch, and the shortened steel bars of the diaphragm walls at Hung Hom Station of the Shatin to Central Link of the MTR Corporation Limited, would have gone unnoticed if no one had blown the whistle, and the public would not have known the truth; since there is no dedicated legislation in Hong Kong for protecting whistle-blowers and those who stand up for justice are often subjected to reprisals, including various retributive acts such as harassment, discriminatory actions, dismissal and litigation, many insiders are afraid to blow the whistle; since many countries in the world, including the United Kingdom, the United States and Japan, have already enacted dedicated legislation to protect whistle-blowers, this Council urges the SAR Government to expeditiously enact a whistle-blowing protection law *and formulate measures* to protect whistle-blowers and safeguard public interests; the areas of legislation *and the contents of the relevant measures* should cover:

- (1) providing statutory protection to whistle-blowers if the incidents disclosed involve criminal offences, breach of legal obligation, miscarriage of justice, threat to public safety or health, environmental damage, abuse of powers, waste of public money, etc., so as to guard them against any unfair treatment, such as punitive actions like dismissal, pay reduction, demotion, transfer, suspension, financial penalty and denial of learning opportunities;

- (2) requiring all business organizations ~~and~~, government agencies *or public bodies* to formulate their own internal measures on protecting whistle-blowers, including the setting up of a well-defined mechanism respectively for reporting incidents and protecting whistle-blowers, so as to stamp out any possible retributive acts;
- (3) allowing whistle-blowers to disclose to the public incidents endangering public interests in ways they deem fit, including using the media or the Legislative Council as the channels, in addition to the internal reporting mechanism mentioned above;
- (4) requiring any persons or organizations responsible for handling the secrets divulged by a whistle-blower to maintain the strictest confidentiality of the whistle-blower's personal information; ~~and~~
- (5) allowing whistle-blowers to apply for personal protection measures from the judicial authorities when they or their families feel their personal safety or freedom under threat;
- (6) *allowing whistle-blowers to seek redress and hold the relevant parties responsible through legal channels if they sustain any direct or indirect retribution from business organizations, government agencies or public bodies;*
- (7) *amending other related laws, including but not limited to the Employment Ordinance, so as to ensure consistent statutory protection for whistle-blowers and enable the legislation to keep pace with the times; and*
- (8) *formulating binding codes for government agencies and public bodies as a start before the enactment of legislation, so as to protect whistle-blowers and disseminate the important message of protecting whistle-blowers in society.*

Note: Ms Claudia MO's amendment is marked in *bold and italic type* or with deletion line.

Annex 5

The marked-up version of the amendment moved by Mr Kenneth LEUNG (Translation)

~~That, unless insiders of business organizations or government agencies ('whistle-blowers') divulge that acts endangering public interests have occurred in their organizations or agencies, it is invariably difficult for the public or the media to verify the occurrence of such incidents~~ *'whistle-blowers' are those who disclose information for the sake of safeguarding public interests; through disclosing information, they seek to hold the government agencies, organizations or enterprises involved accountable to the public and responsible for certain acts which violate the law, rules and regulations or endanger public interests;* many past incidents involving significant public interests in Hong Kong, such as the unlawful sewage discharge by the sewage treatment contractor of Tuen Mun Pillar Point Valley Landfill in contravention of the standard requirements of the Environmental Protection Department, the frequent glitches in the new Air Traffic Control System of the Civil Aviation Department after its launch, and the shortened steel bars of the diaphragm walls at Hung Hom Station of the Shatin to Central Link of the MTR Corporation Limited, would have gone unnoticed if no one had blown the whistle, and the public would not have known the truth; since there is no dedicated legislation in Hong Kong for protecting whistle-blowers and those who stand up for justice are often subjected to reprisals, including various retributive acts such as harassment, discriminatory actions, dismissal and litigation, many insiders are afraid to blow the whistle; since many countries in the world, including the United Kingdom, the United States and Japan, have already enacted dedicated legislation to protect whistle-blowers, this Council urges the SAR Government to expeditiously enact a whistle-blowing protection law to protect whistle-blowers and safeguard public interests; the areas of legislation should cover:

- (1) providing statutory protection to whistle-blowers if the incidents disclosed involve criminal offences, breach of legal obligation, miscarriage of justice, threat to public safety or health, environmental damage, abuse of powers, ~~waste of public money,~~ etc., so as to guard them against any ~~unfair treatment~~ *civil liabilities and unreasonable treatment at work due to their whistle-blowing,*

such as punitive actions like dismissal, pay reduction, demotion, transfer, suspension, financial penalty and denial of learning opportunities;

- (2) requiring ~~all business~~ organizations ***with a specified business turnover or number of employees*** and ***all*** government agencies to formulate ~~their own~~ internal measures on protecting whistle-blowers, including the setting up of a well-defined mechanism respectively for reporting incidents and protecting whistle-blowers, so as to stamp out any possible retributive acts;
- (3) ~~allowing~~ ***specifying that if it is not suitable to follow a specified reporting mechanism for blowing the whistle on an incident, or under other exceptional circumstances,*** whistle-blowers ~~to~~ ***may*** disclose to the public incidents endangering public interests in ways they deem fit, including using the media or the Legislative Council as the channels, ~~in addition to the internal reporting mechanism mentioned above;~~
- (4) requiring any persons or organizations responsible for handling the secrets divulged by a whistle-blower to maintain the strictest confidentiality of the whistle-blower's personal information; and
- (5) allowing whistle-blowers to apply for personal protection measures from the judicial authorities when they or their families feel their personal safety or freedom under threat ***due to their whistle-blowing.***

Note: Mr Kenneth LEUNG's amendment is marked in ***bold and italic type*** or with deletion line.

Annex 6

The marked-up version of the amendment moved by Mr CHAN Hak-kan (Translation)

That, unless insiders of business organizations or government agencies ('whistle-blowers') divulge that *unlawful* acts endangering public interests have occurred in their organizations or agencies, it is invariably difficult for the public or the media to verify the occurrence of such incidents; many past incidents involving significant public interests in Hong Kong, such as the unlawful sewage discharge by the sewage treatment contractor of Tuen Mun Pillar Point Valley Landfill in contravention of the standard requirements of the Environmental Protection Department, the frequent glitches in the new Air Traffic Control System of the Civil Aviation Department after its launch, and the shortened steel bars of the diaphragm walls at Hung Hom Station of the Shatin to Central Link of the MTR Corporation Limited, would have gone unnoticed if no one had blown the whistle, and the public would not have known the truth; ~~since~~ *while* there is no dedicated legislation in Hong Kong for protecting whistle-blowers ~~and those who stand up for justice are often subjected to reprisals, including various retributive acts such as harassment, discriminatory actions, dismissal and litigation, many insiders are afraid to blow the whistle; since many countries in the world, including the United Kingdom, the United States and Japan, have already enacted dedicated legislation to protect whistle-blowers, this Council urges the SAR Government to expeditiously enact a whistle-blowing protection law to protect whistle-blowers and safeguard public interests; the areas of legislation should cover:~~

- ~~(1) providing statutory protection to whistle-blowers if the incidents disclosed involve criminal offences, breach of legal obligation, miscarriage of justice, threat to public safety or health, environmental damage, abuse of powers, waste of public money, etc., so as to guard them against any unfair treatment, such as punitive actions like dismissal, pay reduction, demotion, transfer, suspension, financial penalty and denial of learning opportunities;~~

- ~~(2) requiring all business organizations and government agencies to formulate their own internal measures on protecting whistle-blowers, including the setting up of a well defined mechanism respectively for reporting incidents and protecting whistle-blowers, so as to stamp out any possible retributive acts;~~
- ~~(3) allowing whistle-blowers to disclose to the public incidents endangering public interests in ways they deem fit, including using the media or the Legislative Council as the channels, in addition to the internal reporting mechanism mentioned above;~~
- ~~(4) requiring any persons or organizations responsible for handling the secrets divulged by a whistle-blower to maintain the strictest confidentiality of the whistle-blower's personal information; and~~
- ~~(5) allowing whistle-blowers to apply for personal protection measures from the judicial authorities when they or their families feel their personal safety or freedom under threat~~

various respects, such as protecting witnesses and preventing unreasonable dismissal of employees, are already under relevant statutory protection; many countries or regions in the world have enacted legislation for protecting whistle-blowers, with a view to enabling public and private organizations to identify internal problems as early as possible and improving their governance, and their experience is a valuable source of reference for Hong Kong; in this connection, this Council proposes that the SAR Government should draw reference from the experience of other countries and regions and, on the premise of safeguarding national security, public safety and public interests, review the arrangements for protecting whistle-blowers, including amending the law where necessary, so as to better:

- (1) define the scope of protection for whistle-blowing;*
- (2) ensure that whistle-blowers and their families are free from any unreasonable treatment from the relevant organizations, and prevent damage to their legitimate rights and interests (especially employees' rights and interests);*

- (3) *ensure that the personal safety of whistle-blowers and their families will not come under threat; and*
- (4) *enhance the governance of public and private organizations.*

Note: Mr CHAN Hak-kan's amendment is marked in ***bold and italic type*** or with deletion line.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Education to Mr Charles Peter MOK's supplementary question to Question 6

Data on STEM education is provided as follows:

1. Numbers of day school candidates sat the Hong Kong Diploma of Secondary Education Examination ("HKDSE") on STEM-related subjects in 2018

<i>HKDSE STEM-related subjects</i>	<i>Numbers of day school candidates sat HKDSE in 2018 (Total number of day school candidates sat: 50 447)</i>
Mathematics Compulsory Part	49 649
Mathematics Extended Part (Calculus and Statistics)	2 466
Mathematics Extended Part (Algebra and Calculus)	4 401
Biology	13 346
Chemistry	12 765
Physics	10 555
Combined Science	725
Integrated Science	99
Information and Communication Technology	5 567
Design and Applied Technology	560
Technology and Living	214

Source: HKDSE statistics from the webpage of Hong Kong Examinations and Assessment Authority

2. Data on STEM education-related teacher training

To enhance the professional knowledge and teaching skills of teachers in STEM-related subjects, the Education Bureau organizes professional development programmes ("PDPs") for teachers each year. These include Key Learning Area ("KLA")/subject-based training courses, such as sharing sessions on the good practices of promoting STEM education, seminars on understanding

WRITTEN ANSWER — *Continued*

and interpreting the curriculum, workshops on use of Arduino System for Chemistry experiments, seminars on STEM education and e-learning in primary General Studies. In addition, to further enhance teachers' professional capacity in planning and implementing school-based STEM-related activities and coding education, the Education Bureau has organized PDPs specifically for STEM/coding education. Details are as follows.

STEM education intensive training programme

- From the 2017-2018 to 2019-2020 school years, the Education Bureau has been organizing the intensive training programme ("ITP") on STEM education for school leaders and middle managers of all public sector and Direct Subsidy Scheme ("DSS") primary and secondary schools in five batches. Focusing on holistic curriculum planning and cross-KLA/subject collaboration, these programmes aim to strengthen teachers' professional capacity in planning and organizing school-based STEM activities.
- The first and second batches of ITP were completed in the 2017-2018 school year, with the participation of about 2 500 teachers (headcount) from 210 secondary schools and 2 220 teachers (headcount) from 154 primary schools. The Education Bureau will organize the third to fifth batches of training courses in the 2018-2019 and 2019-2020 school years.

Professional development programmes on coding education

- The Education Bureau issued the "Computational Thinking—Coding Education: Supplement to the Primary Curriculum" in November 2017, for use by schools, to further enhance the implementation of coding education at the primary level and develop students' computational thinking. From the 2017-2018 to 2019-2020 school years, the Education Bureau has been organizing PDPs on coding education for all public sector and DSS primary schools in five batches to support teachers in developing computational thinking of students.

WRITTEN ANSWER — *Continued*

- The first two batches of training courses on coding education were completed in the 2017-2018 school year. There were about 430 teachers from 210 primary schools and 140 teachers from 110 primary schools participated in the foundation and advance levels respectively of the training programmes. The Education Bureau will organize the third to fifth batches of training courses in the 2018-2019 and 2019-2020 school years.
- 3. Coding education lessons
 - At the primary level, we understand that most schools have implemented coding education in different modes according to their specific school contexts, including providing coding activities in computer lessons or integrating related learning content into individual upper primary subjects (such as General Studies) to make room for coding education. We will maintain communication with schools to provide timely advice and support.
 - At the secondary level, programming-related contents are covered through the implementation of the Technology Education Key Learning Area ("TEKLA") curriculum. We recommended schools to allocate no less than 30% of lesson time of the Information and Communication Technology ("ICT") knowledge context under TEKLA to the teaching of programming at the junior secondary level. Schools may implement the TEKLA curriculum in various modes, including the subject-based and modular approach at the junior secondary level. At senior secondary level, ICT is an elective subject with recommended lesson time of 250 hours (or 10% of the total allocation time) which can be allocated flexibly by schools to enhance the learning and teaching effectiveness.

It is noteworthy in the discussion on STEM education that it is not a separate new subject in primary and secondary schools. STEM education is implemented in the curricula of Science, Technology and Mathematics Education KLAs, such as Mathematics at the primary and secondary levels, Science and Computer Literacy at the junior secondary level, and primary General Studies. Currently, the local

WRITTEN ANSWER — *Continued*

school curriculum in primary and secondary school levels covers these KLAs. The aims of promoting STEM education are to enable students to recognize the relationship between innovative technology and their daily lives, to enhance their ability in integration and application of relevant KLA knowledge and skills, and to nurture their collaborative, hands-on, minds-on and creative problem-solving skills. In order to integrate and apply what they have learned in different areas, it is necessary for students to develop a solid knowledge base in science, technology and mathematics. The Education Bureau has updated the curriculum guides of STEM related subjects as necessary. In addition, many schools also arrange life-wide learning activities such as project learning, scientific investigation, or technology and problem solving competitions to strengthen students' abilities in integration and application of knowledge and skills in relevant KLAs.

On promotion of STEM-related learning activities, schools may plan and implement the programmes with different themes, emphases, plans and incorporation of different learning elements in the light of their school contexts and students' interests and abilities. The formulation of specific indicators on STEM education by the Education Bureau does not meet schools' actual circumstances and students' learning needs. The Education Bureau has been facilitating the school sector to share their experience of implementation of STEM education to enhance professional exchange. In fact, many schools with outstanding performance in implementing STEM education have been invited to participate in the Professional Development Schools Scheme and the Quality Education Fund Thematic Networks. These schools have organized networking activities on various themes to share their experience on the implementation of school-based STEM education with other schools. This strategy is preferable to formulating standardized indicators for education without taking into account different characteristics and development progress of schools.