

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 27 March 2019

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

THE HONOURABLE WONG TING-KWONG, 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 PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE CLAUDIA MO

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 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 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 ALVIN YEUNG

THE HONOURABLE ANDREW WAN SIU-KIN

THE HONOURABLE CHU HOI-DICK

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

THE HONOURABLE HO KAI-MING

THE HONOURABLE LAM CHEUK-TING

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI

THE HONOURABLE SHIU KA-CHUN

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

THE HONOURABLE YUNG HOI-YAN

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE CHAN CHUN-YING, J.P.

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG, J.P.

THE HONOURABLE LAU KWOK-FAN, M.H.

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

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE AU NOK-HIN

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

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

THE HONOURABLE CHAN HOI-YAN

**MEMBERS ABSENT:**

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

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

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE DENNIS KWOK WING-HANG

THE HONOURABLE CHUNG KWOK-PAN

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

**PUBLIC OFFICERS ATTENDING:**

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

THE HONOURABLE JAMES HENRY LAU JR., J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

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

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

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

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

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

**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)

## **PAPERS TO BE LAID ON THE TABLE OF THE COUNCIL**

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

Subsidiary Legislation/Instrument	<i>Legal Notice No.</i>
Merchant Shipping (Safety) (IMSBC Code) (Amendment) Regulation 2019.....	36 of 2019

### Other Papers

HKSAR Government Scholarship Fund  
Financial statements for the year ended 31 August 2018 (including Report of the Director of Audit)

Self-financing Post-secondary Education Fund  
Financial statements for the year ended 31 August 2018 (including Report of the Director of Audit)

Hong Kong Rotary Club Students' Loan Fund  
Financial statements for the year ended 31 August 2018 (including Report of the Director of Audit)

Sing Tao Charitable Foundation Students' Loan Fund  
Financial statements for the year ended 31 August 2018 (including Report of the Director of Audit)

AIDS Trust Fund  
2017-18 Annual Report, Financial statements and Report of the Director of Audit for the year ended 31 March 2018

Report No. 14/18-19 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

## URGENT QUESTIONS

**PRESIDENT** (in Cantonese): Questions. Apart from six oral questions for this meeting, with my permission, three urgent oral questions will be asked by Dr Elizabeth QUAT, Dr Helena WONG and Dr Priscilla LEUNG respectively under Rule 24(4) of the Rules of Procedure.

The urgent questions asked today are about the Government's measures for tackling the recent outbreak of measles epidemic in Hong Kong. I will first call upon: Dr Elizabeth QUAT to ask her question and the public officer to reply, then Dr Helena WONG to ask her question and the public officer to reply; and finally Dr Priscilla LEUNG to ask her question and the public officer to reply. I will forthwith invite the three Members to ask supplementary questions, and then other Members may ask supplementary questions.

Members who wish to ask supplementary questions please press the "Request to speak" button as early as possible, so that we can estimate when the urgent questions will end and oral question 1 will start.

Having regard to the situation, I will as far as possible allow Members to ask supplementary questions if they so wish. To allow more Members to ask questions, questions raised by Members should be as concise as possible. Members should not make arguments when asking questions.

**PRESIDENT** (in Cantonese): Urgent question one.

### Tackling the outbreak of measles epidemic

1. **DR ELIZABETH QUAT** (in Cantonese): *President, measles is a highly contagious disease which may cause various kinds of complications and even death. It has been reported that the Centre for Health Protection ("CHP") has confirmed that there is a recent outbreak of measles epidemic. This year up to the present, more than 20 confirmed cases of measles infection have been recorded, and a number of those who have contracted the disease work in the airport. The Director of the Carol Yu Centre for Infection of the University of Hong Kong has pointed out that there may be a second-round spread of measles*

*and the situation is bleak. Regarding the immediate measures to tackle the outbreak of measles epidemic, will the Government inform this Council:*

- (1) given that members of the public born before 1967 did not receive measles vaccination in their childhood, whether the Government will immediately conduct measles antibody tests and provide measles vaccination for such members of the public for free; if so, of the details; if not, the reasons for that;*
- (2) whether it will immediately request airline companies to step up cleansing and disinfection of cabins of aircraft departing from and arriving in Hong Kong; if so, of the details; if not, the reasons for that; and*
- (3) whether CHP will immediately classify the measles response level as "emergency" and announce in a timely manner the latest development of the measles epidemic and the corresponding measures, so as to allay the concern of the public and visitors; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, measles is a highly infectious disease caused by the measles virus. It can be transmitted by airborne droplet spread or direct contact with nasal or throat secretions of infected people, and, less commonly, by articles soiled with nasal or throat secretions. Generally speaking, a patient can pass the disease to other people from four days before to four days after the appearance of skin rash. The incubation period normally ranges from 7 to 18 days, but can be up to 21 days. Although there is no specific treatment, drugs may be prescribed to reduce the symptoms of measles, and antibiotics may be used to treat bacterial complications. My reply to the three parts of the question on the control measures taken in Hong Kong is as follows:

- (1) Vaccination is the most effective way to prevent measles. Measles vaccination has been in use in Hong Kong for about 50 years. Since 1967, measles vaccination has been incorporated into the Hong Kong Childhood Immunisation Programme, under which a dose of measles vaccine is given to infants aged six months to one year for free. From 1997 onwards, two doses of vaccine are given



to children for free, one at one year old and the other at Primary One. From July to November in 1997, the Department of Health conducted the Special Measles Vaccination Campaign, under which a dose of measles-containing vaccine was given to over a million children and youngsters aged 1 to 19<sup>(1)</sup> who had not received the second dose of vaccine.

Generally speaking, it is expected that the majority of the people born before 1967 in Hong Kong already have antibodies against measles from previous infections. Those who have received two doses of measles-containing vaccine, including the majority of the people born in 1985 or after and attended primary school in Hong Kong, will normally have sufficient protection against measles.

In fact, the incidence rate of measles in Hong Kong has decreased substantially since the introduction of measles vaccine in 1967. As revealed by the findings of the territory-wide immunization surveys regularly conducted by the Department of Health, the two-dose vaccination coverage has been consistently maintained at well above 95%, and the local seroprevalence rates of measles virus antibodies reflect that most of the people in Hong Kong are immune to measles. On the whole, the information available indicates that the risk of contracting measles by the general public is considered to be low in Hong Kong. In this connection, the Regional Verification Commission for Measles Elimination in the Western Pacific of the World Health Organization confirmed in 2016 that Hong Kong had achieved the interruption of endemic measles virus transmission.

- (2) To prevent the spread of infectious diseases into Hong Kong, the Port Health Office of the Centre for Health Protection ("CHP") has been carrying out health surveillance at all boundary control points, including the Hong Kong International Airport, seaports and ground crossings, with the use of infrared thermal imaging systems for body temperature checks on inbound travellers. Suspected cases of infectious diseases will be immediately referred by the Port Health Office to health care facilities for follow-up. Upon receiving notification of a confirmed measles case, the Port Health Office will

(1) Those born between 1978 and 1996.

notify the airline concerned so that thorough disinfection will be carried out on the aircraft on which the patient travelled.

In response to the recent outbreak of measles at the Hong Kong International Airport, CHP has set up vaccination stations at the airport since 22 March to provide vaccination for people working there who are non-immune to measles. The vaccination exercise aims to protect those non-immune to measles. The target groups working at the airport are as follows:

- (a) those born abroad or born between 1967 and 1984 in Hong Kong; and
- (b) those who have not received two doses of measles vaccine; and
- (c) those who have not been infected with measles before.

At the same time, the Airport Authority has immediately stepped up its disinfection and cleansing work in the busy areas of the Terminal Buildings to maintain environmental hygiene.

- (3) According to the Prevention and Control of Disease Ordinance (Cap. 599), measles is one of the 50 statutory notifiable infectious diseases in Hong Kong. All registered medical practitioners are required to notify CHP of all suspected or confirmed cases of these diseases for the purpose of disease control. Hong Kong has a well-established notification system of measles, with effective epidemiology and laboratory surveillance. We will take prompt actions in case of cases or outbreak of measles infection. Upon receiving notification of measles cases, CHP will immediately commence epidemiological investigations to identify potential sources of infection and high-risk exposure, and notify relevant medical facilities and institutions so as to take follow-up investigations and control measures. Besides, CHP will trace the patients' contacts in order to provide them with relevant health advice and information and put them under medical surveillance. Based on the information obtained after epidemiological investigations, CHP will timely recommend taking further specific

measures to reduce the risk of spreading the disease, including provision of measles vaccination to those who need the vaccination. To keep the public informed of the latest situation, CHP has been reporting through press releases the latest developments in its investigations into measles cases and the follow-up actions being taken.

**PRESIDENT** (in Cantonese): Urgent question two.

**Immediately providing measles vaccination for persons with weaker immunity**

2. **DR HELENA WONG** (in Cantonese): *It has been reported that there is a recent outbreak of measles epidemic: this year up to the present, more than 20 confirmed cases of measles infection have been recorded, while the figure for the whole of last year was only 15. Persons such as young children below Primary One, those members of the public born between 1967 and 1985 in Hong Kong as well as new arrivals may have weaker immunity to measles as most of them have never received any measles vaccination or have received just one dose of such vaccination. As such, will the Government inform this Council whether it will immediately provide measles vaccination for such persons so as to reduce their chances of being infected with measles, thereby preventing the spread of the epidemic; if so, whether the existing measles vaccine stock is sufficient for providing such vaccination; if it is insufficient, of the solution for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I have briefly explained the background information concerning measles and the preventive and control measures in my previous reply to Dr Elizabeth QUAT.

First, I have to reiterate that the overall coverage rate of measles vaccination has been maintained at very high level in Hong Kong. There has been no outbreak in the community in recent years. The majority of people who were born on or after 1985 and studied in primary schools in Hong Kong have received two doses of measles-containing vaccines under the Hong Kong Childhood Immunisation Programme ("HKCIP"); therefore, the immunity to measles in the local population is very high.

Taken into consideration the target groups of the measles vaccination programme over the years, the current immunity of the local population, the supply of vaccines and the situation of measles infection at the airport, etc., we consider at this stage that there are three priority groups for measles vaccination, which are:

- (1) children under the routine HKCIP; and
- (2) staff of the airport who were either non-local born or born in Hong Kong from 1967 to 1984, and have not received two doses of measles vaccination; and have not been infected with measles before; and
- (3) health care staff of the Hospital Authority ("HA").

The currently available measles-containing vaccine in Hong Kong include combined Measles, Mumps and Rubella ("MMR") vaccines and combined Measles, Mumps, Rubella and Varicella ("MMRV") vaccines. Under HKCIP, children in Hong Kong are given the first dose of MMR vaccine when they are one year old at Maternal and Child Health Centres ("MCHCs") of the Department of Health ("DH"), followed by a second dose of MMR vaccine<sup>(1)</sup> at Primary One by the School Immunisation Teams of DH through outreach visits to schools. DH has all along encouraged local children to receive measles vaccination under HKCIP to ensure personal and community health.

The Scientific Committee on Vaccine Preventable Diseases ("SCVPD") of the Centre for Health Protection ("CHP") closely monitors the latest recommendations on the uses of vaccines made by the World Health Organization ("WHO"), and provides latest advice to CHP for consideration. WHO had published the position paper on measles vaccines in April 2017 with the following two recommendations:

- (1) in countries with low risk of measles transmission, the first dose of measles-containing vaccine ("MCV1") may be administered at the

(1) Varicella vaccine has been incorporated into HKCIP and is applicable to children born on or after 1 January 2013. Children will receive MMRV vaccine as a second dose of measles-containing vaccine when they reach Primary One.

age of 12 months, and the second dose of measles-containing vaccine ("MCV2") be given at the age of 15 to 18 months or at the time of school entry; and

- (2) if the coverage of MCV1 is high (>90%) and school enrolment is high (>95%), MCV2 can be given at school entry to prevent outbreaks in schools.

In view of the latest recommendations by WHO, SCVPD further reviewed in 2018 the local and global epidemiology of measles, overseas experience and relevant scientific evidence, and made new recommendations on measles-containing vaccination for children.

SCVPD noted that the practices on administration of MCV2 in overseas countries are diverse<sup>(2)</sup> and there is no standard timing on MCV2, and Hong Kong is an area with low risk of endemic transmission, with a high coverage of MCV1. As measles outbreaks have been reported in various regions of the world (including some countries in Europe and Southeast Asia) in recent years, SCVPD considered that those aged between one year and Primary One who received only one dose of MMR vaccine would have a higher risk of measles infection if they travel to places with high incidence or outbreak of measles.

After reviewing the latest epidemiological situation, SCVPD recommended the second dose of MMRV vaccine to be advanced from Primary One to 18 months. The DH's MCHCs have already started planning, including arrangement of the tender process for vaccine procurement and other relevant logistics and manpower issues. It is estimated that MCHCs will provide the second dose of MMRV vaccine to children aged 18 months from the first half of 2020.

In view of the measles outbreaks in many parts of the world in recent months, and the increasing trend in cases of measles among adults, SCVPD will hold a meeting in early April to discuss the recommendations on measles-containing vaccination for non-immune adults. CHP will take note of the recommendations of SCVPD. Details will be announced in due course.

- (2) The United Kingdom, the United States, New Zealand, Japan and Korea, etc. recommend MCV2 to be given at an elder age (range from three to seven years old), while Australia and Singapore, etc. recommend MCV2 to be given at a younger age (15 to 18 months).

Regarding the vaccine supply, DH has all along maintained close liaison with the two vaccines suppliers of measles-containing vaccines, and has signed contracts with them to ensure sufficient supply of the vaccines for the vaccination services. Regarding the private health care market, since measles vaccines are included in routine vaccination programme and the annual vaccination rate is relatively stable, the private market normally does not have a large quantity of measles-containing vaccines in stock. In view of the latest cases of measles infection at the Hong Kong International Airport, we consider that it is of utmost importance to ensure sufficient vaccines for children under the routine HKCIP, people working at the airport, and health care staff at HA who have higher priority for measles vaccination. Meanwhile, the Government noted that there is an upsurge in demand for the two aforesaid vaccines in the private health care market. DH noted that a new batch of measles-containing vaccines from one of the vaccine suppliers will arrive Hong Kong in early April. The Government has already requested the vaccine suppliers to import additional batches of measles-containing vaccines to meet local demands, and is pending for the suppliers' response. DH continues to maintain close liaison with the vaccine suppliers.

**PRESIDENT** (in Cantonese): Urgent question three.

### **Immediate measures to prevent the measles epidemic from spreading**

3. **DR PRISCILLA LEUNG** (in Cantonese): *President, there is a recent outbreak of measles epidemic in Hong Kong. It has been reported that this year up to the present, 26 confirmed cases of measles infection have been recorded and the infected persons in nine of those cases are personnel working at the airport and for airline companies. In this connection, will the Government inform this Council:*

- (1) *of the immediate measures adopted by the Government to increase the supply of measles vaccines, so as to provide measles vaccination for all persons having a higher risk of contracting the disease (including the personnel working at the airport and for airline companies, as well as healthcare workers); and*

- (2) *whether it will immediately request airline companies to regularly notify the Centre for Health Protection of the cases of their staff members contracting measles, so as to minimize the risk of the epidemic spreading?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in my previous replies to the questions raised by Dr Elizabeth QUAT and Dr Helena WONG, I have illustrated the immediate measures taken by the Centre for Health Protection ("CHP") to cope with the cases of measles infection at the Hong Kong International Airport, and the arrangements of measles vaccination and the latest supply of measles vaccines in Hong Kong. I will now supplement the latest developments.

- (1) Since a confirmed infection case emerged at the airport on 22 March, CHP has attached great importance to the infection control measures at the airport, particularly the measles vaccination for people working at the airport who are non-immune to measles. CHP has all along been maintaining close liaison with the Airport Authority Hong Kong ("AA") in order to improve the operation and arrangements of the measles vaccination stations at the airport to facilitate those who need to receive vaccination.

Since last Friday, CHP has provided measles vaccination to over 1 650 people working at the airport. Starting from 26 March, CHP has deployed extra manpower and provided an additional time slot. It is expected that the daily service capacity would increase from 700 to 1 300 vaccinations. Besides, the private clinic at the airport will also provide vaccination to staff working at the airport shortly. CHP will closely monitor and review the situation of measles vaccination for people working at the airport. CHP will also continue to closely liaise with AA to explore ways to further enhance the vaccination arrangements.

Besides, in view of the recent surge in measles cases, the Central Committee on Infectious Disease and Emergency Responses of the Hospital Authority ("HA") convened early this week an ad hoc meeting, which was joined by representatives from CHP, to discuss the risk assessment and preparedness of public hospitals. The

meeting agreed that measures need to be implemented for early diagnosis and isolation of possible measles cases and to provide vaccinations to staff in need, including those who have never been vaccinated or those with inadequate immunity, to reduce the risk of nosocomial infections. Earlier HA issued notifications, as well as updated information on measles, to remind frontline health care staff to be vigilant towards patients with symptoms of measles. Suspected cases will need to be reported and treated under isolation, with specimens sent to CHP for testing.

Measles vaccination programme of the health care staff of HA will commence next week. Vaccinations will be provided to staff working in high risk departments, such as paediatrics, obstetrics and gynaecology, haematology, clinical oncology, intensive care units and isolation wards in the first phase.

The Department of Health will maintain close liaison with two vaccines suppliers to strive for a steady supply to the children under the routine Hong Kong Childhood Immunisation Programme ("HKCIP"), people working at the airport, health care staff at HA who have higher priority for measles vaccination.

- (2) In view of the recent cases of measles infection at the Hong Kong International Airport, CHP has immediately liaised with relevant airline company and confirmed that it has the established guidelines which stipulate sick staff should not go to work. CHP has requested the relevant airline company to reinforce the education of relevant guidelines among staff to protect public health. According to the Prevention and Control of Disease Ordinance (Cap. 599), measles is one of the 50 statutorily notifiable infectious diseases in Hong Kong. All registered medical practitioners are required to notify CHP of all suspected or confirmed cases of these diseases for the purpose of disease control.

Lastly, I wish to appeal here that members of the public who are planning to travel to places with high incidence or outbreaks of measles should review their vaccination history and past medical history, especially people born outside Hong Kong who might not have received measles vaccination during childhood. Those who have not received two doses of measles-containing vaccines, with



unknown vaccination history or with unknown immunity against measles are urged to consult their doctor for advice on vaccination at least two weeks before departure. Pregnant women and women preparing for pregnancy who are not immune to measles as well as children aged below one who are not due for the first dose of the Measles, Mumps and Rubella combined vaccine under HKCIP are advised not to travel to places with outbreaks of measles.

The incubation period of measles ranges from 7 days to up to 21 days. Contacts who are not immune to measles may develop relevant symptoms, such as fever, skin rash, cough, runny nose and red eyes, in the incubation period. They should observe if they develop such symptoms in the period. If symptoms arise, they should wear surgical masks, stop going to work or school and avoid going to crowded places. They should avoid contact with non-immune persons, especially persons with weakened immunity, pregnant women and children aged below one. They should also report their symptoms and prior travel history to the health care staff so that appropriate infection control measures can be implemented at the health care facilities to prevent any potential spread.

**DR ELIZABETH QUAT** (in Cantonese): *President, I urge the Government not to underestimate the risk of measles outbreak in the community and the local demand for vaccines. Recently, members of the public have kept complaining to me about the difficulty of getting a shot, and outbound travellers are particularly anxious about failing to receive vaccination. Worse still, according to the press report today, experts suspect that the Philippines may be the source of measles epidemic. I am aware that many employers of foreign domestic helpers ("FDHs") are hence very anxious, holding that FDHs should be vaccinated before coming to Hong Kong. I hope the Government will be adequately prepared for the situation.*

*Does the Secretary know the number of measles vaccines in Hong Kong at the moment? Will the Secretary centralize the procurement of vaccines by bargaining with the vaccine suppliers for an earlier supply of vaccines to Hong Kong so as to ensure a sufficient supply? In respect of vaccination for FDHs, what contingency measures will be taken by the authorities?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Dr Elizabeth QUAT for her supplementary question. Regarding the supply of vaccines, DH has maintained close liaison with the vaccine suppliers. As I said

just now, the vaccines now available in Hong Kong will mainly be provided to the following three target groups.

The first group is the target staff of the airport, i.e. those who were born in Hong Kong from 1967 to 1984, have not received two doses of measles vaccines, and have not been infected with measles before. This is the most important group as there has been an outbreak of measles cases in the airport lately.

The second group is children under the routine HKCIP. As we have to protect our children in Hong Kong, we must reserve some vaccines for them.

The third group is the health care staff of HA. Given that they are exposed to higher risk of infection at workplace, they need to have immunity to measles not only to protect themselves but also to protect patients. They are therefore given priority in vaccination.

Meanwhile, the vaccine demand of prospective outbound travellers and FDHs mentioned by Dr Elizabeth QUAT earlier (i.e. all of those who will come into contact with the relevant countries) has not been underestimated. We have learnt from the vaccine suppliers that a total of 31 000 doses of vaccine were distributed to private clinics or private doctors last week and that they would continue to distribute more than 10 000 doses of vaccine.

DH and HA have, of course, reserved sufficient vaccines for the three major high-risk groups stated above. To safeguard future supply, DH has promptly liaised with the two vaccine suppliers and new vaccines will deliver to Hong Kong in a couple of days. By mid-April, some 30 000 doses of vaccine are expected to reach Hong Kong for local use. Yet, it will then take a longer time for more vaccines to arrive in Hong Kong. After the delivery of the first batch of vaccines to Hong Kong in April, the next batch of over 10 000 doses may arrive in June for the use of private hospitals or clinics.

As the supply of measles vaccines are extremely tight, DH has constantly maintained close liaison with the vaccine suppliers. However, we hope Members will understand that vaccine supply is tight not only in Hong Kong but around the world owing to large and small measles outbreaks worldwide. Noting an increase in local measles cases, SCVPD of DH has quickly scheduled a meeting in April to discuss the proposal to provide vaccination for adults who are non-immune to measles; and CHP will keep an eye on the overall situation.

**PRESIDENT** (in Cantonese): Dr QUAT, which part of your supplementary question has not been answered? Have you put on your microphone?

**DR ELIZABETH QUAT** (in Cantonese): *I have put on my microphone, but it was not switched on.*

*President, the Secretary has not answered my question. What kind of contingency measures will be taken for the 380 000 FDHs in Hong Kong?*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I will add a few words. I thank Dr Elizabeth QUAT for her question. CHP has in fact advised that FDHs who are non-immune to measles should receive MMR vaccine, preferably before they arrive in Hong Kong. In this connection, CHP wrote to all FDH employment agencies, urging them to ask FDHs to receive vaccination before coming to Hong Kong. The Labour Department ("LD") was also contacted immediately to make a stronger appeal in this regard. For FDHs who fail to receive vaccination in time, they may consult a doctor after arriving in Hong Kong.

CHP has also advised FDH employment agencies to consider adding the assessment of immune status against measles or the aforesaid MMR vaccination as additional items in the pre-employment medical check-up package. This appeal has been made by CHP for years. Moreover, CHP has written to all FDH employment agencies in Hong Kong, informing them of the relevant recommendations and urging them to provide leaflets on MMR vaccine and measles health education for the reference of prospective employers by, say, enclosing such leaflets in the existing employer information kit. Relevant information has also been uploaded to CHP's measles page and LD's FDH page.

President, as I said just now, we have contacted the Commissioner for Labour immediately and he will write to the FDH employment agencies again.

**DR HELENA WONG** (in Cantonese): *President, my question for the Government is whether the existing vaccine stock is sufficient and whether the Government will provide measles vaccination for young children below Primary One and members of the public born between 1967 and 1985 as well as new arrivals? The reply of the Government is that it will focus on providing vaccination for the priority groups, i.e. the high-risk groups. The Secretary seems to say that there are only several ten thousand vaccines in Hong Kong. This number of vaccines cannot even meet the demand of HA's and AA's staff because HA alone has several ten thousand staff, not to mention the staff of AA. The existing vaccine stock is hence far from sufficient.*

*Besides, according to the main reply of the Secretary, the second dose of MMRV vaccine cannot be provided to young children below Primary One until the first half of 2020. As for the private health care market, the Secretary has just said that if FDHs or non-high-risk persons wish to receive ...*

**PRESIDENT** (in Cantonese): Dr Helena WONG, please raise your supplementary question and stop giving comments.

**DR HELENA WONG** (in Cantonese): *President, I would like to ask the Secretary: Given that the measles epidemic has lasted for months in different parts of the world, why didn't the Government take an earlier action to request for additional vaccine supply from suppliers? As vaccines are now in short supply, vaccination can only be provided for the high-risk groups. For those who are of low risk, they cannot receive vaccination even if they so wish. How will the authorities compete for measles vaccines with the whole world to protect the persons in need?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Dr Helena WONG for her supplementary question.

Despite my earlier reply, I would like to further elaborate on the recommendations of WHO. First of all, the coverage rate of measles vaccination in a particular country or place should be considered. Secondly, the number of measles cases has to be taken into account. These are the two major factors for considerations. In the case of Hong Kong, as I said earlier, the

coverage rate of measles vaccination is very high, which means that the overall immunity against measles among Hong Kong people is high. We should first understand this point.

Furthermore, in countries with low risk of measles transmission, the first dose of measles vaccine should be administered at the age of 12 months. The present arrangement in Hong Kong is that children will be given two doses of vaccine at the age of 12 months and at Primary One respectively. According to the recommendation of WHO, the second dose of measles vaccine can be given to children at the age of 15 to 18 months or at the time of school entry.

In view of this recommendation from WHO, we consider that advancing the time of vaccination can give young children better protection. DH is thus planning to advance the second dose of vaccine to children at the age of 18 months. If this plan is taken forward, young children will, after receiving their first dose of vaccine at the age of 12 months, receive the second dose at the age of 18 months. For young children who are over 18 months, they will have to wait till Primary One to receive their second dose of vaccine. Considering that the demand for vaccines will hence be boosted, DH will only take forward this plan to provide the second dose of vaccine to young children below Primary One at the beginning of 2020 when a sufficient supply of vaccines can be ensured. We should understand that it takes time to order vaccines and ensure a stable supply.

Regarding the supply of vaccines, as I said just now, our vaccine supply will mainly be used to vaccinate the three target groups; other categories of people will have to receive vaccination at private clinics. Over the past week, the vaccine suppliers had provided 31 000 doses of vaccine to private clinics, and more than 10 000 doses of vaccine will be provided to the private health care market this week. On the part of DH and HA, we have reserved additional vaccines particularly for the three aforesaid groups. We were prompt in ordering vaccines and had acted proactively. Otherwise, we will not have about 30 000 doses of vaccine arriving in Hong Kong in April.

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

**DR HELENA WONG** (in Cantonese): *President, my supplementary question is whether there are sufficient vaccines, but the Secretary's reply seems to suggest that the present supply is simply insufficient ...*

**PRESIDENT** (in Cantonese): Dr WONG, the Secretary has already answered your supplementary question. Please sit down.

**DR PRISCILLA LEUNG** (in Cantonese): *President, it seems that the Government has been slow to react to the outbreak of measles. In the United States, some states have already declared a state of emergency. Outbreaks of measles epidemic have occurred not only in the Philippines as mentioned by a Member, but also in Israel, right? Thus, I think the problem has not only occurred in one particular country.*

*At present, has the Government got hold of the information of all inbound travellers, including the number of travellers who have not received measles vaccination? The Secretary mentioned a high-risk group which includes people from countries such as the Philippines which export services of FDHs; have the authorities obtained information on the number of FDHs currently in Hong Kong who have not received measles vaccination? If these people wish to be vaccinated, will the authorities provide vaccination to them free of charge?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Dr Priscilla LEUNG for her supplementary question. First of all, the current rate of vaccination in Hong Kong is generally high and thus, our overall immunity to measles is rather high. Before 1967, measles was an endemic disease and so many people born before that year had been infected with the disease and had developed immunity to measles. People born after 1984 should have developed immunity to the disease as well because Hong Kong introduced HKCIP in that year. Therefore, at present, our main target groups include people who were born abroad; or people who were born in Hong Kong between 1967 and 1984 but have not received two doses of measles vaccines and have not been infected with measles before. These people belong to our target groups.

Regarding inbound travellers, as I have pointed out in the main reply, we would advise them to seek medical attention if they have a fever or other symptoms. DH has also set up infrared thermal imaging systems at boundary control points for body temperature checks on inbound travellers. If any travellers are found to have a fever, we would immediately ask them to seek medical attention and keep them under observation. In addition, we would also appeal to all medical practitioners to immediately report to CHP if they notice any such problems on inbound travellers, so that CHP can keep abreast of the latest epidemic situation.

I understand that Members are very concerned about the vaccine stock. As I have reported earlier, CHP has tried its best to procure vaccines and has liaised with the vaccine suppliers every day to ensure the supply of vaccines to us.

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

**DR PRISCILLA LEUNG** (in Cantonese): *The Secretary has not answered my question at all. I asked her about the number of people concerned but not the vaccine stock. Have the authorities obtained information on the number of people?*

**PRESIDENT** (in Cantonese): Dr LEUNG, you have pointed out the part of your supplementary question which has not been answered. Please sit down. Secretary, can you provide the relevant figures?

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Regarding the exact figures, CHP is now focusing on personnel working at the airport because we have noticed an increasing number of measles cases at the airport and we should focus on handling the problem. Should there be another round of outbreak of measles epidemic at the airport, I believe it would not be good to public health on the whole. I think CHP has now obtained information of the measles cases at the airport and thus it is necessary for us to reserve vaccines for personnel working at the airport or related persons.

**DR PRISCILLA LEUNG** (in Cantonese): *May I ask the Secretary to provide the relevant figures in due course.*

**PRESIDENT** (in Cantonese): Dr LEUNG, please sit down. Secretary, if the figures are available, please provide them to the Legislative Council afterwards.

**MS CHAN HOI-YAN** (in Cantonese): *I think the Government's attitude and speed in handling the epidemic are worrying, and some experts on infectious diseases have also expressed concerns. The Secretary mentioned two points earlier. First, the rate of vaccination in Hong Kong is high and people have high immunity because a sound immunization programme has been implemented in Hong Kong since 1967. However, according to figures released yesterday, people infected with measles at the airport are aged 22, 23, 25 and 41 respectively; all of them were born after 1967 and with unknown vaccination history. In other words, the current protection of vaccines is simply insufficient. This is my first point.*

*Second, regarding the vaccine stock mentioned by the Secretary ...*

**PRESIDENT** (in Cantonese): Ms CHAN, please put your supplementary question directly.

**MS CHAN HOI-YAN** (in Cantonese): *... the authorities should admit that the current vaccine stock is really insufficient. As many as 70 000 people are now working at the airport and there are about 400 000 FDHs working in Hong Kong. Given the shortage of vaccines, may I ask the Secretary: First, in order to enhance protection under the current limited supply of vaccines, will the authorities adopt some exceptional measures, such as urging all people travelling to and from the airport to wear masks, so as to prevent the disease from spreading by air? We cannot rely solely on an inadequate supply of vaccines for protection.*

*Second, Easter holidays for kindergartens will commence soon. Many kindergarten teachers may not be vaccinated and kindergarten students may only have received one dose of vaccine ...*



**PRESIDENT** (in Cantonese): Ms CHAN, you have already raised one supplementary question. Secretary, please reply.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, regarding the effectiveness of vaccination, CHP is now conducting an investigation on some of the 20-odd cases. Nevertheless, the protection of all vaccines, particularly measles vaccines, is not 100%. The effectiveness of vaccines may be about 3% less or the level of protection will basically reach 97%, and the situation is the same around the world. Certainly, apart from relying on vaccination, we will also adopt other measures.

As stated by Ms CHAN a moment ago and I have also raised the same point, wearing masks is an effective precautionary measure. Certainly, we know that measles can be transmitted through the air, but apart from that, it can also be transmitted through oral or nasal secretions. Thus, I urge members of the public, particularly those working at the airport, to wear masks. This will not only protect them, but also prevent the disease from transmitting to others during the incubation period if they are infected. Thus, wearing masks is a good measure, particularly for people who have plans to go abroad but have yet to receive vaccination.

Given that there are many outbound travellers during the long holidays and some FDHs have to take care of young children who belong to the target groups whom we are most concerned about, we have thus urged the vaccine suppliers to expeditiously provide vaccines to the private health care market so as to stabilize the supply. At the same time, I urge members of the public, whether they are travelling aboard or not, to wear masks for that is a good precautionary measure if they are worried about being infected.

**MR IP KIN-YUEN** (in Cantonese): *President, the Secretary mentioned earlier that the ideal practice is to administer the first dose of vaccine to children when they are 12 months old, to be followed by the second dose at the age of 18 months. The current practice of the Government is to administer the first dose at birth and the second dose at Primary One. In other words, there is a gap between the ideal approach and the actual practice. Children will face greater risks from the age of 18 months to the time they are at Primary One because*

*during this period, they have only received the first dose of vaccine and have yet to receive the second dose. This situation is worrying, particularly when many children are taken care of by domestic helpers.*

*In this connection, does the Government have any short-term or long-term plans to align HKCIP with the ideal practice? Will the Government administer the second dose of vaccine to children when they are at kindergartens? Or does the Government have any other way to plug the loophole in respect of the time gap?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, there is actually no gap between the current arrangement and the ideal practice. According to the latest recommendations given by WHO, depending on the coverage of vaccination and the extent of measles outbreak in the country, children can receive the second dose at primary school, or earlier at the age of 15 to 18 months. After reviewing the recommendations, experts of DH consider that if children can be vaccinated earlier at the age of 15 to 18 months, the effectiveness will be enhanced. Thus, the Government has decided that the corresponding arrangement will commence in 2020.

MMR vaccine currently used in Hong Kong can prevent the three types of infectious disease, namely measles, mumps and rubella. According to information of the Centers for Disease Control and Prevention of the United States, after a child has received the first dose of MMR combined vaccine at the age of one year old, the effectiveness of preventing measles is 93%; and it can reach the higher mark of 97% after the second dose.

CHP has decided that starting from 2020, the time for administering the second dose of vaccine will be advanced from Primary One to 18 months. Nevertheless, we have to understand that after the introduction of this measure, children over 18 months will still receive the second dose at Primary One under the existing mechanism. During the same period of time in the future, we will need more vaccines. To ensure a stable supply of vaccines, we need time to make arrangement. We have decided to start implementing WHO's recommendation in 2020, but at the initial stage of implementation, the result will depend on various factors.

**MS TANYA CHAN** (in Cantonese): *President, after reviewing the information on infected persons published by the Government, I am a bit worried. I belong to the high-risk age group, but I remember that I had been infected with measles. My mother confirmed this fact as I had a high temperature on the eve of Chinese New Year, and the impression was long lasting. Since I had been infected with measles, I should have immunity against the disease.*

*However, after seeing the figures, I am a bit worried. Yesterday, the Government announced that one of the persons affected is a lady aged 25 who has not travelled abroad and had received two doses of vaccine before. She should belong to the safer group. I would like to know if the Government has grasped the information on the types of people who have to be vaccinated again. In particular, people older than me will only have immunity if they had been infected with measles. Does the Government have any ideas about the number of people who may potentially be infected? As the 25-year-old lady has been infected although she has not travelled abroad, does the Government know the probability of local transmission of measles?*

**PRESIDENT** (in Cantonese): Ms CHAN, you have put your supplementary question. Please sit down.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Ms CHAN for her supplementary question. In some of the 26 cases, it has not been confirmed whether the patients had received the second dose of vaccine and CHP is still making enquiries. Some patients said that they had received the first dose, but they could not be sure whether they had received the second one. First of all, we will make enquiries. Second, even if members of the public had received measles vaccination, generally the vaccines might not provide 100% protection, but only 97%. Thus, people might still be infected owing to the 3% gap. Therefore, it is most important to call upon members of the public to receive vaccination. For those who belong to the age group I mentioned earlier; have not received two doses of vaccines and have not been infected with measles before, they are our target groups. WHO considers that if the vaccination coverage of a country or a place is very high, people will have high immunity against measles. Since the vaccination coverage in Hong Kong is very high, Hong Kong people in general have sufficient immunity against the disease.

**DR PIERRE CHAN** (in Cantonese): *President, I would like to thank colleagues of CHP for producing urgently an online information kit to provide the public with useful information. Measles has long been an endemic illness in different places of the world, including Malaysia and the Philippines in Southeast Asia and European countries. A research in 2018, however, found that measles outbreaks in various states of the United States might be caused by vaccine hesitancy among local parents.*

*As anti-vaxxers may have provided specious data or evidence to argue against the effectiveness of vaccination or talk others out of receiving vaccination, thereby leading to measles outbreaks, how will the Government or CHP deal with the untrue information spread online or through mobile phones? In fact, similar problems had also happened with regard to other infectious diseases.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Dr CHAN for raising this supplementary question. In my view, vaccination is the most effective way to prevent measles. As just stated by Dr CHAN, members of the public may visit CHP's web page to obtain clear information should they have any misunderstanding of vaccination or have listened to anti-vaccination views from overseas countries. Of course, we should also step up our publicity and education efforts more actively so that parents and members of the public can learn about the true picture and the fact that vaccination is the most effective way to prevent infectious diseases like measles and influenza. We will step up our publicity efforts in this regard. Members of the public may also refer to the relevant information on CHP's web page.

**PRESIDENT** (in Cantonese): This Council has already spent one hour on the urgent questions raised today; yet, there are still 12 Members waiting for their turn to ask questions. I will allow these 12 Members to raise their supplementary questions. After that, the urgent question session will come to a close and we will immediately proceed to the first oral question.

I urge Members to be brief in raising questions and the Secretary to be concise in giving replies.

**PROF JOSEPH LEE** (in Cantonese): *President, the Secretary has provided lots of information on measles; yet, regarding the 20-odd measles cases, is there any information to indicate whether the patients concerned have received vaccination before, the types of vaccines that they have received and whether they have been infected with measles? President, according to the press reports today, genotypes D3 and D8 measles virus are associated with the current measles outbreaks, with the former being endemic in the Philippines and the latter in Japan. Given that many people in Hong Kong travel abroad, the lack of such information will disallow them to know whether their previous vaccination can effectively protect them against measles. I learnt a moment ago that there will still be a 3% chance of infection after vaccination. If vaccination cannot fully protect us from infection, what should we do? Are the vaccines now available effective in protecting against genotypes D3 and D8 measles virus?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, I thank Prof LEE for his supplementary question. According to the information provided by CHP, the measles vaccines now available can protect us from genotypes D3 and D8 measles virus.*

**MR POON SIU-PING** (in Cantonese): *President, the recent outbreaks of measles around the world cannot be taken lightly. Although the Government says that children, airport staff and HA's staff will be given priority in measles vaccination, the Airport Air Freight Employees' Association has reflected to me their worries over infection among staff.*

*Despite the Bureau has indicated that since yesterday, the daily vaccination quota would increase from 700 to 1 300, staff members are still worried. Based on this quota, it will take more than 50 days to vaccinate over 70 000 staff members. This arrangement is hence grossly inadequate in their view. Can the Government further increase the quota to shorten the time required for vaccinating airport staff, so that their safety and health can be safeguarded expeditiously?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *I thank Mr POON for his supplementary question. In fact, over the past few days, DH, CHP and AA have been meeting frequently to review the operation arrangement of the vaccination stations. As I said just now, DH has deployed extra manpower and*

increased the vaccination quota from some 700 to more than 1 300. Apart from deploying extra manpower, we have also provided an additional vaccination time slot from 6:00 pm to 9:00 pm to supplement the original service hours which end at 5:00 pm. We will further discuss with AA to see if additional space can be designated for vaccination, so as to speed up and improve our current arrangement.

**MS YUNG HOI-YAN** (in Cantonese): *President, young children belong to the extremely high risk group in times of measles outbreak as they will only receive the first dose of vaccine at the age of 12 months while the second dose will not be given to them before Primary One. In other words, they do not have any immunity from measles before the age of 12 months. I have consulted a doctor on this point and the advice is that vaccination before the age of 12 months is ineffective because it will not produce antibodies in young children. My question for the authorities is: Will priority be accorded to women who are pregnant or planning for pregnancy, and high-risk people born between 1967 and 1984 for measles vaccination?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Ms YUNG Hoi-yan for her question. It is our plan to provide existing vaccines mainly to the major target groups. However, for those women who are pregnant or planning for pregnancy as mentioned by Ms YUNG just now, my first suggestion to them is that they should not visit any countries plagued by measles outbreaks. Secondly, they should note that the vaccine suppliers are already urged to provide vaccines as soon as possible. Although more than 30 000 doses of vaccine were already provided to the private health care market last week, we are urging the vaccine suppliers to provide the remaining 10 000 doses or so to the private market so that this group of people can receive vaccination.

While the Government has made vaccination arrangements for the three aforementioned target groups, including airport staff and health care staff of HA, we hope that other people can receive vaccination in the private market. For those who belong to the target groups, if they have yet to receive vaccination but are worried about measles infection, I will advise them to take personal protective measures, such as wearing masks. This is also an effective way to prevent measles.

**MR CHAN CHI-CHUEN** (in Cantonese): *President, at present, people's greatest concern is not knowing whether they have been vaccinated or not. CHP has done a very good job in making a chart to indicate who may likely have been or have not been vaccinated. I belong to the category of not knowing whether I had received the second dose of vaccine. I would not know if I have the antibody unless I could find the relevant vaccination record or have a blood test at a clinic. However, such records should be kept in the electronic health records ("eHRs") introduced in recent years, but the electronic health record sharing system can only be accessed by health care workers or doctors. Some members of the public ask if they can directly search online their own eHRs, so as to find out certain simple information such as their vaccination records to allay their worries expeditiously.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, I thank Mr CHAN for his question. Mr CHAN has raised a very good question. At present our eHRs are only accessible by health care workers and these records can be shared by the private and public health care systems. This is the Stage One development. As for Stage Two development, we are now working to set up a platform for patients to look up their own health records. The preparation work of the platform is in full swing.*

**MS ALICE MAK** (in Cantonese): *President, the Secretary has mentioned the arrangement concerning the vaccination of children in Hong Kong. But according to some colleagues, people born after 1967 do not know whether they had received one or two doses of vaccine. Besides, the Secretary may also be aware that in recent years, some young parents do not believe in vaccination and refuse to let their children be vaccinated for fear of the side effects arising from vaccination. The outbreak of measles in the United States is mainly due to the trend of vaccine hesitancy.*

*Now this trend has spread to Hong Kong. Some parents do not believe in vaccination and refuse to let their children be vaccinated. What can the Government do to convince these parents the genuine benefits of vaccination? If children have not received any vaccination since their birth, and given that the current situation has aroused the concerns of their parents, is it still feasible for these children, being five or six years old, to receive vaccination now? If a child*

*has never received any kind of vaccination and wants to receive all types of vaccines now, what can be done? Will the authorities provide the relevant information to the parents concerned?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Ms MAK for her question. As a matter of fact, we are also aware that there is a global trend of anti-vaccination. I must reiterate here that vaccination is the best way to prevent many infectious diseases. Of course, any vaccine may have side effects, but generally speaking, the merits of vaccination are greater than the side effects that may arise. The website of CHP provides a great amount of information in this regard. In response to Ms MAK's question about whether we will take proactive actions to provide more information to parents with inadequate understanding of vaccines, we will discuss with CHP to see what can be done to effectively enhance the publicity and education in this respect.

**MR KWOK WAI-KEUNG** (in Cantonese): *As we all know, there have been some 150 cases of measles infection in Rockland, a suburban area in the United States. The local authorities have banned people aged below 18 who have not been vaccinated for measles from going to public places as a corresponding measure. Just now, the Secretary has answered various supplementary questions about the vaccine stock and which groups of people should take special precautions. May I ask how the authorities determine that there will be an outbreak of further epidemic that warrant enhanced measures, and whether we have made any contingency plan for such measures?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Mr KWOK for his supplementary question. We have so far recorded 26 cases of measles infection, which is certainly higher when compared with that of the past three years. However, we have noted a similar situation in the past after checking the records. In 2014, Hong Kong also recorded 50 measles cases. As the current outbreak has mainly emerged at the airport, we are particularly concerned about people working at the airport. As at 26 March, CHP has recorded a total of eight measles cases involving staff of the airport or of the airlines. According to the epidemiological investigations of CHP, all cases have been found to be at their incubation periods, and the persons concerned have had no contacts with



confirmed measles patients. In some cases, the persons concerned have made no outbound travels during the incubation period or the infectious period. Initial epidemiological investigations also reveal an overlap between the incubation period and the infectious period in these cases.

CHP will continue to closely monitor the situation. First, there is a daily notification mechanism between CHP and HA, and letters have been sent to all medical practitioners requiring them to notify CHP of all suspected or confirmed cases detected. CHP will keep monitoring this figure. We believe that vaccination is an effective way to address the outbreak of measles at the airport. For this reason, we have reserved vaccines for people working at the airport, particularly those in the relevant age cohort. As I said just now, we will also reserve vaccines for people who have not received the two doses of vaccine and who have not been infected with measles. Certainly, as I also mentioned just now, we will also reserve vaccines for health care personnel of HA and targets of HKCIP.

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

**MR KWOK WAI-KEUNG** (in Cantonese): *President, obviously the Government has not made any contingency plan. I hope the Bureau will draw up a contingency plan as soon as possible.*

**PRESIDENT** (in Cantonese): Mr KWOK, this is not part of your supplementary question. Please sit down.

**MR LUK CHUNG-HUNG** (in Cantonese): *The Staffs and Workers Union of Hong Kong Civil Airlines, a member union of The Hong Kong Federation of Trade Unions, has closely liaised with AA and DH over the past several days. The Union is concerned about the provision of vaccination to people working at the airport. While the mechanism for vaccination has indeed been improved, we have still received enquiries from quite a number of people working at the airport or in the vicinity of boundary checkpoints about whether they can be vaccinated.*

*These people include taxi drivers, drivers of non-franchised buses and motorists. We are gravely concerned in this regard. In our view, the Government has failed to make an adequate assessment about the number of people working at the airport who want to or need to receive vaccination, resulting in long queues of people these days. Yesterday I personally inspected ...*

**PRESIDENT** (in Cantonese): Mr LUK, please state your supplementary question and do not make arguments.

**MR LUK CHUNG-HUNG** (in Cantonese): *I get it. I have one more question. The early symptoms of measles are ...*

**PRESIDENT** (in Cantonese): Mr LUK, please state your supplementary question directly and do not make arguments.

**MR LUK CHUNG-HUNG** (in Cantonese): *I get it. The early symptoms of measles are similar to those of common cold, influenza and fever. Some employees go to work after taking drugs for influenza or antipyretics as they do not want to have their wages deducted. Will the Government ask employers or companies under AA to introduce a special mechanism for this period, so that employees taking one-day sick leave will also be entitled to sickness allowance? Under the existing labour legislation, an employee will only be entitled to sickness allowance if he has taken sick leave for not less than four consecutive days. Can employees taking one-day sick leave be entitled to get four fifths of their daily wages, so that they do not have to go to work in spite of illness?*

**PRESIDENT** (in Cantonese): I think your question is not related to the subject of the urgent question.

**MR LUK CHUNG-HUNG** (in Cantonese): *Why can't I put this question to the Secretary? President, I hope that the Food and Health Bureau ...*

**PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, please state your question.

(Mr LUK Chung-hung indicated his wish to further raise a question)

**PRESIDENT** (in Cantonese): Mr LUK, your question has deviated from the subject of the urgent question. Please sit down. Dr KWOK Ka-ki, please state your question.

**DR KWOK KA-KI** (in Cantonese): *President, we thought that Hong Kong should have become smarter after the SARS and avian flu epidemics. WHO already warned about the increasing number of measles cases in 2016 and the measles outbreaks in the Philippines in 2018. In 2013, WHO recommended that all children be vaccinated at the age of 18 months but the Government has never taken any action. President, we now have 1 million new arrivals and 200 000 Philippine domestic helpers in Hong Kong. If a Philippine domestic helper returns to her homeland tomorrow and the family she is serving has a child under six years old who has not received the second dose of vaccine, what should she do if she wants to receive vaccination, which is either unavailable in the market or she has to pay \$1,600 for one single jab. Another person is an airport staff. Among the 70 000 people working at the airport, the Government has only provided vaccination to 2 000 people only so far. The person in question is restless with anxiety when he goes to work every day. May I ask the Secretary how he will help the two aforesaid if they approach you for help tomorrow?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Dr KWOK for his supplementary question. As a matter of fact, we are greatly concerned about the present situation and CHP has made an all-out effort to carry out various measures and actions. In view of the current vaccine stock and the measles outbreak at the airport, we consider it necessary to accord priority in vaccinating the three target groups that I mentioned earlier. First, children under HKCIP. Second, people working at the airport who have no immunity against measles. This does not apply to all staff, but only those born in Hong Kong from 1967 to 1984; have not received two doses of measles vaccination and have not been infected with measles. Third, staff of HA. In respect of the persons

mentioned by Dr KWOK a moment ago, we have deployed extra manpower and provided an additional time slot for vaccination of staff of the airport. We have also actively negotiated with AA to see if additional space can be designated for vaccination. When more manpower is available, more vaccination service can be provided. Besides, the private clinic at the airport can also provide vaccination service, so that the vaccination of airport staff can be improved.

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

**DR KWOK KA-KI** (in Cantonese): *I was asking about tomorrow. Airport staff are already on pins and needles. What is going to happen tomorrow? The Government has no answer. The Philippine domestic helper is returning to the Philippines tomorrow, what should she do? The Government has no answer. Their only option is to pay \$1,600 for a shot. Is that the answer? My supplementary question is: "What should be done tomorrow?"*

**PRESIDENT** (in Cantonese): Dr KWOK, you have 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 FOOD AND HEALTH** (in Cantonese): President, I have already said at present, our prime concern and priority is the three target groups. We also hope that if FDHs want to return to the Philippines, they should slightly postpone their trip because a new batch of vaccine will arrive in Hong Kong in April, which is the first point. The other point is that we have urged LD to write to intermediaries for FDHs, reminding that FDHs should be vaccinated against measles before coming to Hong Kong.

(Dr KWOK Ka-ki stood up and intended to ask again)

**PRESIDENT** (in Cantonese): You have already asked your supplementary question and the Secretary has answered. If you are not satisfied, you can follow up on other occasions.

There are still five Members waiting for their turn to ask supplementary questions; they are Mr LEUNG Che-cheung, Mr HO Kai-ming, Mr Gary FAN, Mr WU Chi-wai and Mr Holden CHOW. After these five Members have asked questions, the session for urgent questions will come to an end and we will proceed immediately to the first oral question. I would like to call upon Members to keep their questions short and I would also like to ask the Secretary to answer concisely.

**MR LEUNG CHE-CHEUNG** (in Cantonese): *Secretary, the outbreak of measles does not only plague Hong Kong but also countries such as the United States and the Philippines. At present, there is insufficient manpower to provide vaccination against measles. With the delivery of vaccines to Hong Kong in April, people will scramble to receive vaccination. Will there be sufficient health care workers to cope with the situation? This is a very practical issue. Besides, will the Government request inbound visitors, especially those from the United States and the Philippines, to produce proofs of vaccination against measles?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): With regard to the priority target groups at the present stage, we have the manpower to provide vaccination. We will also continue to deploy more manpower to the airport, in the hope of expeditiously vaccinating airport staff having no immunity against the disease. We have been providing this service all along. When the vaccine arrives in Hong Kong in April, some of them will be distributed to the private sector and so far we have not heard of manpower shortage in the private health care sector. The biggest problem at the moment is to secure an adequate supply of vaccines.

**MR HO KAI-MING** (in Cantonese): *President, first of all, I hope that the Secretary will expeditiously recover from her hand injury, or else many problems in Hong Kong cannot be adequately handled. In recent years, the problem of*

*disease transmission in Hong Kong has become serious. Presently, there is an outbreak of measles epidemic, and the major outbreak of influenza each year has overburdened our public health care system. Rampant rodent infestations are reported in the press each day and mosquito infestations have become endemic since last year. Secretary, a proper way to prevent measles is to maintain personal hygiene, including wearing masks and washing hands frequently, and we can prevent the spread of diseases by improving the hygienic conditions of the entire city. Will the Secretary invite the Chief Executive to reactivate the Team Clean campaign that was once implemented years ago, so as to enhance the awareness of hygiene among Hong Kong people, various departments and other stakeholders, and put an end to the transmission of epidemic diseases, including measles, in Hong Kong? In other words, can we put an end to disease transmission apart from providing vaccination?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, Mr HO Kai-ming has raised a very important question about environmental hygiene at local communities. In fact, we have allocated resources for the Food and Environmental Hygiene Department to improve hygienic conditions in the communities. Apart from receiving vaccination, wearing masks and washing hands frequently as mentioned just now, people should immediately seek medical treatment when having respiratory symptoms. All these are appropriate actions to be taken. Members of the public can visit CHP for more information on vaccines, cases of measles infection and health education. CHP has also set up a hotline for enquiries from members of the public.

**MR GARY FAN** (in Cantonese): *The Secretary has mentioned a high vaccination take-up rate and WHO time and again in the main reply, and pointed out that the outbreak of measles epidemic in the Philippines and the United States is attributed to vaccine hesitancy. WHO has even listed vaccine hesitancy as one of the top 10 threats to global health in 2019. Apart from enhancing publicity as mentioned just now, what other corresponding measures will the Government take? Last year Italy surprisingly enacted legislation to formulate a "no vaccine, no school" initiative. Has the Government considered any long-term initiative to cope with vaccine hesitancy?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, we are certainly concerned about vaccine hesitancy, as the vaccination rate will be affected if many people have this way of thinking. In Hong Kong, the rate for measles vaccination, particularly the take-up rate among children, is now over 90%, which is relatively high. CHP has to, on the one hand, find out if there are such parents and their numbers, and on the other hand, take the initiative to undertake some work to enhance the parents' understanding of the protection of vaccines and the side effects that may arise, so that they may change their mind. We are gravely concerned about this issue, and CHP will also step up its work in this regard.

**MR WU CHI-WAI** (in Cantonese): *President, after a person is diagnosed with measles, the Government will put, other patients and friends whom the person has recently come into contact as well as family members residing with the person concerned, under medical surveillance. In the Lok Fu case, a patient was diagnosed with measles on 23 March, yet he attended different clinics on 20 March and 21 March respectively. Does the medical surveillance only cover the doctors and nurses concerned; or will all other patients present at the clinics at the same time be covered as well?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, CHP has formulated guidelines on medical surveillance. Generally speaking, the surveillance covers all contacts of the patient. Specific questions will be put to the patient about the time he spent with his contacts, and the scope of the surveillance will be determined accordingly.

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

**MR WU CHI-WAI** (in Cantonese): *Will patients present at the clinics at the same time be covered under the medical surveillance?*

**PRESIDENT** (in Cantonese): Mr WU, you have 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 FOOD AND HEALTH** (in Cantonese): I have nothing special to add. As I said just now, we will put detailed questions to the patient on the places he visited, the people he had come into contact with and the time he spent with them, so as to identify the persons to be put under surveillance. CHP has established guidelines on conducting surveillance in this regard.

**PRESIDENT** (in Cantonese): Last Member. Mr Holden CHOW, please state your question.

**MR HOLDEN CHOW** (in Cantonese): *Secretary, first, since the airport is one of the places having an outbreak of measles, I hope the Secretary will ensure that people working at the airport will receive measles vaccination as soon as possible, and I would also like to ask the Secretary to provide the number of vaccines reserved. Tung Chung is close to the airport. Luckily no community outbreak of measles has been reported in Hong Kong, but we should attach great importance to this matter and prevent any community outbreak. As infants and children are high-risk persons, may I ask the Secretary whether she has made any assessment on primary schools and maternal and child health centres in Tung Chung, so as to ensure that infants and schoolchildren can receive measles vaccination? Has she made any assessment in this regard?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Mr Holden CHOW for his supplementary question. Just now I mentioned that one of the priority target groups for measles vaccination are children under the routine HKCIP. We are particularly concerned about this group. We will ensure that all children in this group will receive vaccination, so that the vaccination rate will be maintained at a high level.



## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions. First question. Mr Paul TSE has given me advance notice that the question standing in his name will be asked by Ms Starry LEE on his behalf. I now call upon Ms Starry LEE to raise the first question.

### **Defaults on payments owed to the Government and public organizations**

1. **MS STARRY LEE** (in Cantonese): *President, last year, a Mainland woman was sentenced to imprisonment and ordered to pay legal costs of almost \$200,000 for taking photos inside a courtroom, but the Government has so far not given an account of whether she has settled the payments. During the period from 2012 to 2014, while about 70 000 buyers were required to make statutory declarations retrospectively in relation to exemptions from the Buyer's Stamp Duty, quite a number of them, believing that the Inland Revenue Department would not seriously pursue their responsibilities, neither paid the stamp duty nor made the relevant declarations retrospectively. As a result, the Government has foregone a significant amount of stamp duty payments. In the past five years, the average number of cases in which the Hospital Authority failed to recover medical fees from non-eligible persons was 6 550 a year and the total amount of medical fees written off was more than \$200 million. In one of those cases, the amount of unpaid medical fees has accumulated to over \$6 million since 2015. As at December 2017, the rate of non-local smoking offenders defaulting on payment of fines was as high as 20%. As at July 2017, the total amount of defaults on student loan repayment by post-secondary graduates stood at \$170 million. Although I had relayed to the Chief Executive at the Chief Executive's Question Time held on 13 June last year that given the serious situation of defaults on payments for public services by service users, it was necessary to adopt measures to prevent Hong Kong from becoming "the capital of defaults on payments", the situation has not been improved so far. In this connection, will the Government inform this Council:*

- (1) *of the total amounts of default payments owed to, the expenditures incurred in recovering the default payments by, and the total amounts of default payments written off by, the Government and various public organizations respectively in each of the past three years;*

- (2) *of the policies and measures in place to plug the loopholes in defaults on payments by public service users; whether it will, by drawing reference to the practice adopted by the Singapore Government of prohibiting non-local registered vehicles with unsettled fines for traffic-related offences from entering Singapore, prohibit non-local residents defaulting payments from re-entering Hong Kong; and*
- (3) *whether it will, when publishing the Budget for the coming year in future, set out information on the amount of fees written off in the last financial year that has ended, which may serve as one of the indicators of whether the Government has effectively managed public money; if not, of the reasons for that?*

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

- (1) The total amounts written off by the Government due to default payments of different persons in each of the past three years are as follows:

<i>2015-2016</i> <i>(\$ million)</i>	<i>2016-2017</i> <i>(\$ million)</i>	<i>2017-2018</i> <i>(\$ million)</i>
290	282	541

Revenue collection is a day-to-day activity of government departments. A breakdown in this respect is not available.

The Government does not have any information on the expenditures incurred by subvented organizations for the recovery of default payments, nor statistics on the total amounts written off by them. Generally speaking, same as government departments, subvented organizations should ensure the proper use of public funds. As such, the bureaux and departments concerned require subvented organizations to submit audited annual financial statements and put in place an appropriate financial control and monitoring system to ensure that public funds are used prudently by subvented organizations in the provision of public services, with a view to achieving cost-effectiveness.

- (2) Regarding the handling of receivables, according to the existing internal guidelines of the Government, Controlling Officers ("COs") are responsible for prompt collection and for taking timely and appropriate actions to recover arrears of revenue within their jurisdiction. They should satisfy themselves that appropriate arrangements are made and put in place in their bureaux/departments such that if payment is not received within a reasonable time, appropriate and timely follow-up actions are taken to recover the arrears. Such actions include the issue of reminders and taking legal action as necessary. In addition, COs must regularly review the procedures and the activities within their purview which give rise to revenue due to the Government and, where necessary, issue departmental accounting instructions and procedures on the recovery of arrears of revenue as appropriate to meet the particular requirements and applications of their bureaux/departments. COs should consider writing off the receivables only after all exhaustive actions taken to recover the amounts have failed and upon seeking the necessary legal advice.

Government bureaux and departments will continue to strictly adhere to the above guidelines and recover by different means the receivables from defaulters, including local and non-local residents. Regarding the individual measures as mentioned, such as those in relation to vehicles, the Government will review the mechanism with reference to the actual circumstances.

- (3) According to the Public Finance Ordinance (Cap. 2), the Financial Secretary shall cause to be prepared estimates of the revenue and expenditure of the Government for the next following financial year, and shall cause such estimates to be laid before the Legislative Council. Hence, the Budget covers mainly the estimates of the revenue and expenditure of the Government for the next financial year.

The recognition of provision for doubtful debts and losses so arising is dealt with in the Consolidated Statement of Financial Performance of the Accrual-based consolidated financial statements of the relevant financial year, while it is not shown as a separate item in the statements.

**MS STARRY LEE** (in Cantonese): *President, part (1) of the Government's main reply is disappointing, and I am very surprised at that.*

*According to the Government's information, the total amount written off in 2017-2018 has almost doubled. The Government said it did not have information on the expenditures incurred by subvented organizations for the recovery of default payments, but I really do not want Hong Kong to become "the capital of defaults on payments". It is the responsibility of the Government to know the situation regarding the recovery of default payments by each subvented organization. Thus, would the Secretary please tell us frankly if the Government knows how subvented organizations recover default payments, for example, what actions are taken by the Hospital Authority ("HA") to recover default payments, so as to ensure that such recovery is pursued in a reasonable way? Or, does the Government only require subvented organizations to submit audited annual financial statements for checking, as mentioned in the reply? In my view, this approach is too divorced from reality.*

*Could the Secretary tell us if he knows how HA and other subvented organizations recover default payments? Otherwise, people will just be encouraged to default on payments. This is unacceptable.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): *President, as far as HA is concerned, it actually has an established mechanism to minimize default on payment of medical fees. Relevant measures cover four aspects: first, requiring private patients and non-eligible persons to pay a specified amount of deposit upon admission to hospital (except for emergency cases); second, issuing interim bills to patients once every three to seven days during their hospitalization to remind patients or their family members to settle the bills; third, issuing final bills to patients upon their discharge or mailing the bills to the Hong Kong or overseas addresses provided at registration, and if the bills remain outstanding after the patients' discharge, patients or their family members will be reminded through telephone calls for settlement of bills and monthly statements be mailed to the Hong Kong or overseas addresses provided at registration; and fourth, imposing administrative charges on patients who have failed to settle the bills within a specified period.*

*If the bills remain outstanding after the above four actions have been taken, HA will institute legal actions including submission of cases to the Small Claims*

Tribunal and commissioning of lawyers to issue letters to patients for recovery of default payments where appropriate. As for those non-eligible persons who do not have to be hospitalized after treatment but need assistance with discharge arrangements, under suitable situation, HA will contact the Social Welfare Department, or the relevant consulates or the Mainland authorities via the Immigration Department, to make suitable discharge arrangements for them. However, if their medical fees remain unsettled, HA will, apart from instituting legal actions where practicable, notify relevant consulates for assistance in recovering the default payments.

HA reviews the mechanism for recovery of medical fees from time to time, and we also keep in view the modes of payment commonly used in the market to facilitate payment by patients so as to reduce defaults on payments. For example, HA has been upgrading the functions of the existing self-payment kiosks in phases and making efforts to explore the feasibility of adopting various modes of payment with a view to providing greater convenience for patients to make their payment.

**DR CHENG CHUNG-TAI** (in Cantonese): *The Bureau's reply is actually quite tricky, which very likely tends to cover up the situation of non-local residents defaulting on payment in Hong Kong.*

*Part (1) of the main reply uses the wording "default payments of different persons" instead of specifying whether it refers to non-local or local residents. For example, according to the relevant statistics provided by the Secretary in the reply, around \$280 million of default payment was owed to the Government in general in 2016-2017; but according to the information provided by HA in early March, non-eligible persons (i.e. non-local residents) defaulted on payment of fees amounting to more than \$50 million in the same year. In other words, the amount owed to HA by non-eligible persons alone already accounted for one fifth of the total amount of default payments of that year.*

*Why has the Bureau been persistently reluctant to provide a breakdown of the default payments by local and non-local residents (i.e. eligible and non-eligible persons) for reference of the Legislative Council and for relaying to the Hong Kong community?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, perhaps I need to clarify that the three-year figures I mentioned just now are the amounts written off by the Government only, which do not include the relevant figures of other statutory bodies or subvented organizations.

As for the relevant information mentioned by the Member, we will liaise with the Policy Bureaux concerned to see how it can be provided.

**MR HOLDEN CHOW** (in Cantonese): *President, Secretary, my supplementary question is very simple. In part (3) of the main reply, the Secretary mentioned that the recognition of provision for doubtful debts and losses so arising is not itemized separately.*

*My supplementary question is very simple: Will the Government consider providing an itemized breakdown of such doubtful debts by organization in future, so that everyone knows about the handling of such debts by individual organizations?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, we will consider suggestions in this regard.

**PRESIDENT** (in Cantonese): Second question. Mrs Regina IP has given me advance notice that the question standing in her name will be asked by Ms YUNG Hoi-yan on her behalf. I now call upon Ms YUNG Hoi-yan to raise the question.

### **Under Secretaries and Political Assistants**

2. **MS YUNG HOI-YAN** (in Cantonese): *In 2008, the Government created two additional tiers of political appointment positions, namely Under Secretaries and Political Assistants. The duty of the Under Secretaries is to assist the Secretaries of Departments in handling political responsibilities and the Political Assistants are responsible for providing political analyses and advice for principal officials as well as conducting political liaison work. In this connection, will the Government inform this Council:*

- (1) *whether it has regularly conducted comprehensive reviews of the duties and work efficiency of the Under Secretaries and Political Assistants; if so, of the specific indicators adopted in the reviews and the outcome of the last review; if not, the reasons for that;*
- (2) *whether it has provided the Under Secretaries and Political Assistants with professional training to enhance their lobbying skills and their capability to liaise with the media and the public; if so, of the mode and effectiveness of the training; if not, the reasons for that; and*
- (3) *whether it will consider adding a range of objective entry qualifications and assessments to the mechanisms for selecting Under Secretaries and Political Assistants, so as to ensure that the candidates selected possess a high level of professional capabilities; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the Political Appointment System is an integral part of the governing team of the Hong Kong Special Administrative Region ("HKSAR") Government. In 2002, the HKSAR Government introduced the first batch of politically appointed Secretaries of Department and Directors of Bureau to create a political tier at the top echelon of the Government. In 2008, the Political Appointment System was further developed leading to the creation of two additional tiers of political appointment positions, namely Deputy Directors of Bureau and Political Assistants, thus forming the current three-tier Political Appointment System.

Hong Kong is a diversified and liberal society. Given the heightening aspirations from the public on the Government, it is not uncommon that different stakeholders take different and even opposing stances and views towards government policies. The introduction of the Political Appointment System was to respond to social changes in the hope of allowing more flexibility and interaction in the governance of the HKSAR Government, and ensuring the timely and effective implementation of policies in response to public aspirations and social needs. Under the Political Appointment System, posts such as Secretaries of Department, Directors of Bureau, Deputy Directors of Bureau and Political Assistants are filled by talents of different sectors, backgrounds and age

groups flexibly drawn from within and outside the Government. With the support of a high-quality, professional and permanent civil service, the HKSAR Government is able to make better-informed decisions, implement policies more effectively, and nurture political talents for the HKSAR. A case in point is the Deputy Directors of Bureau and Political Assistants of the current-term Government. They are talents from various sectors of the community with different professional backgrounds, such as public administration, political parties, business, professionals, academia, media and think tanks, etc.

Politically appointed officials must keep their fingers on the pulse of the society and interact with the community to, through two-way communication, promote better understanding of government policies among members of the public while gauging a wide spectrum of public views, so as to keep government decisions close to the community and meet the needs of the community. Politically appointed officials must also share the Chief Executive's philosophy of governance and work with the Chief Executive to implement his/her manifesto.

With regard to Mrs Regina IP's question raised by Ms YUNG Hoi-yan, after consulting the relevant offices and bureaux, I am providing a consolidated reply as follows:

- (1) Deputy Directors of Bureau report directly to Directors of Bureau and are responsible principally for assisting Directors of Bureau in undertaking the full range of political work, especially in Legislative Council business. This includes: attending meetings of the Legislative Council and its committees, panels and subcommittees; explaining government policies; and lobbying political parties, Members of various Councils and different sectors of society for their support for government proposals on policy, legislation and public expenditure. Deputy Directors of Bureau also attend activities of political parties, community organizations, and business and professional associations as well as public forums, seminars and consultation sessions, etc. to strengthen the communication between the Government and different sectors of the community. Furthermore, Deputy Directors of Bureau maintain close liaison with the media to explain government policies. They also deputize for Directors of Bureau during the latter's temporary absence (such as on duty visits and on leave).



Political Assistants are responsible for providing political analyses and advice for Secretaries of Department, Directors of Bureau and Deputy Directors of Bureau, and conducting political liaison as well as lobbying work. This includes maintaining communication with political parties, Legislative Council Members, the media and relevant stakeholders, such as youth groups and community organizations. Political Assistants are also tasked with preparing speeches and media statements. The current-term Government attaches particular importance to youth development work by addressing young people's concerns on education, career pursuit and home ownership, and encouraging their participation in public policy discussion, debate and political activities. In this regard, since the Political Assistants assumed office, they have been visiting schools from time to time as arranged by the Education Bureau to have exchanges with students to learn more about their thinking, so as to close the gap between the Government and the youth.

Deputy Directors of Bureau and Political Assistants of all bureaux/offices are required to report their work to their respective Secretaries of Department or Directors of Bureau. Secretaries of Department and Directors of Bureau supervise their respective Deputy Directors of Bureau and Political Assistants, and review their work performance.

- (2) On the front of training, while courses of the Civil Service Training and Development Institute target primarily at civil servants, Deputy Directors of Bureau and Political Assistants are also welcomed to attend courses relating to leadership enhancement, negotiation strategies and skills, media and public communication, interaction with District Councils, etc. In addition, the Chief Executive's Office also arranges seminars and experience-sharing sessions for Deputy Directors of Bureau and Political Assistants from time to time, with a view to facilitating their effective day-to-day work. For instance, some Deputy Directors of Bureau and Political Assistants attended a national studies course offered by the Chinese Academy of Governance in Beijing last September. The programme covered topics such as politics, economy, foreign affairs, national security and social system. In-house seminars on law

drafting procedures and the work of the Administration Wing, etc. were also arranged by the Chief Executive's Office last year specifically for Deputy Directors of Bureau and Political Assistants to increase their knowledge on the operation of the Government.

- (3) As regards the appointment of Deputy Directors of Bureau and Political Assistants, under the existing mechanism, an appointment committee chaired by the Chief Executive is responsible for assessing and considering the proposed candidates for the positions of Deputy Directors of Bureau and Political Assistants for appointment by the Chief Executive. The appointment committee comprises the Secretaries of Department, the relevant Directors of Bureau and the Director of the Chief Executive's Office. In forming her governing team, the incumbent Chief Executive's principle is to attract talents widely and on merit. In consideration of the proposed candidates, the appointment committee will deliberate on all relevant factors, such as that the person must be a Hong Kong permanent resident; has a sense of commitment to the country, Hong Kong and the community; shares the Chief Executive's philosophy of governance; possesses the knowledge of or experience in the affairs, profession or sector related to the scope of duties, and the capability of handling political and government work; can work well with the Principal Official whom he/she is to serve; and is ready to assume political responsibility for the decision of the political team collectively, to ensure that the appointee possesses the right calibre and qualities required.

The Government will, in the light of operational experience, further enhance the Political Appointment System as and when necessary.

**MS YUNG HOI-YAN** (in Cantonese): *I strongly agree with the point made by the Secretary in the main reply just now, i.e. politically appointed officials must keep their fingers on the pulse of the society and interact with the community, and I think that they should also enhance liaison and communication with Members and explain current policies. I am sorry but I would like to give an example: since October 2017, the Financial Services and the Treasury Bureau has introduced 18 bills for which Under Secretaries or Political Assistants should*

*have conducted lobbying with us, but Mrs IP and I have never received phone calls or text messages from them, nor have they discussed with us the relevant government policies or proposals on public expenditure.*

*President, I would like to ask the Secretary: Have Under Secretaries or Political Assistants done their job well? What suggestions and methods does the Secretary have to help them enhance liaison with Members?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I thank Ms YUNG for her supplementary question. First of all, I am not in a position to comment on individual cases and I do not have a grasp of the relevant background or actual situation. Please allow me to give an overall response.

First, politically appointed officials and senior civil servants, in particular Permanent Secretaries and Deputy Secretaries, form part of the governing team of the HKSAR Government. They work together as a team while performing their respective duties.

Second, Policy Bureaux work on different policy areas. Some of them are of a more technical nature, some are more political and some focus on livelihood-related issues. Therefore, the division of work within each Policy Bureau may also differ.

Third, Under Secretaries and Political Assistants certainly have to maintain close ties with various sectors of the community and keep their fingers on the pulse of the society, and the liaison with Legislative Council Members and members of councils at different levels is also a very important channel. Therefore, Members are welcome at any time to express their views or their wishes to have stronger exchanges with a particular Policy Bureau in respect of particular issues. Of course, each Policy Bureau should also take the initiative to do its job well.

If Members have any opinions on our colleagues or individual officials, the most direct way is to reflect them to their respective Secretaries of Department or Directors of Bureau, and the problem can certainly be solved.

**MR CHAN CHUN-YING** (in Cantonese): *President, the selection of Under Secretaries or Political Assistants is, after all, different from the traditional way of selection of Administrative Officers, and their work experiences are different too. In order to enable Under Secretaries or Political Assistants to play a more effective role in the relevant Policy Bureaux, will the Government deploy them to only work on a specialized policy area rather than posting them across Policy Bureaux as in the case of civil servants?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): *President, I thank Mr CHAN for his supplementary question. Politically appointed officials work in certain Policy Bureaux because they are familiar with the relevant work or they may have the relevant background; however, must they work in particular Policy Bureaux without being subject to posting arrangements? This may not necessarily be the case. We have seen from some examples in the past that some Political Assistants or Under Secretaries would be engaged in different areas of work. So we should not make a sweeping generalization.*

Nevertheless, policy formulation, implementation and lobbying have currently become more diversified and complex, if those concerned can grasp different situations, it will be very helpful to their work in various policy areas. Therefore, it is very important to broaden their horizons. I have also mentioned in the main reply that the relevant training is expected to broaden the horizons of the officials concerned.

**DR HELENA WONG** (in Cantonese): *President, the political accountability system has three tiers and I do not know why Mrs Regina IP only mentions Under Secretaries and Political Assistants but not Directors of Bureau and Secretaries of Department.*

*Her main question asks whether the Government will consider adding a range of objective entry qualifications and assessments to the mechanisms for selecting Under Secretaries and Political Assistants. However, the Secretary's main reply has not mentioned adding objective requirements. The requirements he mentioned such as having a sense of commitment to the country and the community and possessing the knowledge of or experience in the affairs are subjective requirements.*

*Most incumbent Political Assistants came from the press or are former District Council members. The Secretary has said that Political Assistants are required to provide political analyses and advice for Secretaries of Department, Directors of Bureau and Deputy Directors of Bureau. However, actually, Political Assistants only make phone calls to schedule meetings. There may have been occasions where Political Assistants forgot to notify Ms YUNG Hoi-yan, which made her feel unhappy. Have Political Assistants conducted political analyses and provided political advice for Directors of Bureau and Deputy Directors of Bureau?*

*If Political Assistants are expected to provide political analyses and advice for Directors of Bureau, the desirable candidates should not be limited to those who are familiar with the press, who know how to package officials or who can build up a good relationship with the media and Members. Political analyses may include policy analyses, why are objective entry requirements not necessary?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I thank Dr WONG for her supplementary question. Dr WONG's supplementary question has two parts, with the first part being whether there are any objective entry requirements. The most important feature of the Political Appointment System is that it facilitates the Government in engaging talents from inside and outside the government system to serve as politically appointed officials.

In addition, the Political Appointment System allows more flexibility and interaction in governance. Members may have only received phone calls from Political Assistants for scheduling meetings, but I have to say something for politically appointed officials, especially Deputy Directors of Bureau and Political Assistants. A lot of work is done behind the scenes and not in front of the camera to be seen. They need to reach out to people from all walks of life including Members to collect opinions and conduct analyses. So, as I just mentioned in the main reply, they provide political analyses and advice and I know very well that they have done so.

Deputy Directors of Bureau and Political Assistants also need to maintain liaison with the stakeholders in various sectors. At many important meetings or before the introduction of policies, they have to communicate with Members of different political parties and groupings and carry out political lobbying or

liaison. They have actually done these jobs, although their efforts may not be realized.

The second point is whether there are objective criteria. Just now, I have analysed the nature of their work and mentioned that people from different backgrounds should join the Government to allow more flexibility and interaction in governance; hence, there should not be rigid requirements. The appointed officials have to cooperate with the civil servants in Policy Bureaux. They should give play to their strengths and complement one another, and the whole team should work together.

I have just mentioned in the main reply that the appointment committee will consider, based on some criteria, which candidates are suitable for the offices of politically appointed officials, and the successful candidates will join the governing team as Deputy Directors of Bureau or Political Assistants.

**MR JEREMY TAM** (in Cantonese): *President, the Secretary stated in the main reply that the important duties of Deputy Directors of Bureau and Political Assistants are political liaison and lobbying, and their work targets political parties and Members. The Secretary also said so when he answered an Honourable colleague's supplementary question.*

*However, Political Assistants include not only the Political Assistant of the Development Bureau mentioned by Ms YUNG Hoi-yan just now, although he is outstanding. At the time when I first became a Member, the VTC campus planned to be built on a waterfront site in Kowloon East, which is my constituency, provoked a strong response from the residents. I intended to discuss the matter with the Secretary for Development and asked my colleague to give the Secretary a call but the Political Assistant just put him off and had not arranged for me to meet with the Secretary after more than a month. I felt that something went wrong and I was not sure if there was any misunderstanding, so I gave the Secretary a call. However, the call was transferred to the Political Assistant. I called the Under Secretary again but the call was also transferred to and answered by the Political Assistant. I then asked the Political Assistant why he had not arranged for me to meet with the Secretary after more than a month. Even if I could not meet with the Secretary or the Under Secretary, he should arrange for me to meet with the Planning Department officials. However, he surprisingly told me that I was not a stakeholder—you have not*

*heard it wrong—he also said "We have already activated the process to consult the District Council and the Town Planning Board and there are no other stakeholders whom we need to consult". I asked him, "Am I not a stakeholder?" but he did not answer; at last, both of us hung up.*

**PRESIDENT** (in Cantonese): Mr TAM, please state your supplementary question directly and do not discuss individual cases.

**MR JEREMY TAM** (in Cantonese): *President, I will now put my supplementary question. Political Assistants could be so fierce; we asked him to schedule a meeting but we had heard nothing from him after more than a month, and he even said I was not a stakeholder.*

*Do Political Assistants have more power than Directors of Bureau? Can they act on behalf of Directors of Bureau to put Members off and undermine the relationship between the Executive Authorities and the legislature? Is this what Political Assistants are best at?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I thank Mr TAM for his supplementary question. First, as I said earlier, the political appointment team comprises three tiers of officials including Directors of Bureau, Deputy Directors of Bureau and Political Assistants. Deputy Directors of Bureau and Political Assistants report to and are supervised by their respective Directors of Bureau.

Second, I will not comment on individual cases. However, before the Government introduces policies or when it deals with certain issues, there is a need to carry out political liaison and lobbying work. When problems occur, it should definitely deal with the problems properly or minimize the problems.

Third, how can we prevent problems from occurring? Politically appointed officials should reach out to different stakeholders, including Members, to find the best solution. Therefore, we are all working in accordance with this principle. In fact, in handling various incidents, we can accumulate experience through communication and integration, and we can then handle matters better.

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

**MR JEREMY TAM** (in Cantonese): *I have just asked the Secretary whether Political Assistants have more power than Directors of Bureau and whether they can act on behalf of Directors of Bureau to put Members off? The Directors of Bureau may not know ...*

**PRESIDENT** (in Cantonese): Mr TAM, you have stated the part of your supplementary question that has not been answered, please sit down. Secretary, do you have anything to add?

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I have said in my reply just now that Deputy Directors of Bureau and Political Assistants report to and are supervised by their respective Directors of Bureau.

**MR AU NOK-HIN** (in Cantonese): *There were some hiccups when the accountability team of the current-term Government was appointed. At that time, it was heard that SO King-hang, an RTHK host, would be appointed but he was eventually not appointed because of objections raised by some political parties and groupings. In addition, some members of the accountability team joined the Government after losing the District Council election and some of them had partisan background. May I ask the Secretary how to avoid giving people the impression that the appointment of accountability officials is handing out political rewards rather than basing on merits?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I thank Mr AU for his supplementary question. I have said in the main reply that an appointment committee comprising the Chief Executive, Secretaries of Department, Directors of Bureau and the Director of the Chief Executive's Office is responsible for the appointment of Deputy Directors of Bureau or Political Assistants. We adhere to the principles of recruiting talents from all quarters and meritocracy and make appointment decisions having



regard to various relevant factors. Such appointments are made according to the above principles and standards as well as the relevant mechanisms.

**MS ALICE MAK** (in Cantonese): *President, unlike the Honourable colleagues who have just asked questions, I will not name any particular Under Secretary or Political Assistant but we do know that there is an Under Secretary who has actively participated in the activities of the industry and attended four to five industry ceremonies in an evening. His Policy Bureau has to market a new policy and consult industry players, but has the Under Secretary discussed these matters with the industry? He has not. He mainly attended different ceremonies such as inauguration and commemorative ceremonies and took pictures of others or selfies. Just now the Secretary mentioned training; does the training include taking selfies? When they attended these ceremonies, apart from taking selfies, should they communicate with the industry and market important policies? However, this Under Secretary just took selfies without communicating with the industry. Is taking selfies one of the essential skills of Under Secretaries or Political Assistants?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I thank Ms MAK for her supplementary question. Before formulating and launching policies, we must certainly communicate with the stakeholders concerned in addition to having constant communication on a regular basis. Such liaison work and exchanges are not carried out by specific colleagues.

I have just stressed the important of explaining and implementing policies. This is very important indeed. The politically appointed officials and senior civil servants in the entire governing team work hand in hand; they analyse and make recommendations on policies and make decisions having considered various factors, including political factors and attitudes. As to the division of work and roles in the communication and liaison process, Policy Bureaux may have different arrangements, depending on the distribution of work by the Directors of Bureau concerned.

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

**Juridical assistance in criminal matters**

3. **MR AU NOK-HIN** (in Cantonese): *Hong Kong has currently signed mutual legal assistance in criminal matters agreements and surrender of fugitive offenders agreements respectively with 32 and 20 jurisdictions (not including Taiwan). Recently, the Security Bureau has submitted a proposal to amend the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance, and pointed out that the proposal was triggered by a homicide case in Taiwan involving Hong Kong residents. In this connection, will the Government inform this Council:*

- (1) *as it is learnt that the Taiwan Shilin District Prosecutors Office has thrice made requests for juridical assistance to the SAR Government, whether the Government has responded accordingly; if so, of the details, including the policy bureau or government department making the response and the follow-up actions; if not, the reasons for that;*
- (2) *whether, according to the Basic Law, the SAR Government is required to obtain prior approval from the Central Authorities before it may conduct any negotiation with the Taiwan authorities over the extradition of a suspect; if so, whether the SAR Government has sought approval in respect of the said case; if not, of the reasons for that; and*
- (3) *whether it has assessed if the commencement of the legislative process for amending the aforesaid ordinances will affect the enforcement of the aforesaid agreements signed between Hong Kong and other jurisdictions and cause any jurisdiction to terminate the relevant agreements?*

**SECRETARY FOR SECURITY** (in Cantonese): President, the Taiwan homicide case happened in early 2018 which involved a Hong Kong person revealed two practical problems:

- (1) Geographical restriction hinders cooperation with some other places outside Hong Kong

At present, the two ordinances, namely the Fugitive Offenders Ordinance ("FOO") and Mutual Legal Assistance in Criminal Matters Ordinance ("MLAO"), are not applicable to the requests for surrender of fugitive offenders and mutual legal assistance between Hong Kong and other parts of the People's Republic of China ("PRC"). We therefore do not have any legislation enabling us to tackle the present Taiwan homicide case. Fugitives from these places, including those from Taiwan, may make use of this loophole to seek refuge in Hong Kong to evade legal responsibility.

(2) Current operation of case-based surrender is impracticable

Under the current mechanism of FOO, case-based surrender arrangements must be given effect through making subsidiary legislation with publication in the Gazette. When the Legislative Council scrutinizes a case-based surrender, details of the case would inevitably be publicly disclosed. Even if the personal particulars of the offenders were redacted, given the uniqueness of some case details, such public scrutiny would alarm the offender who would then flee. Further, even if the offender was arrested, he might judicially challenge the authority on the ground that his case details had been divulged and publicly discussed, hence his opportunity for a fair hearing has been compromised.

In addition, FOO stipulates that the relevant procedures and orders (inclusive of the arrest procedure) cannot come into effect before the Legislative Council's scrutiny period expires. So even if a request for individual surrender is received from another place during the Legislative Council's scrutiny (i.e. ranging from 28 to 49 days), nothing can be done in the interim, including any provisional arrest. The fugitive would probably flee during this period, as a result of which no subsequent committal or surrender could ever be executed on him. In brief, the existing arrangement is operationally impracticable and not enforceable. Based on this reason, there has been no case-based surrender arrangement activated in the past 21 years.

In the event that Hong Kong cannot arrest the suspect because of the disclosure of case details, this would affect the arresting actions of

the requesting party. Other places may cast doubts on Hong Kong's commitment in combating serious crimes or challenge its ability in doing so.

The Government has therefore proposed the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") to tackle two problems, namely (i) the Taiwan homicide case and (ii) in the same time plugging the loopholes in Hong Kong's overall cooperation mechanism in criminal and juridical assistance matters. The Bill, together with the relevant the Legislative Council brief, was submitted to the Legislative Council on 26 March and will be gazetted on 29 March.

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

- (1) Hong Kong has communicated with Taiwan regarding the Taiwan homicide case. Between March and December 2018, Taiwan had written to the Hong Kong Special Administrative Region ("HKSAR") Government, requesting information, legal assistance and surrender of the suspect to Taiwan for trial. Following the occurrence of the case, Hong Kong Police sent three officers to Taiwan on 21 March 2018 to learn about the situation. In a letter to Taiwan in June 2018, the Hong Kong side informed Taiwan that vigorous actions were being taken for case investigation and evidence collection regarding the crimes committed in both places. In early March this year, Hong Kong conveyed again the intention to commence early liaison with Taiwan on the case. Hong Kong will communicate with Taiwan on the case pragmatically under the principle of mutual respect and solely focusing on the case and its facts. After the legislative amendments are passed, we will then have a legal basis to cooperate with Taiwan, with a view to reaching a case-based arrangement in tackling the homicide case and surrendering the suspect.
- (2) There is no long-term legal arrangement between Hong Kong and Taiwan on mutual legal assistance and surrender of fugitive offenders, and the operational requirements of the existing legislation are impracticable. The current legislative proposal is about Hong Kong amending its local legislation, so as to tackle the Taiwan homicide case and remove the loopholes in the mechanisms.

PRC is of course aware of our proposal. There are also media reports on 16 March that a spokesman of the Office of the Commissioner of the Ministry of Foreign Affairs of PRC in HKSAR said that the amendments to the two ordinances aimed at enabling Hong Kong to commence case-based cooperation with jurisdictions which had not established long-term collaboration arrangements with Hong Kong, and that the standards adopted were in line with common practices of surrender for fugitive offenders.

If the Bill is being passed, Hong Kong will have the legal basis to tackle the Taiwan homicide case with Taiwan under a case-based approach.

- (3) The Bill proposes, inter alia, distinct differentiation of case-based surrenders from surrenders made under long-term agreements. We have emphasized many times that case-based surrender is a supplementary measure before long-term cooperation arrangements come into effect, and case-based surrender will be adopted only when a jurisdiction does not have any long-term agreement with Hong Kong. Our proposals will not affect any long-term surrender of fugitive offenders agreements in force. It remains the key policy goal of the HKSAR Government to pursue long-term arrangements with other places.

**MR AU NOK-HIN** (in Cantonese): *The main reply of the Secretary has actually substantiated the view of former Member Margaret NG that case-based surrender arrangements are something "invented" by the Government. The Security Bureau once pointed out in a paper issued in February that the scrutiny procedure of the Legislative Council would alarm fugitives, but the Secretary now states in paragraph four of the main reply that there has been no case-based surrender arrangement activated in Hong Kong in the past 21 years. I would therefore urge him not to deceive Hong Kong people. It is not that Hong Kong has never activated any case-based surrender arrangement but that such arrangement has never existed.*

*Besides, the Secretary has not answered my question. He kept saying "Taiwan" and "Hong Kong" in part (1) of the main reply, but his answer is obviously irrelevant to my main question, which asked about which Policy*

*Bureau or government department is responsible for responding to Taiwan. I request that the Secretary provide written supplementary information on the department asked in part (1).*

*The Security Bureau stated in the last paragraph of part (3) of the main reply that "[o]ur proposals will not affect any long-term surrender of fugitive offenders agreements in force"; yet, I must say that this is only a one-sided view from the Government. Despite the call of the European Union ("EU") Office to Hong Kong to extend the consultation period, the Government ignored it and went further to gazette the Bill and introduce it to the Legislative Council. My supplementary question is: Has the mutual legal assistance unit under the Department of Justice assessed whether there is any possibility that the 32 and 20 jurisdictions which have signed long-term agreements with Hong Kong will terminate their agreements with Hong Kong for reasons of the scrutiny of the Bill?*

**SECRETARY FOR SECURITY** (in Cantonese): President, as I clearly said in the main reply just now, the Bill will distinctly differentiate case-based surrenders from surrenders made under long-term agreements. Therefore, the surrender of fugitive offenders agreements and the mutual legal assistance in criminal matters agreements which Hong Kong has signed with 20 and 32 jurisdictions respectively will not be affected at all. The legal protection procedures that we have mentioned are also in line with the requirements of the two existing ordinances. This point was made clear to the media. As the clauses are unequivocal, our assessment is that there will not be any impact on the agreements in force.

Furthermore, it is clearly stipulated in the clauses that case-based surrender will be adopted only when there is no applicable long-term surrender arrangement. In other words, if Hong Kong has already signed a long-term surrender agreement with the jurisdiction concerned, we will not consider adopting case-based surrender.

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

**MR AU NOK-HIN** (in Cantonese): *Just now, I said ...*

**PRESIDENT** (in Cantonese): You only have to point out which part of your supplementary question has not been answered.

**MR AU NOK-HIN** (in Cantonese): *The Secretary has not told me whether the authorities have assessed if there is a possibility of EU terminating its agreements with Hong Kong in view of the current move of the Government.*

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

**SECRETARY FOR SECURITY** (in Cantonese): President, I have already answered Mr AU's question. I have said clearly that "there will not be any impact" since our system will remain unchanged.

**MR JAMES TO** (in Cantonese): *President, Hong Kong and the Mainland have failed to agree on the surrender of fugitive offenders after 20 years of negotiation. Is that because some items of offences are missing in the Schedule? As a matter of fact, the disagreement definitely lies in some major issues such as the differences in basic legal ideas and human rights protection between the two sides.*

*President, Hong Kong now suddenly opens up its surrender arrangement to the Mainland and 100 other countries or so. The Government also claims that before signing a long-term agreement with these countries, it will make a one-off ... Let me take North Korea as an example. Is the Government now trying to open up its surrender arrangement to North Korea and some other 100 countries? In other words, Hong Kong intends to sign relevant agreements with these 100-odd countries, including North Korea. No wonder EU, the United States, Taiwan and other places in the world are worried that Hong Kong will put the personal safety of tourists from around the world under great risk. Which*

*financial centre and international shipping centre on earth will open up its surrender arrangement to more than 100 countries out of the blue? Worse still, we have never imagined that Hong Kong will negotiate a surrender agreement with these countries. Will the Government's move not frighten tourists away? Will it not make Hong Kong people deeply scared? If North Korea accuses someone of being a criminal, should Hong Kong just take North Korea at its word?*

**PRESIDENT** (in Cantonese): Mr TO, please be direct when raising questions.

**SECRETARY FOR SECURITY** (in Cantonese): President, Mr TO is a Member with legal background, and it is much to my regret that he takes this view. The relevant procedures are clearly stipulated in the Bill. Our current legislative amendment proposals simply seek to remove certain restrictions so that we can consider handling certain cases.

In my earlier reply or previous explanation to the media, I have already pointed out that upon the receipt of a request for case-based surrender of a fugitive offender, the HKSAR Government has full discretion to decide whether to handle this request or not. How does the case-based surrender procedure operate in reality? When a jurisdiction indicates its wish to make a surrender arrangement with Hong Kong, it is like knocking on the door of Hong Kong. We can decide whether to open the door or not. After opening the door and listening to the details, we may close the door again. As I said just now, we have full discretion to decide whether to handle the surrender request or not.

Being an official of the HKSAR Government, of course, I will not publicly comment on the situation of a particular country. However, common sense tells us that the HKSAR Government will definitely do the gatekeeping when the request for assistance in surrendering fugitive offenders comes from a country in war or in chaos. I have repeatedly explained that in the process of surrendering fugitive offenders, the Government will be the first gatekeeper, followed by the court which will conduct an open hearing according to the procedures in FOO to provide legal protection; after the hearing, the consent of the Chief Executive will be needed for the fugitive offenders to be surrendered. As such, the Government will assume the role of a gatekeeper, and the legal experts and



lawyers from the Department of Justice will consider in general whether the relevant cases meet the legal requirements. Other government departments will also perform some gatekeeping functions.

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

**MR JAMES TO** (in Cantonese): *When there is a country with whom no one has ever expected Hong Kong to negotiate a surrender agreement, even though there is only a possibility that that country may activate this surrender mechanism, do you not think that this is enough to scare the world away?*

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

**SECRETARY FOR SECURITY** (in Cantonese): I do not agree with this remark which spreads fear. As I have just clearly said, under the Bill, the Government has a gatekeeping role and full discretion to decide whether to handle the surrender requests or not. I do not think spreading fear can help us discuss this serious subject rationally.

**MS CLAUDIA MO** (in Cantonese): *President, the exclusion of nine items of commercial offences from the Bill has caused concern that Hong Kong may become a shelter for commercial offenders. The business sector will inevitably make people feel that it is holding a candle to the devil or even destroying the shield of Hong Kong.*

*As we all know, the business sector originally hoped that the Government would at least exclude 12 items of commercial offences; however, only nine of them are now excluded. Why are the remaining offences not excluded? For instance, offences against the law relating to bribery, corruption, secret commissions and breach of trust set out in item number 15 are still in the Schedule.*

*May the Secretary answer whether he admits or denies the following allegation: Someone in the Security Bureau has told the business sector that they will still be safe even though the aforesaid item of offence is not excluded. That is because although giving a bribe is an offence in Mainland China, the givers are usually blackmailed to do so without obtaining any unlawful interests. Therefore, the givers are usually safe and only the acceptors will be arrested. Even if they have given bribes in Hong Kong, they do not have to worry. That is why item number 15 remains in the Schedule. Will the Secretary admit or deny this allegation?*

**SECRETARY FOR SECURITY** (in Cantonese): President, I am not going to comment on any hearsay or press report like this. However, I think I must clearly respond to a few points just mentioned by Ms MO.

Firstly, the current legislative amendments proposed by the Security Bureau are based on a series of considerations rather than one single view. Also, when we listened to different people in order to weight up a series of considerations, we found that many people had no idea about the operation of the clauses (e.g. how the principle of double criminality operates in real life) and the safeguards available in at least three clauses relating to political offences; they might worry that their ignorance of laws in places outside Hong Kong would make them fall foul of the law inadvertently; or they might not understand the scope of certain items of offences. I therefore want to clarify that the nine excluded items of offences cover both offences committed by individuals and offences concerning the operation of a trade.

Regarding offences committed by individuals, I recall that computer crimes, such as "access to computer with criminal or dishonest intent" under section 161 of the Crimes Ordinance, were repeatedly highlighted by Ms MO at the meetings of the Panel on Security, and she had put forward many opinions in this regard. When I looked into different views, I noted that some had suggested first dealing with uncontroversial offences which were easy to come to consensus. Moreover, many such offences concern acts of individuals. In Hong Kong, most of the offences prosecuted under section 161 of the Crimes Ordinance are related to acts of individuals.

Secondly, as regards the exclusion of tax-related offences, in fact, MLAO has stated that Hong Kong, when providing mutual assistance, will not provide assistance in tax recovery or tax assessment. We have already considered this principle when proposing legislative amendments. Furthermore, Members should note that most of the wage earners in Hong Kong and the Mainland may have the possibility of committing tax-related offences. That is why I urge Members to consider this issue from a macro perspective. The items of offences that have been excluded cover both offences committed by individuals and offences relating to a trade.

Meanwhile, I wish to highlight that among the 20 existing long-term agreements that Hong Kong has entered into, at least 11 of them cover less than 37 items of offences, and some only cover 21 items. For example, the agreement with Canada covers 27 items, the Netherlands 30 items, and Australia 31 items. Of course, there are also agreements which cover more than 37 items of offences. The one signed with Germany is a case in point. When I made this decision, I had actually considered a wide range of factors rather than one single view. I had also taken into account the various factors of consideration in enacting FOO and MLAO before reaching this decision.

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

**MS CLAUDIA MO** (in Cantonese): *President, I heard the Secretary say that it was his own decision. Did I hear him wrong?*

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

**SECRETARY FOR SECURITY** (in Cantonese): President, of course, it is the Government's decision, but as the final policymaker, I was the one who presented the proposals to the Legislative Council.

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

**Mental health services**

4. **MR CHAN HAN-PAN** (in Cantonese): *President, the Mental Health Review Report, which was released in April 2017, put forward recommendations for the enhancement of the overall mental health services in Hong Kong. In December of the same year, the Government established the Advisory Committee on Mental Health to advise the Government on mental health policies. Regarding the mental health services, will the Government inform this Council:*

- (1) *whether it will establish a Mental Health Commission for implementing mental health-related policies and measures, including carrying out the relevant education work in primary and secondary schools; if so, of the details; if not, the reasons for that;*
- (2) *whether it has worked out a roadmap and milestones for the development of mental health services, say, the number of persons having distressing or disabling psychiatric difficulties accounting for not more than 5% of the population of Hong Kong in 2030; if so, of the details; if not, the reasons for that; and*
- (3) *whether it will allocate additional resources to improve the public mental health services, including providing evening specialist outpatient services, increasing the number of inpatient beds, recruiting more healthcare workers, providing additional halfway houses, providing permanent premises for various Integrated Community Centres for Mental Wellness, as well as strengthening the support for the family members and carers of patients with mental illness; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Government attaches great importance to the mental health of the public, and has all along adopted an integrated approach in the promotion of mental health through a service delivery model that covers prevention, early identification, and timely intervention, treatment and rehabilitation for persons with mental health needs. The Government seeks to provide comprehensive, multi-disciplinary and cross-sectoral services to persons with mental health needs through collaboration and cooperation among the Food and Health Bureau, the Labour and Welfare Bureau, the Education Bureau, the Social Welfare Department ("SWD"), the

Department of Health, the Hospital Authority ("HA"), non-governmental organizations and other stakeholders.

My reply, prepared in consultation with the Education Bureau and the Labour and Welfare Bureau, to the various parts of Mr CHAN Han-pan's question is as follows:

(1) and (2)

The Government established the Advisory Committee on Mental Health ("the Advisory Committee") in December 2017 to provide advice on mental health policies, including the adoption of a more integrated and comprehensive approach to tackle multi-faceted mental health issues in Hong Kong. It assists the Government in developing policies, strategies and measures to enhance mental health services in Hong Kong. It also follows up on and monitors the implementation of the recommendations of the Mental Health Review Report ("the Review Report") promulgated in 2017. Chaired by Mr WONG Yan-lung, SC, the Advisory Committee comprises members from various sectors with a wealth of expertise and experience, including professionals from the health care, social service and education sectors; representatives from patient and carer advocacy groups; and lay persons with interest in mental health.

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

Since its establishment, the Advisory Committee has discussed various issues in detail, including ways to enhance mental health services for children and adolescents; an ongoing mental health promotion, education and destigmatization initiative; and mental health prevalence surveys. The Advisory Committee has also actively followed up on the implementation of the 40 recommendations of the Review Report with the relevant bureaux/departments, and provided views on the future direction for some of the recommendations including those concerning the Dementia Community Support Scheme and Student Mental Health Support Scheme.

In order to gather more comprehensive information on the mental health status of the Hong Kong population, the Government has also, based on the Advisory Committee's recommendations, commissioned two universities to conduct three territory-wide mental prevalence surveys covering children, adolescents and the elderly.

In primary and secondary education, learning contents related to mental health have been incorporated in the curricula of primary and secondary education for students to explore issues on healthy lifestyles, tackling stress and frustration, showing respect for people of different backgrounds, as well as the problems and needs faced by persons with mental health needs. It also aims to develop students' positive values and attitude to respect, accept and support persons with mental health needs.

- (3) Like other developed areas, mental health is regarded as an important issue in Hong Kong. Over the past few years, the Government has been increasing its resource allocation on mental health so that more comprehensive services could be provided to persons with mental health needs.

On the health care front, the HA's expenditure on mental health services has increased from some \$3.8 billion in 2013-2014 to near \$5.1 billion in the revised estimate for 2018-2019, an increase of over 32%, for enhancing manpower and services and for increasing 40 hospital beds in the Kowloon Psychiatric Observation Unit, etc. In 2019-2020, the Government will continue to allocate more manpower and resources in respect of mental health, including an addition of five doctors and enhance child and adolescent psychiatric services.

Making reference to the recent overseas trend of using the community resources to handle mental health cases, the Government has recently allocated more resources to mental health services in the community. Apart from improving the ratio of case managers to patients with severe mental illness under the HA's Case Management Programme from the current 1:50 to 1:40, the Government also plans to increase the number of service places for halfway houses from the

current 1 509 to 1 594 in the short run and also the number of parents/relatives resource centres from the existing 6 to 19 in a progressive way to step up support for parents and relatives/carers of persons with disabilities, including those with mental health needs. In addition, of the existing 24 Integrated Community Centres for Mental Wellness ("ICCMWs"), 22 have either obtained permanent accommodation or reserved suitable places in development/redevelopment projects as permanent accommodation. SWD has initially earmarked places as permanent accommodation for the remaining two ICCMWs to strengthen community support for persons with mental health needs and their carers.

Relevant bureaux/departments of the Government will continue to review mental health services under their policy purviews, and will allocate additional resources as required, with a view to providing more appropriate services for those with mental health needs.

**MR CHAN HAN-PAN** (in Cantonese): *The current provision of mental health services in the community can be described as in dire straits. Needless to say, there is a shortage of manpower and hospital beds. Nevertheless, the Government has still avoided answering two parts of my question in its main reply. First, the Government has not said a word regarding my suggestion of establishing a Mental Health Commission. The existing Advisory Committee only serves an advisory function, whereas a Mental Health Commission will be responsible for implementing measures. Will the Government implement the recommendation in the Review Report of introducing key performance indicators in its management, or will it pledge to make certain improvements within certain years? Another part which the Government has not said a word is related to evening mental health specialist outpatient services. There is a great demand for such services, but the Government has similarly failed to address this issue in its main reply. Thus, I hope the Secretary can provide supplementary information on these two points.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Mr CHAN for the supplementary question. In fact, the current Advisory Committee has wide representation and it comprises members from various sectors with a wealth of expertise and experience. Thus, the Advisory Committee can serve as a

platform to strengthen the communication and collaboration among the professionals and members of various sectors. As regards the functions of the Advisory Committee mentioned by Mr CHAN, apart from performing an advisory role, the Advisory Committee has also put forward many suggestions to the Government, and the Government will also monitor different bodies in implementing the 40-odd recommendations listed in the Review Report. I think each recommendation should have a different timetable. As I said in the main reply, since we have room to increase manpower in respect of mental health, more resources and manpower, including an addition of five doctors, will be provided in 2019-2020.

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

**MR CHAN HAN-PAN** (in Cantonese): *The Secretary has not answered my supplementary question on evening outpatient services.*

**DEPUTY PRESIDENT** (in Cantonese): Secretary, please answer the question on evening outpatient services.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Thank you, Mr CHAN. The issue of evening outpatient services is also related to the problem of manpower. If we set up evening outpatient clinics, we inevitably have to deploy resources from psychiatric or specialist outpatient day services which may affect the overall services provided to mental health patients. Thus, in view of the current waiting time at the psychiatric day clinics and the existing tight supply of health care personnel, HA does not have any plans at the moment to provide mental health outpatient services in the evenings and on public holidays.

Nevertheless, HA has set up designated depot clinics in all seven hospital clusters to provide injection treatment during non-office hours to facilitate patients in need.



**DR PIERRE CHAN** (in Cantonese): *ICCMWs are mentioned in the main reply. These centres were established by SWD in 2010 to provide primary health care services to people with mental health needs under the collaboration of the medical sector and the social welfare sector. After the establishment of ICCMWs, the waiting time of non-urgent new cases for psychiatric services has not shortened. According to figures provided at a special meeting of the Finance Committee, although the authorities have allocated more funding to ICCMWs, the number of cases handled has not increased. Moreover, among some of the ICCMWs run by non-governmental organizations, the problem of "fattening the top but slimming the bottom" has arisen. My supplementary question is: Almost 10 years have passed since the establishment of ICCMWs in 2010, will the Government invite the Audit Commission to review and audit the work of ICCMWs, so as to examine if the performance has really met the demands of the Government and members of the public?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Dr CHAN for the supplementary question. Regarding the questions concerning the number of cases handled by ICCMWs and the effectiveness of work, we have to conduct a review and will examine the future allocation of resources, including how to enhance the development of community mental wellness. At present, we have earmarked permanent accommodations for ICCMWs. As I mentioned earlier, among the 24 ICCMWs across the territory, 15 are providing services at permanent accommodations and 7 others have also been allocated with suitable accommodations. We consider that this service is, to a certain extent, valuable for discharged mental patients to return to the community.

Regarding Dr CHAN's question on whether ICCMWs can shorten the current waiting time for psychiatric or specialist outpatient services, I think it is a complex issue. On the one hand, we hope to provide better services in the community; and on the other hand, we understand that there are always new cases requiring psychiatric services and some of the cases are very complicated. Thus, we will closely monitor the effectiveness of ICCMWs and review how better services can be provided.

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

**DR PIERRE CHAN** (in Cantonese): *My question is very simple. Will the Government invite the Audit Commission to conduct a 10-year review of the work of ICCMW?*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, I believe it is not for us to decide whether the Audit Commission should be invited to conduct an audit. Basically, the Audit Commission will conduct an audit on different issues. Regarding Dr CHAN's question on the effectiveness of ICCMWs in handling cases and providing services, I think we have the responsibility to conduct a review and explore how to enhance the services.

**PROF JOSEPH LEE** (in Cantonese): *Deputy President, the Secretary mentioned in parts (1) and (2) of the main reply that mental health services are also needed in primary and secondary schools, and support in mental health education in particular, is very important. May I ask the Secretary that apart from providing education support, has she considered implementing the suggestion of "one psychiatric nurse in one school"? The reason is that under this approach, primary and secondary school students can receive comprehensive, targeted and better services, as well as early assessment; teachers and social workers can also get support. Will the Secretary consider implementing a scheme of "one psychiatric nurse in one school" to provide more assistance to primary and secondary school students to improve their mental health?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Prof LEE for his supplementary question. In fact, we have been encouraging schools to organize different activities to promote mental health and raise the awareness and understanding of mental health among students. Although we also consider that psychiatric nurses can play an important role in schools, different kinds of personnel are already deployed in schools, including teachers and social workers. Furthermore, is the current number of psychiatric nurses adequate to dovetail with this policy? I believe such factors have to be taken into consideration.

**MR SHIU KA-CHUN** (in Cantonese): *Deputy President, both the Secretary and I are suffering from certain physical conditions and we should sympathize with each other. Nonetheless, I cannot agree to the remarks made by the Secretary in her main reply. There is 0.4 to 0.5 HA psychiatrist for every 10 000 persons in Hong Kong; the ratio is far lower than 1 psychiatrist for every 10 000 persons as recommended by the World Health Organization. Deputy President, the revised estimated expenditure of HA on psychiatric services in 2018-2019 is \$5.1 billion, representing only 6.5% of the total expenditure on health in the same year, whereas the estimated Gross Domestic Product of Hong Kong in 2018 is \$22.4 billion and the expenditure on mental health services only accounts for 0.18%, which is far lower than the ratios in developing countries. At present, a very large proportion of the Government's expenditure on mental health services is spent on treatment after the persons fell sick, whereas resources for prevention of mental illness are highly inadequate. A large part of the Government's \$5.1 billion injected into HA is actually spent on treatment. Since the Government has indicated that it would promote mental health by adopting a more integrated and comprehensive approach, may I ask the Secretary how the Government has formulated its current estimates on promoting mental health? How will resources be allocated in the future?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Mr SHIU for the supplementary question. Deputy President, I agree with Mr SHIU that as far as mental health is concerned, apart from treatment, prevention is also very important. In fact, we have earmarked more resources to promote ongoing mental health education and to launch destigmatization campaigns. Such work will be implemented by the Department of Health. If Mr SHIU remembers, in the Policy Address and the Budget published earlier, the Government has earmarked \$100 million as recurrent expenditures to support two items of work: first, launching a mental health promotional, educational and destigmatization campaign; and second, promoting the prevention of non-communicable diseases or chronic illnesses. Thus, the Government has earmarked funding as recurrent expenditures for the Department of Health to implement preventive measures to promote mental health.

**DR ELIZABETH QUAT** (in Cantonese): *Deputy President, while the Government claims that it attaches great importance to mental health, the waiting time for psychiatric outpatient services is really alarming. According to the figures in 2008-2009, the waiting time for consultation in urgent cases was one to*

*three weeks, but the median waiting time for the so-called routine cases (i.e. stable new cases in the present context) was 17 weeks. Today, 10 years later, the median waiting time has reached 37.5 weeks in all hospital clusters. In the disastrous clusters of Hong Kong West Cluster, Kowloon East Cluster and New Territories East, the median waiting times are 63 weeks, 56 weeks and 45 weeks respectively; and surprisingly, the longest waiting times recorded were 104 weeks, 131 weeks and 115 weeks respectively.*

*Deputy President, urgent new cases involve suicidal persons who may obtain assistance within a week; or their cases can be handled immediately if they seek treatment at the accident and emergency departments. However, the waiting time for semi-urgent new case is three to four weeks. If the waiting time for stable new case is 45 weeks or even two to three years, I believe new cases which were initially not urgent will turn to be very urgent ones.*

*Under the circumstances, how can we really assist people with mental problems in receiving early treatment? Such a long waiting time will create immense pressure on their conditions and on their families. What are the Government's plans to solve the problems of long waiting time and shortage of doctors?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, I thank Dr Elizabeth QUAT for the supplementary question. If we refer to the waiting time for psychiatrist outpatient services under HA, particularly the waiting time for children and adolescent patients to obtain services, we are also very concerned. Although we have tried our best to increase manpower to improve and shorten the waiting time of the services, manpower is still a big problem. Apart from increasing manpower, we should also reduce the wastage rate. As Members will know, in the recently announced Budget, the Financial Secretary has earmarked resources to improve HA's manpower situation within a short time and to increase the salaries of HA staff which will bring benefits in general. In the future, we will continue to enhance these services. Apart from increasing manpower, we will also improve the operational mode of providing clinical services. We are considering the possibility of increasing the number of nurse clinics so that people in need at hospitals can consult doctors as early as possible. These are our work plans for the future.

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

**Representativeness and operation of Rural Committees**

5. **MR CHU HOI-DICK** (in Cantonese): *Deputy President, the Rural Representative Election Ordinance (Cap. 576) provides that the representatives of specified villages and market towns elected from the rural ordinary elections shall be members of the relevant Rural Committees ("RCs"), and the executive committee members and other office holders of an RC are to be elected from among its members. In this connection, will the Government inform this Council:*

- (1) *as currently there is no statutory requirement for the articles of association of an RC to be made public, whether the Government has put in place measures to ensure that the electors of Rural Representative Elections understand the articles of association of the relevant RC, and can determine if the electoral arrangements and the conduct of an election to elect the office holders of the RC concerned are consistent with Article 21(a) and (b) of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance, as required under section 62(3) of Cap. 576;*
- (2) *whether it will consider enhancing, by making legislative amendments or through other means, the transparency of the operation and accountability of RCs; if so, of the details; if not, the reasons for that; and*
- (3) *whether it will transfer the work on registration of electors for the Rural Representative Elections from the Home Affairs Department to the Registration and Electoral Office, and enhance the interoperability of the registers of electors for the elections in respect of Legislative Council geographical constituencies, District Councils and Rural Representatives, thereby improving the registration rates of electors for Rural Representative Elections; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, my reply to the three parts of the question is as follows:

(1) and (2)

The Government has been striving to work with the Heung Yee Kuk ("HYK") on reviewing the arrangements for the elections of Rural Committees ("RCs"). At present, the 27 RCs in the New Territories are required to hold the elections in accordance with their respective Constitutions. In order to enhance the election proceedings of RCs, the Home Affairs Department ("HAD") reached a consensus with HYK and RCs in 2006 after discussion, and drew up the Model Rules for Rural Committee Elections ("the Model Rules"). Making reference to the Model Rules, RCs set out the principles and details of the election of Chairmen, Vice-Chairmen, Executive Committee Members and General Assembly Members, as well as the handling of complaints.

Subsequently in 2012, together with HYK, HAD further enhanced the arrangement in relation to the RC elections in the Model Rules, including the general rule, role of District Officers, number of seats, term of office, handling of vacancy in office, voter eligibility, the circumstances a person is disqualified from voting, voter registration, dates for elections, the arrangement of by-elections, nomination procedure, eligibility of candidates, subscribers and seconders, withdrawal of candidature, arrangements for polling and counting of votes, handling of complaints, and questioning of the results of elections, so that the electoral arrangements of RC elections would become closer to statutory elections. All RCs set out in their respective Constitutions that the election proceedings specified therein must conform to the Model Rules.

For the elections of Executive Committee Members, Chairman and Vice-chairmen of RCs, the respective District Officer serve as the Returning Officer ("RO") to coordinate the proceedings. Duties of ROs include:

- (i) fixing the date, time and place of elections and formulating the election rules and procedures;
- (ii) monitoring the whole process of elections;

- (iii) compiling and publishing registers of electors, and determining the claims and objections in respect of registers of electors;
- (iv) accepting the notices of intention to stand for an election and nomination papers of candidates and deciding on their validity;
- (v) monitoring the polling activities on polling days;
- (vi) monitoring the process of the counting of the votes;
- (vii) declaring the result of elections;
- (viii) handling complaints relating to the elections and making the determination;
- (ix) accepting and keeping in custody copies of election advertisement and related information/documents, and the Returns and Declarations of Election Expenses and Election Donations submitted by candidates; and
- (x) confirming the result of elections.

ROs will ensure, according to the Model Rules, that the elections are properly and fairly conducted and in compliance with article 21(a) and (b) of the Hong Kong Bill of Rights under Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

After the completion of RC and HYK elections in June 2019, HAD will conduct the Rural Election Review Working Group Meeting with HYK with a view to exploring how to improve the arrangements for rural election and ways to further enhance the RC elections in a gradual and orderly manner while respecting the history and traditions of the rural community.

- (3) According to the relevant electoral law, the requirements of the voter registration for the rural representative election are different from that for the Legislative Council geographical constituencies and the

District Council constituencies. There is a residency requirement for electors in Resident Representative Election/Kaifong Representative Election. Any persons who wants to register as an elector in these Elections must be a Hong Kong permanent resident and has been a resident of the concerned rural area for the three years immediately before the date of application. A "resident" means a person whose principal residential address is in the rural area. A principal residential address means the address of the dwelling place at which the person resides and which constitutes the person's sole or main home. As for Indigenous Inhabitant Representative Election, so long as a person is an indigenous inhabitant of the concerned village, or a spouse or surviving spouse of an indigenous inhabitant of that Village, he/she can register as an elector, regardless of whether he/she is a Hong Kong permanent resident or whether he/she lives in Hong Kong. As for persons who want to register as electors in a geographical constituency, they must be Hong Kong permanent residents and ordinarily reside in Hong Kong. The registered residential address should be the address of their only or principal residence in Hong Kong, but there is no requirement for the period of residence. There is also no such requirement of the indigenous inhabitant identity.

In view of the difference between the elector eligibility of the two elections, HAD and the Registration and Electoral Office ("REO") compile the registers of electors separately. Combining the two registers and implementing automatic registration would result in certain unqualified persons being wrongly registered as electors for the election of rural representatives or geographical constituencies.

In order to maintain the credibility of the voter registration system and improve the accuracy and completeness of the data of the electors, HAD regularly reviews the registered addresses of electors in Rural Representative Election/Kaifong Representative Election with REO and will conduct investigation as and when necessary.

**MR CHU HOI-DICK** (in Cantonese): *Deputy President, the 27 RCs in the New Territories of Hong Kong are as influential as District Councils in respect of district affairs, and the elected chairmen can have a number of roles. They can be ex-officio councillors of HYK and members of the Election Committee.*



*However, at present, the role of villagers and members of the public in the supervision of RCs is almost zero. RCs will only make public their Constitutions, agendas, papers, records or even proceedings of meetings if they feel like to; otherwise closed meetings will be conducted.*

*The Secretary has completely evaded part (2) of my main question about the operation of RCs. What measures will be implemented by the Government to ensure that the 27 RCs will, like District Councils, operate in a way that is accountable to members of the public and villagers in a transparent and open manner?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, just now I have already given a clear answer in the main reply that the elections and operation of RCs are subject to their respective Constitutions, under which several things are guaranteed. In respect of elections, firstly, the Model Rules have been drawn up and the Constitutions must, regardless of any amendments, conform to the Model Rules.

Secondly, in the course of an election, the District Officer will likewise serve as the Returning Officer to oversee the election.

Thirdly, provisions relating to corrupt and illegal conduct in the Elections (Corrupt and Illegal Conduct) Ordinance also apply to RC elections. I therefore believe all these would serve as a guarantee to ensure that the elections are fair, just and transparent.

**MR CHU HOI-DICK** (in Cantonese): *Deputy President, the Secretary has not answered my supplementary question at all. I asked him about RC's operation, but he talked about elections ...*

**DEPUTY PRESIDENT** (in Cantonese): Mr CHU, you have already clearly stated the part of your supplementary question that has not been answered.

**MR CHU HOI-DICK** (in Cantonese): *... will the Government take any measure to ensure that the operation of RCs is transparent?*

**DEPUTY PRESIDENT** (in Cantonese): Mr CHU, you have repeatedly pointed out the part of your supplementary question that has not been answered. Please sit down. Secretary, do you have anything to add regarding the operation?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, regarding the operation, RCs are also subject to the respective Constitutions, and the provisions are completely applicable.

**MR CHRISTOPHER CHEUNG** (in Cantonese): *Deputy President, the current-term Government has strived to encourage the participation of young people in politics as well as public policy discussion and debate.*

*In view of growing public concern over rural affairs, may I ask if the authorities will allocate more resources to launch extensive promotion and publicity on rural representative election, and appeal to eligible voters to register, vote enthusiastically or stand as candidates? Furthermore, what measures will be taken to encourage young people to participate in rural affairs and rural representative elections?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, we attach great importance to rural elections at different levels, including the elections of rural representatives. We strongly encourage eligible persons to register as voters and we will, particularly before voter registration begins, launch extensive publicity and even promote in the rural areas. Of course, following each election, we will continue to step up the relevant work.

With regard to the turnout rate of rural representative elections, it is actually very high and is more than 50%. We hope that the voter turnout rate will remain high in the future so as to ensure the representativeness of the elected candidates.

**MR KENNETH LAU** (in Cantonese): *Deputy President, first of all, I have to declare that I am the Chairman of HYK, the existing Chairman and Chairman-Designate of the Tuen Mun Rural Committee as well as the indigenous inhabitant representative of Lung Kwu Tan Village in Tuen Mun.*

*I want to stress that, at present, 93% of RC members are returned by statutory elections of rural representatives, which are fair, open, and legitimate, and have considerable public support. As for the remaining 7% of members, they are chosen according to the selection method for RC members, provided in the respective Constitutions drawn up on the basis of the unique historical background, culture and customs of each village. At present, RC elections are conducted in accordance with the Model Rules and are governed by the respective Constitutions and Model Rules, with HAD playing the gatekeeping role. Therefore, the transparency of RC elections is not as low as Mr CHU has claimed.*

*In the past, HYK and the Government had conducted a number of meetings to explore the enhancement of RC elections. As pointed out by the Secretary just now, after the completion of RC and HYK elections, a further discussion would be held with HYK. May I ask how the Secretary is going to enhance the election proceedings and, on the premise of respecting the history and tradition of various villages, consider bringing RC elections within the ambit of statutory elections in a gradual and orderly manner?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, we strongly agree that an important feature that distinguishes rural elections from other elections is their history and tradition. Since some of the rural elections may have a history of more than half a century, it is important for us to respect tradition.

Nonetheless, on the other hand, times have changed and so has society, the general public has now become more demanding. Therefore, following each election, feedback would be collected from the community. Just as Members have said during this question and answer session, the authorities would definitely reflect these views and voices during the next discussion with HYK, with a view to improving, inter alia, the publication of results in the future. Upon completion of HYK's new election, we will embark on the work in this area right away.

**MR CHU HOI-DICK** (in Cantonese): *Deputy President, the Secretary and Mr Kenneth LAU have repeatedly claimed that there are Constitutions, but the present problem is that I cannot take a look at the Constitution. Honourable*

*Members, although I am a villager, I do not know the contents of the Constitution of the Pat Heung Rural Committee. And yet, they still insisted that RCs are transparent. What a great joke!*

*Deputy President, according to online news reports, the Government intended to carry out a reform by publishing the number of votes received by the chairmen and vice-chairmen of various RCs. Is this very pathetic? Today, we do not even know the number of votes obtained by the candidates, and they will only be made public after a reform. According to the Chairman of Sheung Shui Rural Committee HAU Chi-keung, this kind of reform is very naïve because whoever wins the election is the winner and it does not matter how many votes he gets. The present problem lies precisely in this kind of "boss" culture.*

*The Government said that the Rural Election Review Working Group would conduct a meeting with HYK. My supplementary question is: Can I, as an ordinary villager, join other villagers and members of the public to participate in the review of this Working Group? What will be reviewed by this Working Group?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, as I have pointed out earlier, I think that in the future agenda of discussion with HYK, there is certainly room for improvement in respect of the announcement of votes obtained. This is one of the key issues to be discussed in the future. In the course of discussion with HYK, we will certainly relay the voices of society, including those of Members and Mr CHU.

**MR CHU HOI-DICK** (in Cantonese): *I asked if there was any way for public participation.*

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

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, I have pointed out that we will reflect their voices.

**MR KENNETH LAU** (in Cantonese): *Deputy President, when typhoon Mangkhut battered Hong Kong last year, many village houses were destroyed and RCs took the initiative to alleviate the plight of villagers. However, the resources received by RCs have all along been limited and many of them have to count heavily on volunteers. The secretaries of RCs are not only responsible for liaison, but have to deal with administrative work and meet with villagers as well, which is indeed strenuous. How can they take up election campaign and other work at the same time? In response to the public call for greater transparency of RCs, will the Government increase the funding for RCs accordingly so that they can recruit additional staff to take up future election campaign, thereby enhancing the transparency of the elections?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, we will regularly discuss with HYK and listen to its views on funding. Increases in the amount of funding on an irregular basis were made in the past. As for the view expressed by Mr LAU, we can discuss at our next meeting.

**MR CHU HOI-DICK** (in Cantonese): *Deputy President, as I have expected, in part (3) of the main reply, the Secretary says that the registers of voters of rural representative elections and the other two kinds of elections are different and should not be mixed up. And yet, the current problem is that many people have resided in the rural areas for more than three years, but they still do not know if they are eligible to be registered as electors for another election.*

*Can the Home Affairs Bureau take a further step by, for example, writing to electors who have been included in the register of REO for more than three years, and remind them that they are also eligible to be registered as electors in the rural representatives elections? Will the Secretary consider taking one small step further to improve the registration rates of electors who have resided in the rural areas for three years?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, I am very glad to hear that Mr CHU no longer requests to combine the two registers, and he also agrees that combining the two registers might give rise to many problems. The problem under discussion is how publicity can be better launched. Mr CHU's suggested approach is an option, and there may be many

other alternatives. Therefore, following each election, we will explore different ways to promote voter registration. As for Mr CHU's views, they will be considered as well.

**MR CHU HOI-DICK** (in Cantonese): *Deputy President, does it mean that ...*

**DEPUTY PRESIDENT** (in Cantonese): Mr CHU, which part of your supplementary question has not been answered? This is the third time you raised a question.

**MR CHU HOI-DICK** (in Cantonese): *The Secretary has not replied whether he will take heed of my advice.*

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

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, I think I have answered his supplementary question.

**DEPUTY PRESIDENT** (in Cantonese): Secretary, Mr CHU asked if you would take heed of his advice. Do you have anything to add on this?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, just now I have already replied that I would relay his views at the meeting.

**DEPUTY PRESIDENT** (in Cantonese): Okay.

**DR KWOK KA-KI** (in Cantonese): *Deputy President, the RC election of this year completed not long ago is a real eye-opener to Hong Kong people. There were triad fights, splashing of red paint and all sort of vices, which is a shame to Hong Kong.*

*Just now, the Secretary paid lip service and promised to do whatever was requested. Improvements were made to the electoral arrangements in 2012 and the outcome was obvious to all. As we can see, government-business-rural-triad collusion still exists, and the election has become a hotbed of crimes. Now, we have a very simple issue. It is pointed out in part (3) of the main reply that RCs are involved in a great deal of interests, such as deciding who has small house concessionary rights or providing assistance in acquiring such rights. Thus, transparency is of paramount importance and the eligibility requirements for electors must be open and transparent. The authorities introduced improvement measures in 2012, but seven years have passed, can the Secretary reply specifically when action will be taken, this year or next year? Is the Secretary simply speaking off the top of his head and no definite timetable has been set? I want to know when action will be taken so that the election will not bring shame to people of Hong Kong or of the New Territories.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, following each election, we will certainly discuss with HYK the possible improvements and I believe the relevant work will surely kick off this year and discussion will be held. As I have mentioned just now, the Model Rules include nearly 23 pages of computer printouts. Many details have been clearly set out, and compliance with the Model Rules is of paramount importance. As regards whether any addition is necessary, I have already stated my views in my earlier reply. Therefore, the views expressed by Members, together with mine, will be discussed with HYK.

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, which part of your supplementary question has not been answered? Please state briefly.

**DR KWOK KA-KI** (in Cantonese): *I have specifically asked whether improvements would be made this year. If his reply is that a discussion with HYK is necessary, then that is not an improvement.*

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK, you have already clearly stated the part of your supplementary question that has not been answered. Please sit down. Secretary, do you have anything to add?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, we will kick off the discussion this year.

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

### **Regulating franchising-related business practices**

6. **DR PRISCILLA LEUNG** (in Cantonese): *Deputy President, it is learnt that more and more operators of chained convenience stores and self-service laundries are expanding their networks of outlets through granting franchise. However, there is currently no dedicated legislation in Hong Kong regulating the powers and responsibilities between a franchisor and a franchisee under a franchise model. Often, only after signing a franchise agreement did the small shop operators find that the provisions in the agreement are quite unfavourable to them, and they are oppressed by the franchisors but have nowhere to turn to for assistance. In this connection, will the Government inform this Council:*

- (1) *whether any government department or public body is currently responsible for regulating franchising-related business practices; if so, of the number of complaints received from franchisees against their franchisors by that department or body in the past three years; if not, the reasons for that;*
- (2) *whether it studied in the past three years ways to enhance the protection for franchisees, such as by amending legislation relating to consumer rights and interests to classify franchisees as consumers; if so, of the outcome; if not, the reasons for that; and*
- (3) *whether it will, upon making reference to the practices of other jurisdictions, explore the enactment of a dedicated legislation or the establishment of a system to regulate franchising-related business practices; if so, of the details and timetable; if not, the reasons for that?*



**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, franchising is a model of business expansion. Through entering into franchising agreement, franchisors can rapidly develop, with less investment and risk, a business network with unified brand image and consistent products, while franchisees can immediately benefit from the reputation of franchisors and the support and services in business operation they provide, for example, supply of products, sale and service models, manpower training, marketing, etc.

The franchising market in Hong Kong has been developing steadily, and it is more common in the food and beverage as well as retail sectors. It can also be found in other service sectors, such as laundry, mini-storage, and even medical services. Many well-known global franchise brands have a presence in Hong Kong, and there are also home-grown products and services using the franchising model for operation.

In consultation with the Security Bureau and the Department of Justice, my consolidated reply to Dr Priscilla LEUNG's question is as follows:

Franchising is a business activity, and may involve a number of legal aspects, including contract, intellectual property, provision and sale of products, liability and safety of products, consignment, employment and arrangements for dispute resolution, etc. The cooperation between franchisors and franchisees is a commercial relationship based on the contract agreed between both parties, which is governed by the law of contract, including the common law and applicable legislation, for example the Misrepresentation Ordinance.

If there is a dispute on the cooperation between parties to a contract, the parties may acquire and enforce rights under the contract. If one party fails to fulfil its obligations, the other party may recover damages and resolve their disputes through legal means, such as litigation, arbitration and mediation. If fraud is suspected in the dispute, the Police will also follow up. The current contract law related to franchising in Hong Kong has been functioning effectively. The Government has no plan to introduce dedicated legislation or system to regulate the relevant business activities. Under the principle of respect for freedom of contract, it is not appropriate for the Government to intervene into the commercial operations and disputes between franchisors and franchisees by restricting the substance or format of contracts between parties or imposing specific arrangements for cooperation, etc.

Regarding consumer protection legislation, its main purpose is to protect the legitimate interest of consumers as its name suggests. Franchisees conduct commercial activities. The associated investment and business risks they bear should not and could not be dealt with by consumer protection legislation.

It has been the Government's policy to provide an environment conducive to businesses and render suitable support to various sectors for the development of the trade. The Trade and Industry Department ("TID") provides various support services to the small and medium enterprises ("SMEs"), including the establishment of the Support and Consultation Centre for SMEs ("SUCCESS"). SUCCESS provides SMEs with information on business operation and consultation services free of charge in collaboration with industrial and trade organizations, professional bodies, private enterprises and other government departments. Through the "Meet-the-Advisors" Business Advisory Service of SUCCESS, SMEs can consult experts on their opinions on various aspects of operating a business, including franchising. The SME Mentorship Programme of SUCCESS enables SME entrepreneurs at the early stages of business development in various industries, including franchising, to learn business techniques from experienced entrepreneurs and professionals in a one-on-one setting. SUCCESS have also organized seminars on franchising, with speakers highlighting points to note when expanding business through franchising, the general support provided to franchisees, as well as sharing their experience in developing a successful franchise network and exploring important factors for SMEs to consider when choosing to become a franchisee, etc. TID will continue to implement and enhance services in this area.

In addition, to help expand the franchising business and connection among Hong Kong traders, the Hong Kong Trade Development Council ("TDC") launched the Hong Kong International Franchising Show in 2015. The Show is a one-stop platform for companies and individuals interested in introducing or joining franchising brands to look for franchising brands, identify business partners and acquire the keys to franchising operation. During the Show, a series of seminars were hosted by experts and industry representatives from around the world to provide useful information to anyone interested in taking part in franchising by sharing important points to note, legal issues, business concepts, as well as business management relevant to franchising operation.

In conclusion, similar to other modes of business, franchising is governed and protected by the existing law. The Government has no plan to introduce dedicated legislation or regulatory system specific to franchising.

**DR PRISCILLA LEUNG** (in Cantonese): *As indicated by the Secretary in the main reply, in respect of the mechanism to provide assistance for franchisees, the Government will continue to adopt a "three nos" policy in Hong Kong, i.e. no legislation, no policy and no system; and the Consumer Council ("CC") is not in a position to handle complaints and offer help to entrepreneurs and start-ups. The Secretary mentioned SMEs just now, but they are in fact micro, small and medium enterprises. I understand that Hong Kong adheres to market economy which we dearly cherish, but other free economies such as the United States, Australia and Canada have enacted dedicated legislation to regulate franchisors. In the United Kingdom and Singapore, there is a dedicated system and a code of practice, but in Hong Kong, there is nothing. The Secretary indicated just now that the authorities would continue to take no action.*

*I wonder if anyone has lodged a complaint to the Secretary as CC cannot handle such kind of requests for assistance. Many people who are encouraged to start a business, such as those who belong to the silver-haired generation or first-time entrepreneurs, have fallen into the franchising traps, and some of them have lost all their pensions. Let me put this question to the Secretary again: will consideration be given to at least establishing a certain mechanism, as in the case of other free economies, to encourage the industry to establish its code of practice? The activities just mentioned by the Secretary are, just like the seminars held in the districts by Members, unable to offer sufficient protection to entrepreneurs. We encourage people to start their own business, yet they fall into traps. I hope the Secretary will consider my proposal seriously and respond again.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, what Dr Priscilla LEUNG said just now has deviated from the facts I pointed out in the main reply. First, it is not true that at present we do not have legislation to regulate the franchising-related business, but we do not endorse or plan to introduce dedicated legislation or regulatory system specific to franchising. The reason is very simple. As I have mentioned in the main reply, under the present legislation, if incidents described by Dr LEUNG have happened, such as someone being cheated into entering into an unfair agreement owing to the undesirable or illegal acts, such as misrepresentation, of the other party to a contract, such incidents can be regulated under the current legislation, and the dealings between franchisors and franchisees are governed by

the law of contract. I think Dr LEUNG is very well aware that under the common law, the contract law is an important element and it is also a way of regulation.

Dr LEUNG asked whether the franchising-related industry could be regulated in a way similar to providing protection for consumers. As pointed out in my main reply, this approach is inappropriate because franchisees are not consumers. They are operators of a business by way of cooperation under a contract. We cannot invoke an unsuitable legislation to help these people. I believe the rationale is very clear.

In respect of support, I have also mentioned in the main reply that in view of the increasing popularity of this kind of business operation, government departments and TDC have organized meetings for members or experts of the business to share their experience. We can continue to host such activities.

Regarding Dr LEUNG's suggestion to introduce cooperation or regulation within the industry, I welcome and endorse this suggestion. Support can also be provided for these enterprises through the two aforesaid ways, that is, the support provided by TID for SMEs or the annual Franchising Show organized by TDC. Meanwhile, I also notice that four service sectors in the franchising market have set up organizations on their own initiative.

**DR PRISCILLA LEUNG** (in Cantonese): *Deputy President, at this moment, many franchisees who consider that they have been deceived should be listening to our dialogue. When considering this issue, I hope the Secretary will take into account that under the global environment that encourages business start-up, franchisees are generally those having very little capital but keen on starting their own business. These people may not be able to study the voluminous contract on their own, as stated by the Secretary. Some of them have already retired at the age of 55 and they want to continue to earn a living by investing their pensions. When they have difficulties ... We are not talking about individual contracts; as franchising business has become increasingly popular, more and more first-time entrepreneurs favour this kind of operation because the thresholds can be met easily. Hence, when we encourage people to start a business, we have to provide them with greater protection.*

*Just now, the Secretary said that it was inappropriate for CC to provide assistance to these people. Policies are flexible, but without the Government's help in promotion, no changes can be made, as stated by the Secretary in his reply. Consequently, batches of franchisees, like the victims in the Lehman Brothers Incident years ago, have to lodge complaints at Offices of Legislative Council Members. I think the Government and the Commerce and Economic Development Bureau have to undertake responsibility, so that franchisees need not seek help from Legislative Council Members, as in the case of the victims in the Lehman Brothers Incident.*

**DEPUTY PRESIDENT** (in Cantonese): Dr Priscilla LEUNG, please raise your supplementary question directly.

**DR PRISCILLA LEUNG** (in Cantonese): *Will the Secretary consider relaxing the rules?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I thank Dr LEUNG for her follow-up question. First, the Government has given serious consideration to this issue. It is not that we do not want to regulate, nor are we making excuses. I have pointed out earlier how support should be provided under the current legislation or under other scopes to handle the complaints depicted by Dr LEUNG just now, and to tally with the robust development of the business in the future. However, I believe it would be difficult to give support by taking inappropriate approaches or invoking unsuitable legislation. In particular, we cannot possibly ask CC to interfere in cases not related to the conflicts between buyers and sellers.

I agree with Dr Priscilla LEUNG that when some people decided to start a business by joining a franchise, they might not have taken a comprehensive view of the situation. They might be attracted by the low threshold and the little capital required, and thus have not conducted in-depth studies. As a matter of fact, anyone who intends to do business must study the contract very carefully, which is an essential part of a commercial activity.

I would like to thank Members, especially those with a legal background, who might have provided assistance to these people. However, at the end of the day, the responsibility lies with the contracting parties. As I said in the main

reply, such kind of operation involves well-known overseas brands and local brands. According to the data I have in hand, overseas and local brands take up about 50% respectively. The franchising agreements may differ and many different industries may be involved. Under such circumstances, if fraud or misrepresentation is involved, as mentioned by Dr LEUNG, the situation can be regulated by current legislation. However, for conflicts arising due to dissatisfaction or conflict between parties to a contract, the parties may have to resolve their differences through mediation or litigation. I believe that in a commercial city like Hong Kong, the commercial law has spelt out clearly the rights and interests of both parties.

**DR PRISCILLA LEUNG** (in Cantonese): *I have dealt with ... investigated ... at that time, I remember ... I must ...*

**DEPUTY PRESIDENT** (in Cantonese): Dr Priscilla LEUNG, please wear the microphone.

**DR PRISCILLA LEUNG** (in Cantonese): *I recall that when the Subcommittee to investigate into the Lehman Brothers Incident started to conduct the investigation, the response of the Hong Kong Monetary Authority ("HKMA") at that time was very similar to the Secretary's earlier, that is, it was merely a market problem. When members in the community could "join the game" with several ten thousand dollars, or one hundred thousand dollars, HKMA was initially indifferent, and problems consequently arose.*

*The enterprises mentioned by the Secretary just now may be large in scale, or the persons in question are experienced businessmen who can seek legal advice. What I want to point out is that, presently a group of people in Hong Kong join franchises with their pensions of about \$100,000, which is all they have. If the Government shows no concern ... May I ask whether the Government has studied the overseas practices that I pointed out in the follow-up question? Why did the United States enact dedicated legislation and why did the United Kingdom request the relevant industries to draw up codes of practice? They do so to at least put in place a certain form of regulation. If the problem should not be handled by CC, will the Government designate a Bureau or a*

*certain department or even a dedicated commission to deal with the problem? The present trend is that more and more people have, after working for decades, engaged in franchising and invested all their pensions in it, but they receive no protection.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I understand the reasons for Dr LEUNG's concern but I hope that she has taken note of the comprehensive main reply which I spent over 10 minutes on presenting. What I said was not merely related to whether dedicated legislation should be enacted or whether the franchising business should be regulated by CC or by consumer-related legislation, but the basis of operation of the industry. The operation is based on contracts. In particular, as pointed out by Dr LEUNG, if these people invest all their hard-earned savings on a business, they should take a closer look, or at least they should study the terms of the contract more carefully or seek professional advice when necessary.

In relation to the franchising business, we should take note of an important point, which is how it should be regulated under the present legislation, especially under the common law. If, as relayed by Dr LEUNG, fraud is suspected, regulation is possible under the current legislation. If a party to the contract makes a misrepresentation, that is, not stating the facts, regulation can be conducted under the current legislation. The other party can cancel the contract, or the victims can take legal action to recover their loss. This point is very important.

I thank Dr LEUNG for handing me some research findings last night, which indicate that the practice of Hong Kong is different from that of the United States and Mainland China. There is dedicated legislation in the United States and Mainland China but not in the United Kingdom, perhaps owing to the fact that common law is practiced in the United Kingdom. However, the absence of dedicated legislation does not mean that no legal protection is provided.

I have mentioned that regulation can be conducted under the current legislation, including the contract law, the Misrepresentation Ordinance and the prohibition against fraud. I believe Dr LEUNG also agrees that for any investments which involve money, disregarding the amount involved, both parties

have to attach importance to the contract terms. Any misunderstandings of the parties to the contract will result in an increase in complaints and consequently affect the goodwill of the franchisor. Owing to these factors, we have to respect both parties.

**DEPUTY PRESIDENT** (in Cantonese): Dr Priscilla LEUNG, this is the fourth time that you ask questions.

**DR PRISCILLA LEUNG** (in Cantonese): *Yes, this is the fourth time that I put question on this subject because the Secretary has not answered my question. Dedicated legislation has been enacted in other free economies, such as the United States, Australia and Canada; as for other countries such as the United Kingdom, Singapore and New Zealand, though there is no dedicated legislation, Code of Ethics or Code of Conduct have been issued by the relevant industries. If the Government does not impose regulation, and only relies on self-adjustment of the market, when big and even catastrophic problems arise, all franchisees will fall into traps. We all know that the size of letters/characters on the contract is very small. Similarly, when we discussed the Privacy Law back then, we found that everyone had signed the consent. How can the Secretary ask these ordinary folks to resolve the problems on their own? Why can't the Government play a more accountable role and avoid the occurrence of the above mentioned situations? How come other free economies are willing to do so?*

**DEPUTY PRESIDENT** (in Cantonese): Dr Priscilla LEUNG, you have raised your supplementary question.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I have already answered part of the question. First, the Government welcomes codes of practice formulated by the industry on its own. I notice that four trade associations have been established within the industry. Of course, this is desirable as the trade understands its situation the best and their proposals can reflect the positions of both parties.



Different places in the world have introduced different systems. I have pointed out that the United States and Mainland China have enacted legislation but not the United Kingdom. That may be due to the difference in the legal systems adopted. Under the common law, there is a contract law and there are also other ordinances that I cited which will impose regulation in this respect. Hence, one should not say that without dedicated legislation, there is no regulation as that will give people a wrong idea. However, in the case of this industry, as I said in the last part of the main reply, both TID and the TDC have organized or sponsored programmes to encourage operators to discuss or share their experience. I consider this a starting point and will see if the industry can do a good job internally in this respect.

Nevertheless, I think I must make one point very clear. I do not believe Dr LEUNG is requesting the Government to study the details of a contract on other's behalf. The Government cannot undertake the work since at the end of the day, it is the responsibility of the two contracting parties. As regards whether the contract terms are reasonable, if the actions of a contracting party have crossed the line, or if fraud or misrepresentation is involved, it is against the law and we will of course take actions. There are also legislation to impose regulation.

As regards what is the best way to resolve the differences between parties to a contract, at present, there are mediation and arbitration services. Recently a Mediation Centre has been set up in the West Kowloon Law Courts Building, making it more convenient for the public to use the service as both the threshold and fees are very low. People can settle their disputes in that centre. However, the Government's bottom line is that it cannot study the contracts for other people and decides whom to help because that involves the so-called "moral hazard". At the end of the day, when people sign a contract to invest their life savings, as Dr LEUNG has said, they are engaged in a very important commercial activity.

(Dr Priscilla LEUNG pressed the button to request to ask another question)

**DEPUTY PRESIDENT** (in Cantonese): Dr LEUNG, you have asked four supplementary questions. This Council has spent 22 minutes on this question. Please follow up on other occasions. Oral questions end here.

**WRITTEN ANSWERS TO QUESTIONS****Handling of complaints by the Medical Council of Hong Kong**

7. **MR CHUNG KWOK-PAN** (in Chinese): *President, this Council passed in March last year the amendments to the Medical Registration Ordinance (Cap. 161) to reform the composition of the Medical Council of Hong Kong ("MCHK"), its mechanisms for complaint investigation and disciplinary inquiry, etc., including allowing MCHK to set up more than one Preliminary Investigation Committee ("PIC") and inquiry panels. In this connection, will the Government inform this Council:*

- (1) *whether it knows the number of complaints received by MCHK in each of the past three years and, among such cases, the respective numbers of those (i) determined by PICs of MCHK as having a prima-facie case and (ii) found to be substantiated by the inquiry panels of MCHK; the current number of complaints pending handling, and the estimated time needed to finish handling those cases;*
- (2) *whether it knows (i) the progress of the follow-up actions undertaken by MCHK on the aforesaid legislative amendments and (ii) how the number of complaints handled and the handling time taken (including the time spent on inquiry proceedings) after Cap. 161 was amended compare with the relevant figures prior to that; and*
- (3) *whether the Government has, since March last year, conducted reviews to see if (i) MCHK's progress in handling complaints is satisfactory, (ii) the administrative measures implemented by MCHK are effective, and (iii) any new measures can be put in place to expedite the clearing of the backlog; if it has conducted reviews, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, my reply to the question raised by Mr CHUNG Kwok-pan is as follows:

- (1) The figures for complaints received by the Medical Council of Hong Kong ("MCHK") in the past three years are set out below.

- (i) Complaints received by MCHK from 2016 to 2018

	2016	2017	2018
Total number of complaints received in the year	628	496	639

- (ii) Disciplinary inquiries handled by MCHK<sup>(1)</sup>

	2016	2017	2018
Number of disciplinary inquiries	26 <sup>(2)</sup>	26	24
Number of registered doctors found guilty after disciplinary inquiry	19	18	21
Number of registered doctors found not guilty after disciplinary inquiry	4	5	1
Number of cases to be carried forward	4	3	2

Notes:

- (1) including cases referred by the Preliminary Investigation Committee ("PIC") for disciplinary inquiry in or before the year
- (2) one of the cases involved two doctors

As at the end of 2018, there were 546, 527 and 103 complaint cases pending handling by MCHK at Pre-PIC, PIC and inquiry stages respectively.

(2) and (3)

Since the passage of the Medical Registration (Amendment) Bill 2017 ("the Bill") in March 2018, the Government has been closely liaising and held a number of meetings with the MCHK Secretariat to follow up on various relevant issues, including exploring ways to improve the complaint and inquiry mechanism ("the mechanism"). Upon the passage of the Bill, MCHK set up a task force to, amongst others, look into how to improve the mechanism. The task force convened its first meeting in May 2018 to discuss ways to improve the mechanism and made recommendations to MCHK. In July 2018, MCHK endorsed the task force's recommendations, including the setting up of an additional Inquiry Panel and an additional PIC in the third and the fourth quarters of 2018 respectively.

The new PIC has convened four meetings since its establishment. As at March 2019, it discussed a total of 199 cases, while the deemed PIC continued to process backlog cases as usual, discussing about 35 cases on average each month. As each complaint case varies in nature, type and complexity, MCHK, in considering a case, often requires the complainants or relevant institutions to provide further information. Where necessary, MCHK will also seek opinions from independent experts and legal advice to ensure that the case is considered in a comprehensive, objective and impartial manner. The new PIC is still at the early stage of establishment, and an accurate estimation of the time it takes to process cases cannot be made at the moment. Nevertheless, MCHK expects that the backlog of cases can be cleared in three years.

The task force will convene its second meeting shortly to continue reviewing the progress and effectiveness of the work on complaint handling. MCHK expects that the majority of the cases that require inquiry can be concluded within two years after the existing backlog has been cleared.

### **Verifying the identity of recipients of mail items**

8. **MR LAU KWOK-FAN** (in Chinese): *President, it has been reported that the Hongkong Post ("HKP") has recently implemented a new measure: when postmen make door delivery of mail items requiring signature by recipients (such as registered, Speedpost and Local CourierPost letters/packages), or when post office counter staff deliver mail items requiring signature to persons holding mail delivery notification cards, they are no longer required to request the recipients of these mail items to produce identity documents for identity verification. In this connection, will the Government inform this Council:*

- (1) *whether HKP had consulted the public before implementing the new measure; if so, of the outcome; if not, the reasons for that;*
- (2) *whether HKP has so far received any complaint lodged by members of the public concerning the new measure; if so, of the details;*

- (3) *as some members of the public have pointed out that mail items requiring signature, the charges for which are higher than those for surface mail items, originally have an important advantage of ensuring that the recipients are either the designated recipients of mail items or persons whose identities are traceable, whether HKP has assessed if the new measure has rendered mail items requiring signature losing this advantage and thus made such items no different from surface mail items; if HKP has assessed and the outcome is in the affirmative, of the remedial measures; if the assessment outcome is in the negative, the justifications for that; and*
- (4) *as some members of the public have pointed out that people post mail items requiring signature for the purpose of preventing recipients, after receiving such mail items, from denying receipt of them, but under the new measure, when the designated recipients of mail items requiring signature claim that they have never received the items, HKP can hardly verify such claims as there is no way to confirm the identities of the recipients of the items, thus defeating the purpose of posting such items, whether HKP has any solution?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, with regard to the question raised by Mr LAU Kwok-fan, our reply is as follows:

It is the established principle of various postal administrations and courier sector that mail items are delivered according to the address (i.e. delivery to the address) but not to the designated addressee as given on the mail item (i.e. delivery to the addressee). This is also the practice adopted by Hongkong Post. Under this principle, mail delivery is mainly classified into two categories, namely, "signature for the receipt not required" and "signature for the receipt required".

For a mail item where signature for the receipt is not required, delivery is deemed successful when such an item is delivered to the address (such as in the case of putting the mail item into the letter box of its corresponding address). For a mail item where signature for the receipt is required (including registered mail, Speedpost item, parcel and Local CourierPost item, etc.), delivery is

deemed successful only when such an item is delivered to the address and signature for the receipt is obtained from the recipient who does not necessarily have to be the addressee.

In the past, for a mail item where signature for the receipt was required, Hongkong Post would require the person who received the item at the address at the time of delivery to produce his/her identification document if it could not be ascertained whether such person was entitled to receiving it. The name of the recipient and the first four alphanumeric characters of his/her identification document would be recorded. In case of unsuccessful door delivery (such as no one was present to receive the item), a notification card would be left at the address concerned or in its letter box, notifying the addressee to collect the item from a designated post office. At the time of collection, the card holder would be required to produce his/her identification document, so as to prove that he/she is the addressee of the mail item. If the card holder was not the addressee of the item, he/she would be required to produce a copy of the identification document of the addressee and the original identification document of his/her own. If the identification document of the addressee or the card holder did not show the name as given on the mail item, he/she would be required to provide supporting documents to show that the addressee was living with the card holder or to prove their relationship (such as certificate of marriage, residential proof showing that the card holder lived at the delivery address, etc.). Staff at the post office would examine the above documents and record the name of the card holder and the first four alphanumeric characters of his/her identification document when the mail item was delivered.

With the rapid development of e-commerce, the number of online purchases delivered through the postal system has been increasing. Some of the online shopping platforms allow online shoppers to post their orders without using their real names. Hongkong Post received quite a number of complaints directly from members of the public or referred by the Office of The Ombudsman, questioning the reason for requiring the person receiving or collecting the mail item to produce his/her identification document or other information, adding that it would be difficult for some of them to produce proof of address (such as housewives and minors who would not be holders of household accounts). It was considered that the above measures had caused great nuisances to the public and failed to keep up with social development.

Hongkong Post conducted a review in this connection, and considered that its past practice had deviated from the principle of "delivery to the address" and would be easily mistaken that mail delivery service was based on a principle of "delivery to the addressee". The past experience also showed that information about the names and the first four alphanumeric characters of the identification documents of the recipients collected at time of delivering the mail item did not help much in tracking down the missing mail items. As such, Hongkong Post has since 4 March 2019 made the following adjustments to the delivery arrangement for mail items where signature for the receipt is required:

- (a) if someone is present at the delivery address, he/she is allowed to receive the mail item and sign to acknowledge its receipt, without the need to produce his/her identification document or his/her information be recorded; and
- (b) if no one is present at the delivery address to receive the mail item, the postman will leave a notification card at the address or in its letter box. At the time of collecting the item and signing to acknowledge its receipt, the card holder will not be required to produce his/her identification document, or proof showing that he/she is living with the addressee or his/her relationship with the addressee. The post office will file the notification card and the process will be taped by the closed-circuit television at the counter as in the normal circumstances.

The new delivery arrangements above has been operating smoothly since its implementation.

According to Hongkong Post, there are enquiries and complaints concerning the new delivery arrangements (a total of 15 as at 13 March 2019). The main concern is whether it is safe to deliver mail items which require signature for the receipt without checking the identification documents (e.g., a person would be able to collect another's mail item if the notification card is stolen), and that it would be difficult to track an item in the event of a dispute over its delivery.

Hongkong Post understands the worries of individual members of the public and notes that letter boxes of tenement buildings in some old districts and the rural areas are less secure. Starting from 20 March 2019, Hongkong Post

has fine-tuned the new arrangements. When door delivery of a mail item which requires signature for the receipt is unsuccessful and a notification card is to be issued, the card holder when making collection from the designated post office will be required to produce his/her identification document and his/her name will be recorded before signing to acknowledge its receipt.

Hongkong Post will continue to monitor the operation of the new arrangements, and from time to time assess the impact of the arrangements and adjust the operational details taking into account the factors of social changes, public needs and mail security. Hongkong Post will also continue to promote the correct way of writing addresses; remind senders to provide return addresses and affix sufficient postage, and the need for households or commercial tenants to install secure and proper letterboxes etc., in order to facilitate safe and smooth delivery of mails.

### **Construction records of public works projects**

9. **MR MICHAEL TIEN** (in Chinese): *President, recently, incidents of missing construction records of the Shatin to Central Link Project and the Hong Kong Link Road of the Hong Kong-Zhuhai-Macao Bridge Project have been uncovered one after another, which has aroused widespread concern. Some members of the public suspect that such incidents are just the tip of the iceberg. In this connection, will the Government inform this Council whether it will check the construction records of all public works projects implemented in the past five years and give the public an account of whether similar situations are found; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Development Bureau has always attached great importance to the site supervision and quality of public works. Therefore, we have requested works departments as well as contractors and consultants on our approved lists to remind their frontline staff that the contract requirements, including timely submission of Request for Inspection and/or Survey Check ("RISC") forms and proper keeping of relevant documents, should be followed.

In response to Mr Michael TIEN's enquiry, our reply is as follows:



In the past five years, more than 4 000 public works projects were under construction, involving a sheer volume of documents. Coupled with the fact that some of these projects have now been completed, it would be impractical to check all documents concerned as it will require substantial staff resources and take quite long time to complete. In order to realize the situation, we have already spot-checked some public works projects under construction. According to the spot checks, missing of RISC forms have NOT been identified. Notwithstanding that there are cases in which some RISC forms have not been submitted on time, the contractors concerned have subsequently submitted them.<sup>(1)</sup> In other words, the records of those public works projects being checked are complete and the quality of works meets the standards and contract requirements.

To ensure proper processing and keeping of construction records, the Development Bureau requested the works departments earlier on to increase spot checking of records relating to RISC in future audits on public works contracts to verify whether the frontline staff have followed the procedures in processing RISC or not. Through the Construction Industry Council, we are disseminating and advocating to the construction industry the importance of complying with the RISC system. We also appeal to the industry to provide necessary induction and on-the-job training for their staff to ensure proper implementation of the system. In addition, we have promoted the digitization of the works supervision system through pilot projects to collect real-time data on site environment and works progress for recording, monitoring and analysis so as to further enhance the standard and efficiency of the supervision of public works projects. In the long run, the Development Bureau will review whether it is necessary to further refine the RISC system, for example, whether non-compliance of RISC requirements and follow-up action should be handled by more senior resident site staff at managerial level.

- (1) In general, according to the requirements of public works contracts, when the contractors have completed certain critical works (e.g. erection of formwork, reinforcement fixing, concreting, etc.) or certain works are about to be put out of view (e.g. completed piling works), they are required to submit RISC forms requesting the resident site staff to inspect and survey the works concerned. The contractors could proceed to the next stage of works only after obtaining approval from the resident site staff. If the contractors fail to submit the RISC forms, members of the resident site staff are entitled to refuse the conduct of relevant inspection and/or survey check. Nevertheless, having considered the reason(s) for the delay in submitting the RISC forms of individual cases, members of the resident site staff may, if the circumstance permits, exercise their discretion to deal with the late request, i.e. conducting the inspection/survey check first and then following up with the contractor about the outstanding submissions together with proper documentation of the case.

**Future plan for the General Post Office Building in Central**

10. **MR HUI CHI-FUNG** (in Chinese): *President, the Government plans to relocate the Hongkong Post's Headquarters, which is currently housed in the General Post Office Building in Central ("GPO Building") situated in Site 3 of the new Central harbourfront, to a postal complex to be built in Kowloon Bay. The vacated GPO Building will be demolished to allow Site 3 to be used for commercial development. In this connection, will the Government inform this Council:*

- (1) *of the timetable for the demolition works of the GPO Building;*
- (2) *of the planned timing for including Site 3 in the Land Sale Programme;*
- (3) *as some community groups have requested that the GPO Building be preserved in-situ in view of its conservation value, whether the Government has invited the Antiquities Advisory Board to conduct a historical building grading exercise for the building; if so, of the details; if not, the reasons for that;*
- (4) *given that Docomomo International, an international conservation body, included the GPO Building in the list of "Heritage in Danger" in 2015, and wrote to the Chief Executive in 2018 urging the Government to preserve the building, whether the Government has made a response; and*
- (5) *whether it will consider afresh preserving in-situ and revitalizing the GPO Building?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): *President, the General Post Office Building ("GPO Building") is at the south-western corner of Site 3 of the new Central harbourfront. The design concept of Site 3 was formulated under the Urban Design Study for the New Central Harbourfront ("UDS") completed in 2011 following two stages of public engagement ("PE") exercises. The relevant urban design requirements were subsequently incorporated into the planning brief for the site endorsed by the Town Planning Board ("TPB") in December 2016 after consultation with the Central and Western District Council*

("DC") and the Harbourfront Commission. When taking forward the development of Site 3 in future, the developer should deliver and comply with the requirements laid down in the planning brief.

According to the design concept recommended by UDS and the requirements of the planning brief, implementing the development of Site 3 requires demolition of the GPO building. The development of the site will not only provide additional supply of Grade A office in the Central Business District, its prime harbourfront location will also be conducive to providing quality public open space for public enjoyment. The design for the site has to incorporate a low-density commercial development with building height significantly lower than surrounding office blocks; a quality and green public open space occupying more than half of the site area (i.e. at least 2.5 hectares); and a continuous landscaped deck, stretching across the site in a north-south direction and bringing people from the hinterland of Central to the new harbourfront, which will enhance the accessibility of the new Central harbourfront.

My reply to Mr HUI Chi-fung's question is as follows:

- (1) The GPO Building will be demolished by the developer of Site 3 upon completion of the following two reprovisioning works:
  - (a) reprovisioning of the Hongkong Post Headquarters to a government site near the Central Mail Centre in Kowloon Bay. The Finance Committee ("FC") of the Legislative Council approved the related funding in October 2018 and the new building is expected to commence operation in 2023; and
  - (b) reprovisioning the district-tied postal facilities (viz. GPO Delivery Office, Speedpost Section, GPO Post Office Counters and Post Office Box Section) in the part of Site 3 to the north of Lung Wo Road. The facilities will be holistically designed and constructed by the developer in accordance with the requirements laid down by the Government.
- (2) Site 3 has yet been included in the 2019-2020 Land Sale Programme. As similar to other commercial sites disposed of by the Government, the Government will make necessary announcement in the annual

and quarterly land sale programmes following the established practice.

(3) to (5)

A concern group requested the Antiquities Advisory Board ("AAB") to carry out grading assessment on the GPO Building in October 2018. In December 2018, AAB, on the basis of its decision in September 2013 (i.e. grading assessment on buildings built in 1970 or later would not be carried out for the time being), decided not to carry out grading assessment on the GPO Building, which commenced operation in 1976.

As mentioned above, the UDS recommendations are made after extensive PE exercises. Different public and advisory bodies, including the Legislative Council Panel on Home Affairs and Panel on Development, AAB, former Harbour-front Enhancement Committee, TPB and the 18 DCs, had been consulted during the process. It is worth mentioning that respecting cultural heritage was one of the urban design themes in Stage 2 PE of UDS. To this end, the relevant consultation digest had listed a range of cultural heritage sites in Central, and the GPO Building was not amongst such sites. Retaining the GPO Building will contravene the design concept of Site 3 and requirements stipulated in the planning brief, undermining the overall development potential of Site 3 and preventing the vision of creating a more attractive, vibrant and accessible new Central harbourfront from being brought into fruition.

As we have responded at the meetings of the Legislative Council Public Works Subcommittee and FC, the Government will continue to take forward the development of Site 3 according to the original design concept and the planning brief of the site.

### **Medical and nursing manpower**

11. **MR CHAN CHUN-YING** (in Chinese): *President, in 2016, Hong Kong had 1.9 doctors and 7.1 nurses per 1 000 persons, and such ratios were lower than those of Singapore and Japan. In addition, as the population of Hong*

*Kong will continue to grow and age in the coming two decades (with the elderly population in 2036 rising by more than one million compared with that of 2016), it is expected that the shortage of medical and nursing manpower will aggravate. In this connection, will the Government inform this Council:*

- (1) whether it will set target ratios of (i) doctor to population and (ii) nurse to population; if so, of the details and the timetable; if not, the reasons for that;*
- (2) as the Report of Strategic Review on Healthcare Manpower Planning and Professional Development of 2017 projects that the shortfalls in medical and nursing manpower will continue to aggravate (with the shortfalls rising to 1 007 doctors and 1 669 general nurses respectively in 2030), whether the Government has introduced new measures to reduce such shortfalls and assessed the effectiveness of such measures; and*
- (3) given that the retirement age for those doctors and nurses recruited by the Hospital Authority ("HA") since June 2015 has been raised from 60 to 65, whether it knows if HA will raise the retirement age to 65 across the board for doctors and nurses recruited before June 2015; the measures put in place by HA to attract more retired doctors and nurses to accept rehiring offers?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, my reply to the question raised by Mr CHAN Chun-ying is as follows:

- (1) The Government has not set any target doctors/nurses-to-population ratio. Regarding the Hospital Authority ("HA"), different types and levels of services are provided to patients having regard to the conditions and needs of each patient. Therefore HA does not prescribe any doctors/nurses-to-patients ratio. Nevertheless, HA has established a mechanism for assessing manpower needs and conducting manpower planning to ensure that there is sufficient doctors/nurses to meet the service demand. HA will continue to keep in view the manpower situation and make appropriate arrangements in manpower planning to cope with the growing demand for health care services.

- (2) Over the past decade, the University Grants Committee ("UGC")-funded medical and nursing training places have been increased substantially from 250 and about 520 in the 2005-2006 academic year to 470 and 630 in the 2016-2017 academic year respectively. In the 2019-2020 to 2021-2022 UGC triennium, the Government will further increase the numbers of UGC-funded medical and nursing training places both by 60 each year. The Government will also subsidize 1 160 students to pursue self-financing undergraduate programmes in nursing under the Study Subsidy Scheme for Designated Professions/Sectors in the 2019-2020 academic year, representing an increase of about 400 places compared with that of the 2018-2019 academic year. We expect that increasing the number of training places will alleviate the manpower shortage of health care staff in the medium to long term.

HA will employ all qualified locally trained medical graduates and provide them with relevant specialist training. It is expected that there will be a total of over 2 000 medical graduates becoming registered doctors in the coming five years. HA will also employ all fresh graduate nurses and non-fresh graduate nurses who are willing to work in HA.

In addition, HA will continue to proactively implement the following human resources measures to retain professionals and alleviate the shortage of manpower:

- (a) HA will actively recruit non-locally trained doctors under limited registration, part-time and temporary health care staff, as well as agency nurses and supporting staff. Further to the establishment of the Locum Office, HA launched the Locum Recruitment Website in November 2018 to expedite the process of recruiting part-time staff. To alleviate the manpower shortage and assist in knowledge transfer, HA also implemented the Special Retired and Rehire Scheme to hire retiring doctors, nurses and supporting staff to continue to perform clinical duties on a full-time basis.
- (b) To retain doctors, HA set up the centrally coordinated additional Associate Consultant Promotion Mechanism in 2011-2012 to create more promotion opportunities. HA will

also provide its doctors with more training courses and overseas training opportunities.

- (c) To retain frontline nursing staff, HA reinstated the annual increment mechanism in April 2018 to boost staff morale. On training and promotion of nursing staff, HA created the post of Nurse Consultant in 2008-2009 to enhance the development prospects of the nursing profession. A total of 1 476 nurses were promoted in the past three years. Besides, HA provides subsidies each year for over 100 experienced nurses to undergo further studies and training overseas. To enhance preceptorship support for newly recruited nurses, HA recruits experienced nurses under the Preceptorship Programme to serve as preceptors and provide guidance for newly recruited nurses in the actual clinical setting. This also helps alleviate the work pressure of experienced nursing staff in coaching new nurses.

HA will continue to introduce medium to long-term measures, including actively considering providing more flexible options in work arrangements to retain staff, such as allowing frontline professionals who are temporarily unable to work full-time due to special needs or for health or family reasons to work on a part-time basis under special work arrangements.

- (3) HA has implemented the Special Retired and Rehire Scheme since 2015-2016 to rehire suitable health care professionals after their retirement, so as to retain professionals to provide training, impart knowledge and alleviate the manpower shortage in HA. For the time being, HA has no plan to raise the retirement age to 65 across the board for doctors and nurses recruited before June 2015.

### **Soccer pitches under the Leisure and Cultural Services Department**

12. **DR PIERRE CHAN** (in Chinese): *President, regarding the soccer pitches under the Leisure and Cultural Services Department, will the Government inform this Council:*

- (1) *of the respective current numbers of the four types of soccer pitches, namely (i) 11-a-side soccer pitches (natural turf), (ii) 11-a-side soccer pitches (artificial turf), (iii) 7-a-side soccer pitches (natural turf) and (iv) 7-a-side soccer pitches (artificial turf); set out, for each type of soccer pitches in a table of the same format as the table below, the following of each pitch: the District Council district in which it is located, name, dimensions (length and width), construction cost and usage rate in 2018;*

*Type of pitches:*

<i>District Council district</i>	<i>Name</i>	<i>Dimensions (in metres)</i>	<i>Construction cost</i>	<i>Usage rate in 2018</i>
<i>Hong Kong</i>				
<i>Eastern</i>	<i>Siu Sai Wan Sports Ground</i>			
...				
<i>Kowloon</i>				
...				
<i>New Territories</i>				
...				

- (2) *of the method for calculating the usage rates of soccer pitches;*
- (3) *whether it has regularly reviewed the usage of soccer pitches; of the circumstances under which the Government will propose the construction of soccer pitches, and the relevant planning criteria; and*
- (4) *whether it consulted, in the past three years, members of the football sector and the public on the planning of soccer pitches; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, my reply to Dr Pierre CHAN's question is as follows:



- (1) The Leisure and Cultural Services Department ("LCSD") manages 42 natural turf soccer pitches and 40 artificial turf soccer pitches. As most turf soccer pitches only form part of the recreation and sports facilities concerned, and the construction cost of a soccer pitch also forms part of the total estimated construction cost of a facility, LCSD does not have separate figures on the construction costs for turf soccer pitches. The information in respect of the size and usage rate of turf pitches is set out at Annex.
- (2) The usage rate of turf pitches is calculated on the basis of the number of hours of hire. If there is more than one pitch in a venue, the number of hours hired for all the pitches will be aggregated. The calculation is as follows:

$$\begin{array}{l} \text{Overall usage rate} \\ \text{of turf pitch (\%)} \end{array} = \frac{\text{Total hours hired during the year}}{\text{Total hours available during the year}} \times 100\%$$

- (3) and (4)

LCSD reviews from time to time the usage rate of soccer pitches so as to provide members of the public with appropriate facilities. When planning for new sports facilities (including soccer pitch), the Government will make reference to the Hong Kong Planning Standards and Guidelines and take account of other relevant factors, including policy objectives for sports development, existing provision of sports facilities in various districts, usage rates of existing facilities, demographic changes, views of District Councils, availability of land sites and technical feasibility. LCSD will consult related national sports associations where necessary. LCSD's soccer pitches are designed in accordance with the relevant standards.<sup>(1)</sup> The sizes of the vast majority of turf pitches meet the relevant standards, except those with venue constraints.

- (1) The 7-a-side and 11-a-side soccer pitches managed by LCSD are designed in accordance with the Hong Kong Planning Standard and Guidelines and the standard set by the Fédération Internationale de Football Association respectively.

## List of LCSD Turf Pitches

<i>District Council District</i>	<i>Venue</i>		<i>Natural turf pitch ("NTP")/ Artificial turf pitch ("ATP")</i>	<i>7-a-side/ 11-a-side</i>	<i>Size<sup>(1)</sup> (m)</i>	<i>Usage Rate in 2018<sup>(2)</sup></i>
<b>Hong Kong Island</b>						
Central and Western	Sun Yat Sen Memorial Park		ATP	7-a-side	77x57	78%
Eastern	Quarry Bay Park	Pitch No. 1	ATP	7-a-side	73x53	80%
		Pitch No. 2	ATP	7-a-side	77x57	
	Siu Sai Wan Sports Ground		NTP	11-a-side	105x67	100%
Southern	Aberdeen Sports Ground		NTP	11-a-side	100x64	72%
			ATP	11-a-side	94x54	
	Wong Chuk Hang Recreation Ground		ATP	11-a-side	90x51	63%
Wan Chai	Causeway Bay Sports Ground		NTP	11-a-side	95x64	100%
	Happy Valley Recreation Ground	Pitch No. 1	ATP	11-a-side	92x60	64%
		Pitch No. 2	ATP	11-a-side	90x60	
		Pitch No. 3	ATP	11-a-side	83x47	
		Pitch No. 4	ATP	11-a-side	90x48	
		Pitch No. 5	NTP	11-a-side	90x60	
		Pitch No. 6	ATP	11-a-side	100x63	
		Pitch No. 7	NTP	7-a-side	61x37	
		Pitch No. 8	ATP	7-a-side	69x50	
		Pitch No. 9	ATP	7-a-side	56x45	
		Pitch No. 10	ATP	7-a-side	56x45	
Hong Kong Stadium <sup>(3)</sup>		NTP	11-a-side	105x68	-	
So Kon Po Recreation Ground		NTP	11-a-side	94x64	100%	
<b>Kowloon</b>						
Kowloon City	Ho Man Tin East Service Reservoir Playground	Pitch No. 1	NTP	11-a-side	100x70	87%
		Pitch No. 2	NTP	11-a-side	100x70	

<i>District Council District</i>	<i>Venue</i>	<i>Natural turf pitch ("NTP")/ Artificial turf pitch ("ATP")</i>	<i>7-a-side/ 11-a-side</i>	<i>Size<sup>(1)</sup> (m)</i>	<i>Usage Rate in 2018<sup>(2)</sup></i>	
	Kowloon Tsai Park	-	NTP	11-a-side	91x54	80%
		Pitch No. 1	ATP	11-a-side	111x64	
		Pitch No. 2	ATP	11-a-side	98x52	
	Kowloon Tsai Sports Ground		NTP	11-a-side	100x64	93%
	Tin Kwong Road Recreation Ground	Pitch No. 1	NTP	7-a-side	61x37	95%
		Pitch No. 2	NTP	7-a-side	61x37	
Kwun Tong	Kowloon Bay Park		ATP	11-a-side	100x69	69%
			ATP	7-a-side	77x57	
	Kowloon Bay Sports Ground		NTP	11-a-side	90x63	95%
	Kwun Tong Recreation Ground		ATP	7-a-side	64x38	91%
	Sai Tso Wan Recreation Ground		NTP	11-a-side	100x64	98%
	Shun Lee Tsuen Park		ATP	7-a-side	61x37	71%
	Wai Lok Street Temporary Soccer Pitch		NTP	7-a-side	62x37	77%
Sham Shui Po	Hing Wah Street West Playground		ATP	7-a-side	61x37	77%
	Sham Shui Po Sports Ground		NTP	11-a-side	100x64	100%
	Shek Kip Mei Park		ATP	11-a-side	100x68	76%
	Tai Hang Tung Recreation Ground	Pitch No. 1	NTP	7-a-side	77x56	100%
		Pitch No. 2	NTP	11-a-side	100x64	
Pitch No. 3		NTP	11-a-side	100x62		
Wong Tai Sin	Hammer Hill Road Sports Ground		NTP	7-a-side	57x34	86%
			NTP	11-a-side	96x63	
	Lok Fu Recreation Ground		ATP	11-a-side	100x64	71%
	Morse Park	Pitch No. 1	ATP	11-a-side	90x45	69%
		Pitch No. 2	ATP	11-a-side	90x45	
		Pitch No. 3	ATP	11-a-side	90x45	
		Pitch No. 4	ATP	7-a-side	59x38	
	Po Kong Village Road Park	Pitch No. 1	ATP	11-a-side	100x64	73%
Pitch No. 2		ATP	11-a-side	100x64		

<i>District Council District</i>	<i>Venue</i>	<i>Natural turf pitch ("NTP")/ Artificial turf pitch ("ATP")</i>	<i>7-a-side/ 11-a-side</i>	<i>Size<sup>(1)</sup> (m)</i>	<i>Usage Rate in 2018<sup>(2)</sup></i>
Yau Tsim Mong	Boundary Street Recreation Ground	ATP	11-a-side	100x64	64%
	Cherry Street Park	ATP	7-a-side	61x37	79%
	Mong Kok Stadium <sup>(3)</sup>	NTP	11-a-side	105x65	-
New Territories					
Islands	Man Tung Road Park	ATP	7-a-side	62x37	74%
Kwai Tsing	Kwai Chung Sports Ground	NTP	11-a-side	100x64	97%
	Tsing Yi Northeast Park	ATP	11-a-side	100x64	61%
	Tsing Yi Sports Ground	NTP	11-a-side	100x64	100%
	Wo Yi Hop Road Sports Ground	NTP	11-a-side	73x47	94%
North	Fanling Recreation Ground	NTP	11-a-side	110x75	95%
	Kwu Tung Grass Soccer Pitch	NTP	11-a-side	87x44	78%
	North District Sports Ground	NTP	11-a-side	100x62	90%
	Pak Fuk Tin Sum Playground	ATP	7-a-side	71x45	67%
Sai Kung	Po Tsui Park	ATP	11-a-side	100x65	65%
	Sai Kung Tang Shiu Kin Sports Ground	NTP	11-a-side	100x64	57%
	Tseung Kwan O Sports Ground	NTP	7-a-side	62x40	100%
		NTP	11-a-side	105x68	
Sha Tin	Hin Tin Playground	NTP	11-a-side	91x61	86%
	Ma On Shan Recreation Ground	ATP	11-a-side	100x64	58%
	Ma On Shan Sports Ground	NTP	11-a-side	100x64	92%
	Sha Tin Sports Ground	NTP	11-a-side	100x65	95%
	Tsang Tai Uk Recreation Ground	ATP	11-a-side	105x70	73%
Tai Po	Kwong Fuk Football Ground	ATP	11-a-side	91x49	70%
	Kwong Fuk Park	ATP	11-a-side	105x70	63%
	Tai Po Sports Ground	NTP	11-a-side	100x63	100%
Tsuen Wan	Shing Mun Valley Sports Ground	NTP	11-a-side	100x64	93%
	Tsuen Wan Riviera Park	NTP	11-a-side	100x64	94%

<i>District Council District</i>	<i>Venue</i>	<i>Natural turf pitch ("NTP")/ Artificial turf pitch ("ATP")</i>	<i>7-a-side/ 11-a-side</i>	<i>Size<sup>(1)</sup> (m)</i>	<i>Usage Rate in 2018<sup>(2)</sup></i>
Tuen Mun	Siu Lun Sports Ground	NTP	11-a-side	100x62	79%
	Tuen Mun Tang Shiu Kin Sports Ground	NTP	11-a-side	100x64	90%
	Wu Shan Recreation Playground	ATP	11-a-side	100x64	58%
Yuen Long	Tin Shui Wai Sports Ground	NTP	11-a-side	100x64	100%
	Tin Yip Road Park	ATP	11-a-side	100x64	70%
	Yuen Long Stadium	NTP	11-a-side	100x64	100%

Notes:

- (1) LCSD's soccer pitches are designed in accordance with the relevant standards. The sizes of the vast majority of turf pitches meet the relevant standards, except those with venue constraints.
- (2) The usage rate of turf pitch is calculated on the basis of the number of hours of hire. If there is more than one pitch in a venue, the number of hours hired for all the pitches will be aggregated.
- (3) As Hong Kong Stadium and Mong Kok Stadium are not open for hire by members of the public, there is no record of their usage rates.

### **Control and ban on fur trade**

13. **MS CLAUDIA MO:** *President, at present, Hong Kong is the world's third largest fur clothing exporter, and one of the world's major sources of fur garments and accessories. Some animal welfare concern groups are concerned that Hong Kong's fur industry is contributing to the inhumane killing of some one billion rabbits and 50 million other animals in fur farms and in the wild each year for the worldwide fur trade. In this connection, will the Government inform this Council:*

- (1) *given that the Mainland is Hong Kong's largest export market of furskins (of which a large proportion are re-exports from overseas countries for fur clothing production on the Mainland) and some*

*concern groups are worried about Mainland's ineffective regulation of her fur industry, whether the Government will consider discussing with the Mainland authorities the removal of leather and furskin articles from the list of tariff-free types of products under phase three of the Mainland and Hong Kong Closer Economic Partnership Arrangement, as Hong Kong's first step towards a ban on fur trade; if so, of the details; if not, the reasons for that;*

- (2) *as it is learnt that there is currently little or no regulation of fur trade on the Mainland, which is the world's largest fur importer, whether the Government will consider banning fur trade with the Mainland until her fur trade regulations have been tightened to a level on a par with those of the European Union; if so, of the details; if not, the reasons for that; and*
- (3) *as there is now an international trend of tightened regulation of or imposition of a ban on fur trade and fur farming (e.g. San Francisco has banned fur trade and Japan has phased out fur farming), and many international fashion brands have implemented fur-free policies for fashion design, whether the Government will consider introducing a ban on the import, export and re-export of fur products; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT:**

President, Hong Kong is a free port. We pursue a free trade policy and do not maintain barriers on trade. No tariff is charged on import or export of goods. Nonetheless, certain goods are subject to import/export control in Hong Kong under certain specified circumstances, for example, to fulfil obligations undertaken by Hong Kong to trading partners or international conventions, or out of public health, safety or internal security considerations, etc. Examples of goods that are subject to import/export control are live food poultry, game and prohibited meat, endangered animals and plants species, Chinese herbal medicines and proprietary Chinese medicines, plants, plant pests and soil, as well as controlled chemicals, etc. Also, the United Nations from time to time passes resolutions to impose sanctions on certain countries, and Hong Kong will impose restrictions on concerned trade and other activities according to the sanctions.

In consultation with the Food and Health Bureau, the Environment Bureau and the Trade and Industry Department, our reply to the various parts of the question is as follows:

According to the Environment Bureau, to ensure that international trade in specimens of wild animals and plants does not threaten their survival, the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") was signed by governments of a number of countries in 1973 to regulate the import and export of endangered animals and plants through a licensing system, so as to protect wild animals and plants from being affected by international trade, and to ensure their sustainable use. At present, there are 183 Parties to the Convention, and Hong Kong has implemented the requirements of CITES since 1976. CITES requires that the import, introduction from the sea, export or re-export of the species listed in its three Appendices be subject to licensing control. In accordance with the criteria and requirements of CITES, Hong Kong enacted the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance") to regulate the import, export and possession of endangered species. For animal species listed under CITES, their international trade including skin and fur trade is regulated under the Ordinance. The import, export, re-export and possession of the concerned endangered species, including their skin and fur, are regulated under a licensing system and the specimens must be inspected by an authorized officer at the time of entering or leaving Hong Kong.

According to the Food and Health Bureau's understanding, there is no animal fur farming in Hong Kong and there is also no internationally harmonized control on the import and export of fur products of non-endangered animals. Currently, the Government has no plan to ban the import and export of the trading of animal fur products by legislative means. Nevertheless, the Food and Health Bureau will closely monitor the international trend and the related developments.

As regards the Mainland and Hong Kong Closer Economic Partnership Arrangement ("CEPA"), it is a free trade agreement consistent with the provisions of the World Trade Organization. In 2018, exports of furskin products of Hong Kong origin under zero tariff preference of CEPA to the Mainland accounted for only less than 0.01% of the total exports of those products from Hong Kong to the Mainland.

### Regulating the sale of first-hand private residential properties

14. **MR DENNIS KWOK** (in Chinese): *President, on 29 June last year, the Government announced six new initiatives on housing. Two of such initiatives are: (i) proposed introduction of Special Rates on vacant first-hand private residential units by amending the Rating Ordinance (Cap. 116), and (ii) amending, with immediate effect, the Lands Department Consent Scheme by requiring developers to offer for sale no less than 20% of the total number of residential units subject to the relevant pre-sale consent at each round of sale. In this connection, will the Government inform this Council:*

- (1) *of the legislative timetable for amending Cap. 116;*
- (2) *whether it will determine the levels of Special Rates by an incremental scale based on the length of the vacant period of first-hand private residential units; if not, of the reasons for that;*
- (3) *of the number of pre-sale consents granted to residential projects by the Lands Department ("LandsD") since the initiative of amending the Consent Scheme took effect, and set out in a table the following information by project name: (i) street number, (ii) total number of residential units, (iii) date of application for pre-sale consent, (iv) date of granting pre-sale consent, and (v) scheduled completion date of the project;*
- (4) *whether it knows the detailed arrangements for the first three rounds of sale of uncompleted residential units under each residential project mentioned in (3) (set out in tables of the same format as the table below);*

<i>Name of residential project:</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
<i>Total number of residential units subject to pre-sale consent (T)</i>			
<i>Number of units offered for sale (A)</i>			
<i>Percentage of A in T</i>			



<i>Name of residential project:</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
<i>Among A: number and percentage of units offered for public sale</i>			
<i>Among A: number and percentage of units offered for sale by tender</i>			
<i>Among A: numbers and percentages of units offered for sale respectively through the following means</i>			
<i>Public sale in both of the first and second rounds</i>	<i>Not applicable</i>		<i>Not applicable</i>
<i>Public sale in the first round, but sale by tender in the second round</i>	<i>Not applicable</i>		<i>Not applicable</i>
<i>Sale by tender in the first round, but public sale in the second round</i>	<i>Not applicable</i>		<i>Not applicable</i>
<i>Sale by tender in both of the first and second rounds</i>	<i>Not applicable</i>		<i>Not applicable</i>
<i>Public sale in all three rounds</i>	<i>Not applicable</i>	<i>Not applicable</i>	
<i>Public sale in the first and second rounds, but sale by tender in third round</i>	<i>Not applicable</i>	<i>Not applicable</i>	
<i>Public sale in the first and third rounds, but sale by tender in second round</i>	<i>Not applicable</i>	<i>Not applicable</i>	
<i>Public sale in the first round, but sale by tender in the second and third rounds</i>	<i>Not applicable</i>	<i>Not applicable</i>	
<i>Sale by tender in the first round, but public sale in the second and third rounds</i>	<i>Not applicable</i>	<i>Not applicable</i>	
<i>Sale by tender in the first and third rounds, but public sale in second round</i>	<i>Not applicable</i>	<i>Not applicable</i>	

<i>Name of residential project:</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
<i>Sale by tender in the first and second rounds, but public sale in the third round</i>	<i>Not applicable</i>	<i>Not applicable</i>	
<i>Sale by tender in all three rounds</i>	<i>Not applicable</i>	<i>Not applicable</i>	

- (5) *as it has been reported that the arrangement for the first three rounds of sale of uncompleted residential units of a residential development was as follows: while about 150 units were offered for sale at each round, only 55 and seven units were newly offered for sale at the second and third rounds of sale respectively, all three rounds of sale involved only about 30% of the total number of residential units subject to the pre-sale consent, whether the Government has studied if such practice of unit selling is contrary to the policy intent of the initiative of amending the Consent Scheme; if it has studied and the outcome is in the affirmative, of the follow-up actions; if the study outcome is in the negative, the reasons for that;*
- (6) *whether it will stipulate that developers must not offer for sale by tender the units of those residential projects of a certain scale; if so, of the details and the timetable; if not, the reasons for that;*
- (7) *whether it will stipulate the proportions or minimum numbers of units that are offered for public sale and for sale by tender at each round of sale; if so, of the details and the timetable; if not, the reasons for that; and*
- (8) *whether it will stipulate the maximum number of times for which a unit may be repeatedly offered for sale by tender; if so, of the details and the timetable; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, with reference to the information provided by the Lands Department ("LandsD") and the Sales of First-hand Residential Properties Authority, I set out my reply to various parts of the question raised by Mr Dennis KWOK as follows:

(1) The Chief Executive announced on 29 June 2018 the proposed introduction of "Special Rates" on vacant first-hand private residential units, with a view to encouraging more timely supply of first-hand private residential units in the market. The Government proposes to amend the Rating Ordinance (Cap. 116) to require developers of first-hand private residential units with occupation permit issued for 12 months or more to furnish annual returns to the Government on the status of these units. Developers of first-hand units that have not been rented out for more than six months in the past 12 months have to pay "Special Rates". "Special Rates" will be collected by the Rating and Valuation Department annually at two times (i.e. 200%) of the rateable value of the units concerned. The Government is now listening to the views of the Members of the Legislative Council and various sectors in the community. At the same time, the Government is preparing the Rating (Amendment) Bill and plans to introduce the Amendment Bill into the Legislative Council within 2018-2019 legislative session.

(2) The objective of "Special Rates" is to encourage developers to sell or rent out first-hand private residential units in completed projects within a reasonable period of time. We believe that a uniform yet forceful tax rate is conducive to achieving this objective. This will also be easier to understand and to administer as compared with progressive tax rates.

Our initial proposal is that developers who have rented out their first-hand units for more than six months in the past 12 months are not required to pay the "Special Rates". In other words, depending on whether the units have been rented out or not, developers holding first-hand units may not necessarily need to pay "Special Rates" in a row for several years (for instance, they may only have to pay "Special Rates" on the first year, the fourth year and the sixth year.) Under such circumstances, charging "Special Rates" based on progressive tax rates may render the regime too complicated and difficult to administer.

(3) To improve market transparency and enhance consumer protection, the Chief Executive announced on 29 June 2018 that the Government would amend the Consent Scheme, requiring

developers to offer for sale no less than 20% of the total number of residential units subject to the relevant pre-sale consent at each turn of sale, regardless of the sales method (including public sale, tender and auction). If the remaining unsold residential units are less than 20%, the developer has to offer for sale all remaining units in one go. The new requirement has come into effect on the date of announcement and applies to pre-sale consent applications being processed by LandsD at that time and all new applications received after that date.

As at 28 February 2019, LandsD has issued pre-sale consents for a total of 30 residential development projects since the implementation of the new requirement. The relevant information is at Annex 1. Of this total, 19 of the development projects have already been launched for sale. Statistics on their sales arrangements are at Annex 2. We do not have cumulative statistics on the first three rounds of sales arrangements for each project with a breakdown by sales method.

- (4) Developers may suspend the sale of some residential units due to changes in the sales conditions, and provide documents indicating that a certain sales arrangement is no longer valid. Developers may relaunch the sale of these units at a later juncture and issue new sales arrangements accordingly. Irrespective of the circumstances, under the 20% new requirement, each sales arrangement (including those under which units are offered for sale by way of both public sale and tender, as well as those newly issued due to changes in the sales condition) issued by the developer has to cover at least 20% of the total number of the residential units (or depending on the situation, all remaining unsold units).
- (5) According to the Residential Properties (First-hand Sales) Ordinance (Cap. 621) ("the Ordinance"), if the vendors offer to sell first-hand residential properties by way of tender, they are not required to make available the price lists. However, they still have to comply with other requirements as prescribed in the Ordinance, including making available sales brochures, documents containing information of sales arrangements and registers of transactions ("RT"). In RT, the vendors must set out information including the dates of provisional

agreement for sale and purchase/agreement for sale and purchase, the transaction price and the terms of payment (including any discount on the price as well as any gift, financial advantage or benefit made available in connection with the purchase), etc. The vendors have to make available RT at the place where the sale is to take place and also an electronic copy of RT on the website designated for the development projects and the Sales of First-hand Residential Properties Electronic Platform for public perusal. We believe that the above requirements will help ensure the transparency and fairness in the sales of first-hand residential properties and enhance consumer protection.

- (6) The Government will continue to monitor the sale of first-hand private residential properties. We currently have no intention to stipulate under the Consent Scheme the number or proportion of units, or the number of times a particular unit, can be offered for sale by way of tender by the developers.

Annex 1

Residential Developments Approved by LandsD  
since the Amendment of Consent Scheme  
(as at 28 February 2019)

	<i>Development Name</i>	<i>Development Address</i>	<i>Number of Residential Units</i>	<i>Pre-sale Consent Application Date</i>	<i>Pre-sale Consent Issue Date</i>	<i>Estimated Completion Date<sup>(1)</sup></i>
1.	No. 21 Borrett Road (Phase 1)	No. 21 Borrett Road, Mid-Levels West, Hong Kong	115	29/7/2016	14/9/2018	30/9/2019
2.	L'AQUATIQUE	No. 108 Castle Peak Road, Tsing Lung Tau, Tsuen Wan	198	8/11/2016	25/10/2018	30/6/2019

	<i>Development Name</i>	<i>Development Address</i>	<i>Number of Residential Units</i>	<i>Pre-sale Consent Application Date</i>	<i>Pre-sale Consent Issue Date</i>	<i>Estimated Completion Date<sup>(1)</sup></i>
3.	THE HORIZON	No. 18 Fo Chun Road, Pak Shek Kok, Tai Po, New Territories	667	14/12/2016	3/9/2018	31/12/2019
4.	The Carmel	No. 168 Castle Peak Road—Tai Lam, Tuen Mun, New Territories	178	5/9/2017	27/11/2018	31/3/2020
5.	Phase VI of LOHAS Park—LP6	Site N, No. 1 Lohas Park Road, Tseung Kwan O, New Territories	2 392	29/9/2017	31/7/2018	30/9/2020
6.	No. 3 Fei Ngo Shan Road	No. 3 Fei Ngo Shan Road, Sai Kung, New Territories, Hong Kong	5	8/11/2017	10/1/2019	31/7/2019
7.	Grand Central (Phase I)	No. 33 Hip Wo Street, Kwun Tong, Kowloon	1 025	15/11/2017	29/11/2018	30/4/2021
8.	To be confirmed	No. 8 Ping Kin Lane, Yuen Long, New Territories	16	21/11/2017	30/10/2018	31/10/2019

	<i>Development Name</i>	<i>Development Address</i>	<i>Number of Residential Units</i>	<i>Pre-sale Consent Application Date</i>	<i>Pre-sale Consent Issue Date</i>	<i>Estimated Completion Date<sup>(1)</sup></i>
9.	Grand Central (Phase II)	No. 33 Hip Wo Street, Kwun Tong, Kowloon	974	12/12/2017	29/11/2018	30/4/2021
10.	The Entrance	No. 1 Lok Wo Sha Lane, Ma On Shan, Sha Tin, New Territories	148	15/12/2017	24/1/2019	30/6/2020
11.	Downtown 38	No. 38 Pak Tai Street, Ma Tau Wai, Kowloon	228	28/12/2017	28/9/2018	31/3/2020
12.	Le Pont	No. 99 So Kwun Wat Road, Tuen Mun, New Territories	1 154	29/12/2017	7/9/2018	30/6/2020
13.	The Esplanade	Yip Wong Road, Tuen Mun, New Territories	371	23/1/2018	17/9/2018	31/7/2020
14.	Reach Summit—Sereno Verde Phase 5	No. 99A Tai Tong Road, Yuen Long, New Territories	504	5/2/2018	19/9/2018	30/9/2020
15.	Cullinan West Development (Phase 5)	No. 28 Sham Mong Road, Kowloon, Hong Kong	1 172	16/3/2018	9/11/2018	10/7/2020

	<i>Development Name</i>	<i>Development Address</i>	<i>Number of Residential Units</i>	<i>Pre-sale Consent Application Date</i>	<i>Pre-sale Consent Issue Date</i>	<i>Estimated Completion Date<sup>(1)</sup></i>
16.	Phase 2 of Sol City Development— Sol City	No. 1 Ma Wang Road, Yuen Long, New Territories	720	29/3/2018	5/10/2018	31/7/2020
17.	One East Coast	No. 1 Lei Yue Mun Path, Lei Yue Mun, Kowloon, Hong Kong	646	20/4/2018	26/9/2018	30/9/2019
18.	Madison Park	No. 1 Kowloon Road, Kowloon	100	27/4/2018	8/8/2018	30/11/2020
19.	Manor Parc	No. 3 Tan Kwai Tsuen Lane, Yuen Long, New Territories	24	2/5/2018	31/7/2018	31/3/2019
20.	Mayfair By The Sea 8	No. 1 Fo Yin Road, Pak Shek Kok, Tai Po, New Territories	528	3/5/2018	11/1/2019	30/6/2021
21.	No. 21 Borrett Road (Phase 2)	No. 21 Borrett Road, Mid-Levels West, Hong Kong	66	16/5/2018	28/9/2018	30/6/2020



	<i>Development Name</i>	<i>Development Address</i>	<i>Number of Residential Units</i>	<i>Pre-sale Consent Application Date</i>	<i>Pre-sale Consent Issue Date</i>	<i>Estimated Completion Date<sup>(1)</sup></i>
22.	To be confirmed— Phase 1	No. 8 Kwun Chui Road, Tuen Mun, New Territories	754	11/7/2018	8/2/2019	31/1/2021
23.	To be confirmed— Phase 2	No. 8 Kwun Chui Road, Tuen Mun, New Territories	1 228	11/7/2018	8/2/2019	31/1/2021
24.	Park Vista Development (Phase 2B)	No. 18, Castle Peak Road, Tam Mi, Yuen Long, New Territories	712	18/7/2018	31/8/2018	31/10/2019
25.	Centra Horizon	No. 18 Chong San Road, Tai Po, New Territories	1 408	23/7/2018	30/11/2018	30/11/2020
26.	ARTISAN GARDEN	No. 68 Kowloon City Road, Ma Tau Kok, Kowloon	294	23/7/2018	17/1/2019	31/3/2021
27.	Altissimo	No. 11 Yiu Sha Road, Ma On Shan, Sha Tin, New Territories	547	24/7/2018	25/10/2018	29/1/2021

	<i>Development Name</i>	<i>Development Address</i>	<i>Number of Residential Units</i>	<i>Pre-sale Consent Application Date</i>	<i>Pre-sale Consent Issue Date</i>	<i>Estimated Completion Date<sup>(1)</sup></i>
28.	Poggibonsi	No. 3 Bayside Drive, Lantau Island, New Territories	196	24/7/2018	15/1/2019	30/6/2020
29.	The Regent	No. 8 Shan Tong Road, Lai Chi Shan, Tai Po, New Territories	1 620	14/8/2018	13/12/2018	31/1/2021
30.	eResidence <sup>(2)</sup>	No. 8 Hok Yuen Street, Hung Hom, Kowloon	43	25/1/2018	4/12/2018	30/4/2020
			450	15/11/2018		

Notes:

- (1) It refers to the date estimated by the Authorized Person to be the material date within the meaning given by the Residential Properties (First-hand Sales) Ordinance.
- (2) The eResidence developed by the Urban Renewal Authority has a total of 493 residential units. Four hundred and fifty of them belong to the "Starter Homes" pilot project.

Annex 2

Statistics of Sales Arrangements since Amendment of the Consent Scheme  
(as at 28 February 2019)

\* The sequence of developments is listed in accordance with the relevant pre-sale consent application dates

<i>Name of residential project: L'Aquatique</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	198		
Number of units offered for sale (A)	50	40	41

<i>Name of residential project: L'Aquatique</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Percentage of A in T	25.25%	20.20%	20.71%
Among A: number and percentage of units offered for public sale	50 (100%)	24 (60.00%)	22 (53.66%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	16 (40.00%)	19 (46.34%)

<i>Name of residential project: The Horizon</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	659 units and 8 houses Total: 667 units		
Number of units offered for sale (A)	138	191	248
Percentage of A in T	20.69%	28.64%	37.18%
Among A: number and percentage of units offered for public sale	0 (0%)	0 (0%)	0 (0%)
Among A: number and percentage of units offered for sale by tender	138 (100%)	191 (100%)	248 (100%)

<i>Name of residential project: The Carmel</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	130 units and 48 houses Total: 178 units		
Number of units offered for sale (A)	36	118	24
Percentage of A in T	20.22%	66.29%	13.48%
Among A: number and percentage of units offered for public sale	0 (100%)	118 (100%)	0 (0%)
Among A: number and percentage of units offered for sale by tender	36 (100%)	0 (0%)	24 (100%)

<i>Name of residential project: Phase VI of LOHAS Park</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	2 392		
Number of units offered for sale (A)	487	488	707
Percentage of A in T	20.36%	20.40%	29.56%
Among A: number and percentage of units offered for public sale	487 (100%)	488 (100%)	707 (100%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	0 (0%)

<i>Name of residential project: Grand Central (Phase One)</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	1 025		
Number of units offered for sale (A)	488	383	-
Percentage of A in T	47.61%	37.37%	-
Among A: number and percentage of units offered for public sale	488 (100%)	383 (100%)	-
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	-

<i>Name of residential project: Grand Central (Phase Two)</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	974		
Number of units offered for sale (A)	338	208	195
Percentage of A in T	34.70%	21.36%	20.02%
Among A: number and percentage of units offered for public sale	338 (100%)	208 (100%)	118 (60.51%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	77 (39.49%)

<i>Name of residential project: Downtown 38</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	228		
Number of units offered for sale (A)	155	66	-
Percentage of A in T	67.98%	28.95%	-
Among A: number and percentage of units offered for public sale	155 (100%)	66 (100%)	-
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	-

<i>Name of residential project: Le Pont</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	1 124 units and 30 houses Total: 1 154 units		
Number of units offered for sale (A)	347	310	235
Percentage of A in T	30.07%	26.86%	20.36%

<i>Name of residential project: Le Pont</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Among A: number and percentage of units offered for public sale	347 (100%)	310 (100%)	85 (36.17%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	150 (63.83%)

<i>Name of residential project: The Esplanade</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	371		
Number of units offered for sale (A)	175	75	116
Percentage of A in T	47.17%	20.22%	31.27%
Among A: number and percentage of units offered for public sale	175 (100%)	31 (41.33%)	51 (43.97%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	44 (58.67%)	65 (56.03%)

<i>Name of residential project: Reach Summit—Sereno Verde Phase Five</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	504		
Number of units offered for sale (A)	152	102	101
Percentage of A in T	30.16%	20.24%	20.04%
Among A: number and percentage of units offered for public sale	152 (100%)	102 (100%)	101 (100%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	0 (0%)

<i>Name of residential project: Sol City Development (Phase Two)</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	720		
Number of units offered for sale (A)	504	145	150
Percentage of A in T	70%	20.14%	20.83%
Among A: number and percentage of units offered for public sale	504 (100%)	145 (100%)	150 (100%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	0 (0%)

<i>Name of residential project: One East Coast</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	646		
Number of units offered for sale (A)	162	134	131
Percentage of A in T	25.08%	20.74%	20.28%
Among A: number and percentage of units offered for public sale	130 (80.25%)	0 (0%)	0 (0%)
Among A: number and percentage of units offered for sale by tender	32 (19.75%)	134 (100%)	131 (100%)

<i>Name of residential project: Madison Park</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	100		
Number of units offered for sale (A)	80	-	-
Percentage of A in T	80.00%	-	-
Among A: number and percentage of units offered for public sale	80 (100%)	-	-
Among A: number and percentage of units offered for sale by tender	0 (0%)	-	-

<i>Name of residential project: Manor Parc<sup>Note</sup></i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	24 houses		
Number of units offered for sale (A)	1	-	-
Percentage of A in T	4.17%	-	-
Among A: number and percentage of units offered for public sale	0 (0%)	-	-
Among A: number and percentage of units offered for sale by tender	1 (100%)	-	-

Note:

Lands Department has issued the Certificate of Compliance on 18 October 2018. The above units were therefore not sold by way of pre-sale.

<i>Name of residential project: Mayfair By The Sea 8</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	528		
Number of units offered for sale (A)	228	118	129
Percentage of A in T	43.18%	22.35%	24.43%
Among A: number and percentage of units offered for public sale	228 (100%)	118 (100%)	99 (76.74%)
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	30 (23.26%)

<i>Name of residential project: Phase IIB of Park Vista Development</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	712		
Number of units offered for sale (A)	150	150	149
Percentage of A in T	21.07%	21.07%	20.93%
Among A: number and percentage of units offered for public sale	50 (33.33%)	45 (30%)	45 (30.20%)
Among A: number and percentage of units offered for sale by tender	100 (66.67%)	105 (70%)	104 (69.80%)

<i>Name of residential project: Altissimo</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	534 units and 13 houses Total: 547 units		
Number of units offered for sale (A)	110	110	110
Percentage of A in T	20.11%	20.11%	20.11%
Among A: number and percentage of units offered for public sale	100 (90.91%)	82 (74.55%)	71 (64.55%)
Among A: number and percentage of units offered for sale by tender	10 (9.09%)	28 (25.45%)	39 (35.45%)

<i>Name of residential project: The Regent</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	1 620		
Number of units offered for sale (A)	486	486	-

<i>Name of residential project: The Regent</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Percentage of A in T	30.00%	30.00%	-
Among A: number and percentage of units offered for public sale	486 (100%)	486 (100%)	-
Among A: number and percentage of units offered for sale by tender	0 (0%)	0 (0%)	-

<i>Name of residential project: eResidence</i>			
<i>Sales arrangements</i>	<i>First round</i>	<i>Second round</i>	<i>Third round</i>
Total number of residential units subject to pre-sale consent (T)	43		
Number of units offered for sale (A)	43	-	-
Percentage of A in T	100%	-	-
Among A: number and percentage of units offered for public sale	43 (100%)	-	-
Among A: number and percentage of units offered for sale by tender	0 (0%)	-	-

### **Development plans for three squatter areas in Kowloon East**

15. **MR WU CHI-WAI** (in Chinese): *President, it is learnt that there are three squatter areas in Kowloon East (i.e. Chuk Yuen United Village, Ngau Chi Wan Village and Cha Kwo Ling Village) which are yet to be redeveloped. Chuk Yuen United Village and Ngau Chi Wan Village have been zoned "Government, Institution or Community" sites but without any concrete development plans, while Cha Kwo Ling Village is within an "Undetermined" zone. Regarding the development plans for these three squatter areas, will the Government inform this Council:*

- (1) *of the respective current numbers of (i) surveyed and (ii) non-surveyed squatter structures in (a) Chuk Yuen United Village, (b) Ngau Chi Wan Village and (c) Cha Kwo Ling Village;*
- (2) *given that the Government has earmarked a piece of land in Ngau Chi Wan Village for the construction of a community hall but has not put forward any implementation plan for years, whether there has*



*been any change in the planned use of the land concerned; if so, of the latest planned use and the development timetable; if not, the timetable and details for the construction of the community hall;*

- (3) *whether the Government will, in the coming three years, conduct detailed planning for the three squatter areas; if so, of the details; if not, the reasons for that; and*
- (4) *whether it will conduct re-planning for the three squatter areas in order to release more lands for public housing development; if so, of the details as well as the estimated number and floor area of public housing units that can be provided; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Government is committed to adopting a multi-pronged land supply strategy with a view to meeting the land demand for different uses at different time. With regard to squatter areas, the Government will, taking into account factors such as development plan of the squatter area (if any), environmental improvement or safety reasons, clear and demolish the squatters to release the land for alternative long-term development uses.

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

- (1) Under the prevailing squatter control policy, squatter structures surveyed during the 1982 Squatter Control Survey ("SCS") were allocated squatter survey numbers, but they remain unauthorized in nature. They are "tolerated" on a temporary basis, provided that the location, dimensions, building materials and use are the same as the record in the 1982 SCS, until the surveyed squatter structure has to be cleared for development, environmental improvement or safety reasons, or until the surveyed squatter structure is phased out through natural wastage.

At present, the number of surveyed squatter structures in Chuk Yuen United Village, Ngau Chi Wan Village and Cha Kwo Ling Village is around 49, 266 and 475 respectively. The number of surveyed squatter structures is based on the records of the 1982 SCS and adjusted due to deletion of SCS records after 1982 for various known

reasons (e.g. enforcement against breaches of squatter control or squatters found non-existent).

The Lands Department does not keep separate statistics on the number of squatter structures not covered in the 1982 SCS records. Appropriate squatter control actions will be taken against unauthorized structures, which are not "tolerated" on a temporary basis, once they are identified.

- (2) The site reserved for the development of a community hall within Ngau Chi Wan Village is zoned "Government, Institution or Community" on the Ngau Chi Wan Outline Zoning Plan No. S/K12/16. At present, we have no plan to change the reserved use of this site. The Home Affairs Department will carry out the necessary planning work of a new community hall in a timely manner in liaison with relevant departments, taking into account the overall planning of Ngau Chi Wan area (including Ngau Chi Wan Village), development progress and population.

(3) and (4)

We agree that redevelopment of squatter areas in urban area may release precious urban sites for addressing the shortage of developable land. With regard to the three squatter areas as mentioned in the question, we plan to first commence a study on the long-term use of Cha Kwo Ling Village and its development scale in mid-2019, and will gradually review the long-term development of Chuk Yuen United Village and Ngau Chi Wan Village in a timely manner. The long-term land uses, potential floor area and flat yield of these sites will be ascertained after completion of relevant studies.

### **Records and materials on housing policy**

16. **MR ANDREW WAN** (in Chinese): *President, regarding the records/materials on housing policy from 1953 (the devastating fire in the Shek Kip Mei squatter area) to April 1973 (the establishment of the Hong Kong Housing Authority) ("the early stage"), and from May 1973 to last year ("the latter stage"), will the Government inform this Council:*

- (1) of a breakdown of the quantity of records/materials on housing policy by time period of their creation and classification (i.e. (i) confidential at present, (ii) confidential when created but declassified at present, (iii) restricted at present, (iv) restricted when created but declassified at present, and (v) open/general documents since creation) (set out in the table below);

	<i>Time period</i>	<i>(i)</i>	<i>(ii)</i>	<i>(iii)</i>	<i>(iv)</i>	<i>(v)</i>	<i>Total</i>
<i>The early stage</i>	<i>1953 to 1960</i>						
	<i>1961 to 1970</i>						
	<i>1971 to April 1973</i>						
	<i>Total:</i>						
<i>The latter stage</i>	<i>May 1973 to 1980</i>						
	<i>1981 to 1990</i>						
	<i>1991 to 2000</i>						
	<i>2001 to 2010</i>						
	<i>2011 to 2018</i>						
	<i>Total:</i>						

- (2) of a breakdown of the quantity of records/materials on housing policy currently kept by the Government Records Service ("GRS") by time period of their creation and classification (i.e. (i) confidential when created but declassified at present, (ii) restricted when created but declassified at present, and (iii) open/general documents since creation) (set out in the table below); and

	<i>Time period</i>	<i>(i)</i>	<i>(ii)</i>	<i>(iii)</i>	<i>Total</i>
<i>The early stage</i>	<i>1953 to 1960</i>				
	<i>1961 to 1970</i>				
	<i>1971 to April 1973</i>				
	<i>Total:</i>				
<i>The latter stage</i>	<i>May 1973 to 1980</i>				
	<i>1981 to 1990</i>				
	<i>1991 to 2000</i>				
	<i>2001 to 2010</i>				
	<i>2011 to 2018</i>				
	<i>Total:</i>				

- (3) *whether it has issued a code of practice and guidelines on records management to housing-related statutory bodies, and required them to transfer to GRS for preservation their records/materials on housing policy and of historical value, so that such records/materials may, after arrangement, be made available for public access?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): President, my reply to Mr Andrew WAN's question is as follows:

- (1) The Hong Kong Housing Authority ("HA") is the statutory body tasked to develop and implement a public housing programme to achieve the policy objective of the Government. Its executive arm is the Housing Department ("HD"), which also supports the Transport and Housing Bureau in dealing with all housing-related policies and matters.

HD has all along been handling records management work in compliance with the Records Management Manual and guidelines issued by the Government Records Service ("GRS"). A breakdown of the quantity of records by the time period of their creation and the classification as requested in the question is not readily available. The compilation of such statistics would require considerable amount of time in data collection and collation in light of the vast amount of records of various HD divisions, subdivisions and regional offices involved. We are hence unable to provide the requested information. According to GRS' requirement, HD regularly reports the quantity of their records to GRS. In early 2019, HD reported as at 31 December 2018 a total of 92 897 linear metres of records as classified below:

<i>Nature</i>	<i>Quantity (in linear metre)</i>
Administrative records	18 304
Programme records	74 593
Total	92 897

- (2) According to the General Administrative Records Disposal Schedules developed by GRS and the records retention and disposal schedules approved by GRS, bureaux/departments ("B/Ds") are

required to transfer time-expired records having archival value or potential archival value to GRS for permanent retention or appraisal.

There are two types of archival records: classified archival records and unclassified archival records. Records that are classified as confidential and restricted at the time of their creation fall under the category of classified archival records, and records that are not listed as classified when they are created go under the category of unclassified archival records. Access to archival records kept by GRS is subject to the Public Records (Access) Rules 1996. In general, archival records which have been in existence for not less than 30 years or whose contents have at any time been published are open for public access. Public access to archival records closed for less than 30 years requires prior application to GRS. Classified archival records containing sensitive information are handled or reviewed on a case-by-case basis to determine whether a longer closure period is required. Every year, GRS requests all B/Ds to review classified archival records approaching the end of the 30-year closure period so as to ascertain whether these records can be made available for public inspection upon the expiry of the 30-year closure period.

At present, there are a total of 2 980 archival records transferred by the former Housing Branch and HD and retained by GRS. A total of 2 071 of these archival records are unclassified, while 4 classified ones have been made open to public access. A breakdown of these records by the time period of their creation and classification is as follows:

<i>Time period</i>	<i>Unclassified records</i>	<i>Classified records open to public access</i>	<i>Total</i>
1945 to 1952	8	0	8
1953 to 1960	355	0	355
1961 to 1970	207	2	209
1971 to April 1973	165	1	166
Total	735	3	738
May 1973 to 1980	286	1	287
1981 to 1990	466	0	466
1991 to 2000	504	0	504

<i>Time period</i>	<i>Unclassified records</i>	<i>Classified records open to public access</i>	<i>Total</i>
2001 to 2010	80	0	80
2011 to 2018	0	0	0
Total	1 336	1	1 337
Grand total	2 071	4	2 075

For the remaining 905 records, they are not yet open to public access because personal data are involved or they have been closed for less than 30 years, etc.

- (3) GRS formulates and implements government records management policies and programmes, offers advice and support to B/Ds on matters and solutions related to records management, and provides storage and disposal services for inactive records. In addition, GRS identifies and preserves records of archival value, valuable government publications and printed materials, enhances public awareness of Hong Kong's documentary heritage, and provides research and reference services. GRS' purview covers all B/Ds, but its duties do not include issuing codes of practice or guidelines on records management to statutory/public organizations or monitoring their records management practices.

That said, GRS published a booklet entitled "Good Records Management Practices" in 2011 to share good practices in records management with these organizations and encourage them to donate records of archival value to GRS. Since 2013, GRS has also been holding annual records management seminars for these organizations. Six seminars have been held thus far, attended by over 1 500 participants from 64 statutory/public bodies. Besides, GRS has been providing records management briefings and advice to individual organizations upon request.

As mentioned in part (1) above, HD is the executive arm of HA (one of the housing-related statutory bodies) and responsible for the management of all HA records. HD manages all such records in accordance with the Records Management Manual and guidelines issued by GRS, which includes transferring records of archival value to GRS for appraisal and permanent retention.

**Importation of labour**

17. **MR JIMMY NG** (in Chinese): *President, since February of last year, the seasonally adjusted unemployment rate in Hong Kong has remained at 2.8%, which is a record low since 1998. Operators of quite a number of industries have relayed that as they have encountered difficulties in staff recruitment, they hope that the Government will relax the criteria for vetting and approval of applications for importation of labour under the Supplementary Labour Scheme ("the Scheme"). In this connection, will the Government inform this Council:*

- (1) *given that from 2015 to 2017, the success rates of applications for labour importation under the Scheme for the (i) transport, storage and communications industries and (ii) financing, insurance, real estate and business services industries were lower than those for other industries, whether the Government has looked into the causes for that; if so, of the outcome; whether it will review the Scheme, with a view to raising the success rates of applications for importation of labour for those industries;*
- (2) *whether it will (i) consider afresh setting industry-specific quotas for labour importation, and (ii) relax the manpower ratio requirement of two full-time local workers to one imported worker under the Scheme; and*
- (3) *as the Chief Executive stated in last year's Policy Address that the Government would consider allowing a greater flexibility for subsidized elderly service and rehabilitation service units to import carers, of the details and progress of the relevant work; whether the Government will examine allowing a greater flexibility also for other industries to import labour; if so, of the details?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to the Member's question is as follows:

- (1) and (2)

The Government operates different schemes for employers to apply for importation of labour on account of their actual operational circumstances so as to supplement skills not readily available in the

local labour market and sustain the competitiveness and development needs of Hong Kong. Depending on the skill levels and/or educational requirements of the job vacancies concerned, employers may apply to the Immigration Department for admission of professionals or to the Labour Department ("LD") for importation of workers at technician level or below under the Supplementary Labour Scheme ("SLS").

SLS has not prescribed a quota ceiling of imported workers for the labour market as a whole or for individual sectors. Each application is considered on its actual merits, such as whether the employer has a genuine need for importation of labour, the number of local employees, and the employer's business and financial situation. Besides, in vetting applications, except for specific posts such as farm workers, LD normally requires a specific manning ratio, e.g., employers shall employ two full-time local workers for bringing in one imported worker from other places (i.e. 2:1), with a view to safeguarding the employment opportunities of local workers. The Government at this stage has no plan to adjust the above manning ratio.

- (3) Relevant government bureaux and departments will closely monitor the manpower supply and demand of different sectors, as well as enhance training and attract new recruits. The Government appreciates that the elderly care service sector has manpower shortage problems. The Chief Executive's 2017 Policy Address announced that, on the premise of safeguarding local workers' priority for employment, consideration might be given to allowing greater flexibility for subsidized elderly service and rehabilitation service units to import carers. The Social Welfare Department ("SWD") conducted a survey on subsidized elderly and rehabilitation service units in 2017 to understand the manpower situation of frontline care staff. The results of the survey showed that the vacancy rate of the relevant posts reached 18%.

To help the sector recruit and retain frontline care staff, the Government has since 2018 allocated additional resources to subvented welfare service units to enhance the remuneration of frontline care staff. In this connection, LD staged a "Job Expo for Elderly and Rehabilitation Services" in July 2018 to help social



welfare organizations recruit the staff required. SWD is currently conducting another survey on subsidized elderly and rehabilitation service units to gauge if additional resources to increase the remuneration for these organizations have changed the manpower situation of frontline care staff. The relevant data analysis is expected to be completed by mid-2019. The Government will study the relevant statistics in planning the way forward.

### **Regulation of the use of animals to solicit business**

18. **MR CHAN HAK-KAN** (in Chinese): *President, currently, quite a number of shops without a restaurant licence, restaurants and cafes keep animals on their premises for entertainment of customers with a view to soliciting business. Quite a number of members of the public have relayed to me that these animals are often kept under extremely unsatisfactory conditions, including not having enough rest time, being confined in a narrow activity space, and not being given inadequate food. In this connection, will the Government inform this Council:*

- (1) *whether the Government received complaints in the past three years about animals being abused on the aforesaid premises; if so, of the details;*
- (2) *whether the Government compiled statistics in the past three years on the number of such kind of premises; if so, of the details; if not, the reasons for that;*
- (3) *whether (i) the use of animals by operators of restaurants to solicit business and (ii) the provision of food, which was prepared off-site (e.g. cup noodles, biscuits and packaged drinks), by operators of premises without a restaurant licence for customers' consumption on the premises are subject to regulation under the existing legislation; if so, of the details;*
- (4) *whether the Government instituted prosecutions in the past three years against the operators of premises mentioned in (3)(ii) above for operating a restaurant without a licence; if so, of the details; if not, the reasons for that;*

- (5) *whether the Government instituted, by invoking the Food Business Regulation (Cap. 132X), prosecutions in the past three years against the relevant operators for the presence of animals in food premises; if so, of the details;*
- (6) *whether the Government deployed officers to pose as patrons in the past three years to investigate if the operators or the customers of those premises had committed offences under the Prevention of Cruelty to Animals Ordinance (Cap. 169); if so, of the details; if not, the reasons for that; and*
- (7) *whether it will amend the legislation to strengthen the regulation of commercial acts of using animals to solicit business, so as to protect animal rights?*

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

- (1) In the past three years, the Agriculture, Fisheries and Conservation Department ("AFCD") received one complaint concerning suspected acts of cruelty to rabbits kept by a café. The investigation did not find any acts of cruelty to animals involved. However, the café concerned was prosecuted by the Food and Environmental Hygiene Department ("FEHD") for operating food business without a licence.
- (2) and (3)

All licensed food premises have to meet the requirements of the Food Business Regulation (Cap. 132X) ("the Regulation") to prevent food contamination. Animals can be a source of contamination of food and equipment as their bodies, hair and excreta may carry pathogens and parasites. To ensure food safety and environmental hygiene, section 5(3)(b) of the Regulation requires that no person shall suffer or permit the presence of live birds or animals in any food room (including a kitchen) of food premises.

In addition, section 10B of the Regulation stipulates that no person shall bring any dog onto any food premises, and that no person engaged in any food business shall knowingly suffer or permit the

presence of any dog on any food premises. The only exception is where the dogs are serving as guide dogs for visually impaired persons (other than entering a food room, including a kitchen) or performing statutory duties (e.g. police dogs).

Other than the requirements of section 10B of the Regulation, the existence of other animals in food premises is not a major licensing control, but a licensee must keep the food premises clean and in good repair and condition. Also, the Public Health and Municipal Services Ordinance (Cap. 132) provides that any food intended to be sold for human consumption in Hong Kong must be fit for human consumption. Hence, it is the responsibility of the licensee to ensure food safety and environmental hygiene of the food premises.

- (4) According to section 31(1)(b) of the Regulation, a restaurant licence issued by FEHD is required for conducting any food business which involves the sale of meals or unbottled non-alcoholic drinks (other than Chinese herb tea) for consumption on the premises.

FEHD instituted 1 711, 1 604 and 1 710 prosecutions against unlicensed food premises respectively in each of the past three years. It does not keep separate breakdown on the use of animals by these food premises for soliciting business.

- (5) In the past three years, FEHD instituted one prosecution against the licensee of food premises for suffering or permitting animal(s) to enter the food room of the premises.
- (6) Upon receiving complaints from members of the public against acts of animal cruelty, AFCD's officers will take appropriate follow-up and investigation after inspecting the premises suspected to have contravened the law.
- (7) Having reviewed overseas legislation on animal welfare, and considered views of animal welfare organizations and other stakeholders, we plan to consult the public in mid-2019 on proposals to strengthen the protection of animal welfare. Our proposals would include exploring the introduction of a concept of positive duty of care on animal keepers, i.e. requiring animal keepers to take

all necessary measures to protect the welfare of their animals, such as providing proper care and sufficient space for their animals, etc. Under these proposals, the "animal keepers" mentioned above include the persons in charge of the animal keeping premises. We will draw up legislative proposals after taking into account the views gathered from the public consultation. Yet, the Government has no plan to regulate the use of animal in soliciting business, unless it involves acts of cruelty to animals or failure to provide duty of care.

### **Preventing wild animals from causing injuries and nuisances to residents**

19. **DR ELIZABETH QUAT** (in Chinese): *President, it has been reported that nuisances have been caused to members of the public by wild animals from time to time, including monkeys trespassing on residential areas, and some passers-by being hit by wild pigs and sustaining injuries. In this connection, will the Government inform this Council:*

- (1) *whether it knows the respective numbers of (i) monkeys and (ii) wild pigs in each of the past five years;*
- (2) *whether it knows the respective numbers of cases in each of the past five years of wild animals causing (i) injuries and (ii) nuisances to residents, with a breakdown by type of animals and district;*
- (3) *whether it has assessed the effectiveness of the various neutering/contraceptive programmes for wild animals currently put in place in controlling the number of wild animals; if so, of the outcome; of the (i) amount of public money spent on and (ii) manpower deployed for the implementation of such programmes by the Government in the past five years, with a breakdown by type of animals involved;*
- (4) *given that a contractor will carry out on-site trials early this year to assess the effectiveness of the newly designed refuse collection facilities in preventing wild animals such as monkeys and wild pigs from foraging food from refuse, of the number of designs involved in the trials; if only one design is involved, the reasons for that, and whether trials will be conducted on more designs; if so, of the details*

*and the timetable; if not, the reasons for that; of the time as planned by the Government when it will completely switch to using the newly designed refuse collection facilities; whether it will expedite the use of such facilities; if so, of the timetable; if not, the reasons for that; and*

- (5) *as the Agriculture, Fisheries and Conservation Department is conducting a series of publicity and education programmes to publicize the negative impacts of feeding wild animals, whether the Government will step up the relevant publicity and education efforts as well as consider legislating against the feeding of wild animals; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the Government has been very concerned about the nuisance to the public caused by wildlife (especially wild pigs and monkeys). The Agriculture, Fisheries and Conservation Department ("AFCD") has recently reviewed the strategy on the management of wild pigs and briefed the relevant panel of the Legislative Council on the proposed measures to strengthen the management of wild pigs in this January. AFCD will also review the management of monkeys and handling of its nuisance. Our reply to the question raised by Dr QUAT is as follows:

- (1) Based on the data collected from the territory-wide surveys on monkeys by AFCD, the number of monkeys has remained at about 1 800 in the past five years, and they are mainly distributed in the Kam Shan, Lion Rock and Shing Mun Country Parks.

Since wild pigs are generally solitary or live in small groups, secretive in nature, widely distributed and have very extensive home range, AFCD does not have the number of wild pigs in Hong Kong at present. Nevertheless, AFCD is exploring other methods to estimate the number of the wild pigs in Hong Kong.

- (2) Over the past five years, the number of sightings or nuisance complaints and injury cases related to monkeys and wild pigs received by AFCD is tabulated as follows:

Calendar Year	<i>Number of Sightings or Nuisance Complaints/ (Injury Cases)<sup>(1)</sup></i>						
	<i>Monkeys<sup>(2)</sup></i>			<i>Wild Pigs</i>			
	<i>Kowloon</i>	<i>New Territories</i>	<i>Total</i>	<i>Hong Kong Island</i>	<i>Kowloon</i>	<i>New Territories</i>	<i>Total</i>
2014	82	355	437	125	18	193	336(0)
2015	148	402	550	223	33	262	518(0)
2016	104	343	447	219(2)	52	312	583(2)
2017	86	267	353	324	32	382(3)	738(3)
2018	59	271	330	482(3)	35(1)	412(3)	929(7)

Notes:

- (1) Figures in brackets denote the number of reports on injury.
- (2) There were no sightings or nuisance complaints related to monkeys on the Hong Kong Island.
- (3) Since 2007, AFCD has regularly arranged contraceptive and sterilization operations for monkeys in Kam Shan, Lion Rock and Shing Mun Country Parks, and monitored the changes in monkey populations so as to control their number in the long run and abate the nuisance they created. In 2009, the contractor introduced a new technique for permanent sterilization of suitable female monkeys by endoscopic micro-tubectomy for more effective control on their number. In 2014, the contractor also started performing endoscopic micro-vasectomy on suitable male monkeys. The surgical procedure only takes four to seven minutes to complete, and the monkeys which undergone operations will be released on site together with other monkeys captured on the same day. Since 2018, AFCD has extended the sterilization operations to the monkey populations causing nuisance to residential areas near the fringe of country parks. As of February 2019, more than 2 200 monkeys had received contraception and/or sterilization. Since the implementation of the programme, the number of complaints on nuisance drastically decreased from some 1 400 cases in 2006 to about 330 cases in 2018. AFCD will soon review the management of monkey nuisance, with a view to developing a more comprehensive management plan for monkey nuisance.

Since 2017, AFCD has introduced the Capture and Contraception/Relocation Programme ("CCRP") as a pilot scheme to address persistent wild pig nuisance in urban areas. The pilot CCRP involves capturing the nuisance-causing wild pigs for relocation to remote countryside areas to alleviate the nuisance with immediate effect. To control the number of wild pigs causing nuisance in the long run, AFCD is evaluating the effectiveness of a contraceptive vaccine, GonaCon™, in controlling the fertility of mature female wild pigs. GonaCon™ has been found to be effective for at least four to six years on captive wild pigs in an overseas study and is safe to pregnant animals. In addition, AFCD has been studying the feasibility of conducting on-site surgical sterilization on wild pigs. As of February 2019, AFCD has vaccinated 55 wild pigs and sterilized 15 wild pigs, and relocated 111 wild pigs to the remote countryside. AFCD will work closely with local and overseas experts to improve the procedures for the pilot CCRP and will assess the effectiveness of contraceptive treatment.

Over the past five years, the expenditure and staffing involved in the Capture, Contraception, and Release/Relocation Programme for monkeys and the pilot CCRP for wild pigs are tabulated below:

<i>Financial Year</i>	<i>Monkeys</i>		<i>Wild Pigs</i>	
	<i>Expenditure (\$ million)</i>	<i>Manpower (number of staff)*</i>	<i>Expenditure (\$ million)</i>	<i>Manpower<sup>#</sup> (number of staff)</i>
2014-2015	1.4	2	-	-
2015-2016	1.4	2	-	-
2016-2017	1.4	2	-	-
2017-2018	1.4	2	3.8	6
2018-2019 (Revised estimate)	1.4	2	6.4	14

Notes:

\* 10 staff of the contractor participated/will participate in each operation.

# Prior to 2017-2018, there was no manpower dedicated for wild pig management.

- (4) In collaboration with the Food and Environmental Hygiene Department ("FEHD") and the Environmental Protection Department, AFCD is conducting a consultancy study to improve the design of the refuse bins, with a view to reducing nuisance caused by wild animals such as monkeys and wild pigs scavenging from outdoor refuse. The consultant provided three improved designs, which will be deployed for field trials in the first half of 2019 in areas of wildlife nuisance black spots, and further improvements will be made based on the trial results this year. FEHD will keep in view the trial results and usage of the new designs. If the new designs can effectively minimize the scavenging for food from refuse bins by wild pigs and monkeys, FEHD will deploy the newly designed bins to suitable sites to improve environmental hygiene as and when appropriate.
- (5) The most effective way to minimize wildlife such as monkeys and wild pigs raiding residential areas is to stop feeding them. To this end, AFCD is conducting a series of publicity and education programmes to intensify its efforts to educate the public on the negative impact of feeding on wildlife with a view to discouraging such feeding behaviour. These programmes include promotion in the media and social platforms, organization of colouring competition, fun day, roving exhibitions, lectures, wildlife education tours, as well as hanging banners and posters at areas frequented by monkeys and wild pigs.

As we have to make careful consideration of complicated technical issues involving law enforcement and the manpower required, the Government does not have any plan to completely ban the feeding of wild animals by legislative measures at the moment. To facilitate the management of wild pigs, the Government will set up an advisory group comprising local and overseas experts in the fields of ecology, wildlife management and veterinary medicine, etc. to advise on the implementation and review of management measures and public education.



**Measures to cope with the demand for public hospital services**

20. **MR HOLDEN CHOW** (in Chinese): *President, it has been reported that the various public hospitals have experienced an overflow of patients in recent years (particularly during the winter surge of influenza), resulting in deterioration in the quality of healthcare services and healthcare workers being overstretched. In this connection, will the Government inform this Council:*

- (1) *as the Government announced in January of last year and this year respectively that an additional allocation of \$500 million would be made to the Hospital Authority ("HA") for coping with the winter surge of influenza, whether it knows the respective uses of those two allocations, including the numbers of doctors, nurses, clerical and supporting staff members employed, with a breakdown by whether they are/were full-time, part-time or temporary employees;*
- (2) *whether it knows the number of additional doctors, nurses, clerical and supporting staff members that HA plans to recruit in the next financial year (with a breakdown by name of the public hospital to which they will be posted); and*
- (3) *whether it knows if HA has put in place new measures to (i) alleviate the work pressure on healthcare workers (such as streamlining administrative procedure) and (ii) improve their working environment; if HA has, 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 Mr Holden CHOW is as follows:*

- (1) To meet the service demand during the winter surge in 2017-2018, the Hospital Authority ("HA") put in place a response plan which included the following measures:
  1. opening time-limited beds;
  2. enhancing virology services to facilitate and expedite patient management decision;

3. enhancing ward rounds of senior clinicians and related supporting services in the evenings, at weekends and on public holidays so as to facilitate early discharge of patients;
4. enhancing discharge support (e.g. non-emergency ambulance transfer service, pharmacy, portering service);
5. increasing the service quotas of general outpatient clinics; and
6. enhancing geriatrics support to Accident and Emergency departments.

In response to the upsurge in service demand, the Government announced in January 2018 an additional one-off allocation of \$500 million for HA to implement the response plan for winter surge and various additional measures to alleviate manpower shortage. The measures are as follows:

1. extending the use of the Special Honorarium Scheme ("SHS") to provide extra manpower of clerical and supporting staff so that the health care staff could focus more on clinical work;
2. further relaxing and streamlining the approval for the SHS arrangement to a minimum operation need of one hour and to cover all grades of staff to meet the increasing need for greater flexibility in the use of SHS under exceptional circumstances;
3. providing SHS at Advanced Practice Nurse level to work on night-shift duties at both acute general, and convalescent and rehabilitation wards/services to enhance senior coverage and supervision to ward staff;
4. relaxing the criteria for the implementation of the Continuous Night Shift Scheme ("CNSS") by suspending the required night shift frequency for triggering CNSS so as to increase flexibility in manpower deployment; and

5. increasing the rate of the SHS allowance by 10% under a special one-off arrangement to encourage more staff to work during the surge period with anticipated significant increase in workload.

The overall expenditure for implementing the response plan and additional measures was \$649 million, including fully utilizing the additional \$500 million allocated by the Government and a sum of \$149 million coming from HA's revenue reserve. The expenditures involved in meeting service demand during the winter surge in 2017-2018 by HA clusters are set out in the Annex.

Besides, in 2017-2018, the numbers of doctors, nurses and allied health professionals of HA increased by 75 (1.3%), 1 131 (4.5%) and 243 (3.2%) respectively over 2016-2017 (calculated on full-time equivalent basis including permanent, contract and temporary staff).

To meet the service demand during the winter surge in 2018-2019, HA is implementing the same measures as taken under the response plan for the 2017-2018 winter surge. HA has also set up the Locum Office, so as to further increase its manpower through adopting a more flexible and efficient approach in recruitment. SHS has been relaxed to a minimum operation need of one hour in order to encourage more staff to participate. Several additional measures implemented in 2017-2018 have also been regularized to alleviate manpower shortage. The measures include:

1. extending the use of SHS to provide extra manpower of clerical and supporting staff so that the health care staff could focus more on clinical work;
2. providing SHS at Advanced Practice Nurse level to work on night-shift duties at both acute general, and convalescent and rehabilitation wards/services to enhance senior coverage and supervision to ward staff; and
3. relaxing the criteria for implementing CNSS by suspending the required night shift frequency for triggering CNSS so as to increase the flexibility in manpower deployment.

In response to the upsurge in service demand in January 2019, the Government announced in the same month that it had set aside \$500 million for HA to meet the additional expenditure in coping with the service demand during winter surge. HA has implemented the following enhancement measures, which are in place from 28 January until 30 April 2019:

*Enhancing Senior Coverage*

The rates of the SHS allowance are offered based on the clinical ranks of staff, so as to encourage participation of senior doctors, nurses and allied health professionals in SHS, in order to provide more senior health care manpower to cope with the increase in service demand.

*Nursing Night Shift Support*

1. further promoting and arranging more night shift SHS for Advanced Practice Nurses;
2. introducing night shift for temporary undergraduate nursing students;
3. arranging agency nurses runner support for night shift, e.g. escorting patients; and
4. promoting the relaxed CNSS to nurses and supporting staff.

*Enhancement of SHS*

1. increasing the rate of allowance by 10% to encourage staff participation;
2. streamlining the approval process; and
3. increasing flexibility when approving for the use of SHS without setting rigid threshold for triggering SHS.

The expenditure involved in implementing the above measures for the winter surge in 2018-2019 will be available only after the completion of all the winter surge response measures.

Besides, it is projected that the numbers of doctors, nurses and allied health professionals (calculated on full-time equivalent basis, including permanent, contract and temporary staff), in HA for 2018-2019 will be increased by 142 (2.4%), 614 (2.4%) and 255 (3.3%) respectively as compared to 2017-2018.

- (2) In 2019-2020, HA plans to recruit about 520 doctors, 2 270 nurses and 700 allied health professionals. Besides, each cluster will continue to actively recruit clerical and supporting staff to meet the service demand in response to its operational needs and manpower situation.
- (3) The HA Head Office has recently directed cluster and hospital management to reduce the number of meetings and postpone non-urgent meetings during winter surge period so that frontline staff could focus more on clinical work. At the same time, HA will regularly review the number and efficiency of meetings, so as to ensure the smooth conduct of meetings and streamline meetings. HA will continue to recruit additional ward Executive Assistants and supporting staff to assist frontline health care staff.

HA has been proactively implementing various human resources measures to retain professionals and alleviate the shortage of frontline health care staff. Key measures include:

#### *Manpower of Doctors*

1. Recruiting local medical graduates: The number of Resident Trainee posts has been increased to recruit and provide specialist training for all qualified local medical graduates;
2. Recruiting non-locally trained doctors under limited registration: HA has resorted to recruitment of non-locally trained doctors under limited registration since 2011-2012. Upon commencement of the Medical Registration

- (Amendment) Bill 2018, the validity period of limited registration has been extended to up to three years. Coupled with the extension of contract period to a maximum of three years since 2017, it is expected that more non-locally trained doctors will be recruited through limited registration;
3. Special Retired and Rehire Scheme ("SRRS"): Since 2015-2016, HA rehires suitable serving doctors upon their retirement at normal retirement age or completion of contract, so that they can continue to perform full-time clinical duties in public hospitals, thereby alleviating manpower shortage and facilitating staff training and knowledge transfer;
  4. Continuous recruitment of part-time doctors: HA continues to recruit part-time doctors and introduce further flexibility in recruitment strategies, including the setting up of the Locum Office;
  5. SHS: HA continues to implement SHS as appropriate in order to address the issue of short-term manpower constraint and meet service demand;
  6. Creating more promotion opportunities: A centrally coordinated additional Associate Consultant Promotion Mechanism has been launched since 2011-2012 to recognize meritorious doctors who have served in HA for five years or more after obtaining fellowship;
  7. Enhancing training: More training courses and oversees training opportunities has been provided for doctors, and simulation training has also been enhanced to support professional development;
  8. Flexible work arrangements: HA is actively considering the introduction of more flexible options in work arrangements to retain experienced hands, such as providing special arrangement for existing full-time frontline professional staff who have temporary special needs and compassionate reasons,

such as health or family reasons, to work fractionally for a fixed period of time and thereafter resume their full-time duties; and

9. Fixed Rate Honorarium ("FRH") for Doctors: To give recognition to the contribution of doctors who are required to work consistently long hours by nature of their duties and to compensate for the overtime work they performed in order to maintain adequate medical service for patients, HA grants a FRH to eligible doctors on a monthly basis. To boost staff morale, HA has planned to further increase the rate of FRH starting from April 2019 at the earliest.

#### *Frontline Nursing Staff*

1. Reinstating the annual increment mechanism: To further boost staff morale and retain staff, HA has reinstated the annual increment mechanism for all serving staff who joined HA on or after 15 June 2002, as well as new recruits, with effect from 1 April 2018. The arrangement is expected to be applicable to about 17 000 eligible staff;
2. Continuous recruitment of full-time, part-time and agency nurses: Hospitals will continue to recruit full-time, part-time and agency nurses to enhance the flexibility in staff deployment, thereby easing the workload of frontline staff;
3. SRRS: HA has implemented SRRS since 2015-2016 to rehire suitable health care professionals after their retirement, so as to retain professionals to provide training, impart knowledge and alleviate the manpower situation in HA;
4. Enhancing promotion opportunities: In 2008-2009, HA created the post of Nurse Consultant to enhance the development prospects of the nursing profession, thereby improving the health care services of HA. There are currently 113 Nurse Consultant posts. A total of 1 476 nurses were promoted in the past three years;

5. Providing more training opportunities: The Institute of Advanced Nursing Studies of HA offers 26 nursing specialist training courses each year for nurses to continuously pursue further studies after graduation. HA also provides subsidies for over 100 senior nurses to pursue further studies and training overseas each year;
6. Enhancing preceptorship support: Under HA's preceptorship programme, experienced nurses are recruited through granting special allowance, offering part-time employment, etc. to serve as preceptors to provide guidance for newly recruited nurses in an actual clinical setting, thereby familiarizing them with ward procedures and environment as well as alleviating the work pressure of other experienced nursing staff in coaching new nurses. HA also provides simulation training for newly recruited nurses to enhance their first aid and emergency handling skills. In 2018-2019, HA recruited 70 additional Advanced Practice Nurses (on full-time equivalent basis) as part-time clinical preceptors to coach about 3 570 nurses in service for two years or less. It also plans to increase the number of preceptors in 2020-2021;
7. Improving work environment: Since 2013-2014, HA has installed some 6 000 additional electrically-operated beds and some 523 ceiling hoist systems to facilitate the lifting and transfer of patients; in 2018-2019, HA will procure some 2 000 electrically-operated beds to help simplify the work procedures required of ward staff, and improve the work environment and facilities, thereby relieving the work pressure on frontline nurses; and
8. Recruiting additional ward clerks and ward assistants: HA recruits additional ward clerks and ward assistants to assist nurses in carrying out clerical work and providing patient care, thereby easing the workload of nurses.

#### *Allied Health Professionals*

1. Reinstating the annual increment mechanism: To further boost staff morale and retain staff, HA has reinstated the annual increment mechanism for all serving staff who joined HA on



or after 15 June 2002, as well as new recruits, with effect from 1 April 2018. The arrangement is expected to be applicable for about 17 000 eligible staff;

2. **SRRS:** HA has implemented SRRS since 2015-2016 to rehire suitable health care staff after their retirement, so as to retain professionals to provide training, impart knowledge and alleviate the manpower situation in HA;
3. **Enhancing training and development of allied health professionals:** The Institute of Advanced Allied Health Studies of HA offers 65 specialist training/enhancement courses each year to strengthen services and professional development. It also provides over 50 scholarship places for advanced allied health professionals to pursue further study and training overseas; and
4. **Re-engineering work processes and recruiting more Patient Care Assistants.**

HA will continue to monitor the manpower situation of health care staff and make appropriate arrangements as to manpower planning and deployment to meet service demand.

Annex

Expenditures of Hospital Clusters for Winter Surge in 2017-2018  
(\$ million)

	<i>Hong Kong East</i>	<i>Hong Kong West</i>	<i>Kowloon Central</i>	<i>Kowloon East</i>	<i>Kowloon West</i>	<i>New Territories East</i>	<i>New Territories West</i>	<i>Total</i>
<b>Personal Emoluments</b>								
Doctors	3	4	13	10	12	8	14	64
Nurses	25	15	48	32	24	49	51	244
Allied Health Professionals	1	2	4	5	3	5	1	21
Supporting Staff	8	6	15	11	9	12	14	75
Subtotal	37	27	80	58	48	74	80	404

	<i>Hong Kong East</i>	<i>Hong Kong West</i>	<i>Kowloon Central</i>	<i>Kowloon East</i>	<i>Kowloon West</i>	<i>New Territories East</i>	<i>New Territories West</i>	<i>Total</i>
Other charges								
Other charges	12	13	53	32	65	29	41	245
Subtotal	12	13	53	32	65	29	41	245
Total	49	40	133	90	113	103	121	649

Note:

- (1) Other charges include around \$60 million for employing agency staff.

### **Non-liability for payment, remission and refund of stamp duty**

21. **MR KENNETH LEUNG** (in Chinese): *President, under section 41 of the Stamp Duty Ordinance (Cap. 117), the Central People's Government, the Government or any incorporated public officer or any person acting in his capacity as a public officer shall not be liable for the payment of stamp duty chargeable on any instrument. Under section 52 of Cap. 117, the Chief Executive ("CE") may remit, wholly or in part, the stamp duty payable, or refund, wholly or in part, the stamp duty paid, in respect of any instrument chargeable with stamp duty. Regarding the enforcement of those provisions, will the Government inform this Council:*

- (1) *of the number of cases in each of the past 10 years in which the payment of stamp duty was exempted under section 41 of Cap. 117 and the details of such cases (including the identities of the beneficiaries, as well as the amounts and types of stamp duty involved);*
- (2) *of the number of cases in each of the past 10 years in which remission or refund of stamp duty was granted under section 52 of Cap. 117 and the details of such cases (including the identities of the beneficiaries, as well as the amounts and types of stamp duty involved);*
- (3) *of the number of cases among those in (1) and (2) in which the beneficiary was the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("LOCPG") or companies associated with it, and the details of such cases (including the amounts and types of stamp duty involved);*

- (4) *whether the Government will stipulate specific conditions (e.g. the property involved to be for self-use or for non-profit-making purposes only) to be met by property transactions before exemption or remission of stamp duty may be granted; if so, of the details, including the mechanism for monitoring the compliance with the relevant conditions; if not, the reasons for that;*
- (5) *of the policy intents of the aforesaid provisions and the procedures for vetting and approval of the applications concerned; what information the persons applying for exemption, remission or refund of stamp duty have to furnish in support of their applications; and*
- (6) *as it has been reported that the transactions for acquisition of properties in Hong Kong by a private company owned by two staff members of LOCPG have been granted remission by CE under section 52 of Cap. 117 of all the stamp duty payable, of the reasons why the company was accorded such treatment; if it was because the persons concerned claimed that the company was controlled by LOCPG, how the authorities verified the claim?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, under section 41(1) of the Stamp Duty Ordinance ("SDO"), the Central People's Government ("CPG"), the Government of the Hong Kong Special Administrative Region ("HKSAR") or any incorporated public officer or any person acting in his capacity as a public officer shall not be liable for the payment of stamp duty chargeable on any instrument. Therefore, CPG is exempt from the payment of stamp duty for the acquisition of properties in Hong Kong. Before the reunification of Hong Kong, the same exemption was also available to the British Government for the acquisition of properties in Hong Kong. Moreover, under section 52(1) of SDO, the Chief Executive may remit, wholly or in part, the stamp duty payable, or refund, wholly or in part, the stamp duty paid, in respect of any instrument chargeable with stamp duty.

The organs of CPG in Hong Kong are exempt from the payment of stamp duty for the acquisition of properties in Hong Kong under section 41 of SDO. There is no specified condition for such exemption. Where a CPG's organ in Hong Kong acquires a local property through its subsidiary company, section 41 is not directly applicable. With reference to the principle of section 41, the HKSAR Government will apply section 52(1) to remit the stamp duty chargeable

on the relevant transaction instrument. To ensure the consistency of the exemption arrangement, remission of stamp duty on transaction instruments is granted under section 52(1) for local properties acquired either by CPG's organs in Hong Kong or through their subsidiary company. The Chief Executive has authorized relevant officials of the Financial Services and the Treasury Bureau to exercise the power under section 52(1) of SDO. In exercising the delegated authority, the Financial Services and the Treasury Bureau will examine and consider the information submitted by CPG's organs in Hong Kong or their subsidiary company, such as agreements for sale and purchase, declarations of trust, notarial certificates, declarations of shareholdings and/or company search records, etc.

Information on stamp duty remission accorded to CPG's organs in Hong Kong or their subsidiary company in respect of local properties they acquired between the financial years 2009-2010 and 2018-2019 is tabulated below:

<i>Financial Year</i>	<i>Organizations</i>	<i>Stamp duty involved (\$ million)</i>	<i>Number of properties involved</i>
2009-2010	-	0	0
2010-2011	-	0	0
2011-2012	-	0	0
2012-2013	Subsidiary company of a CPG's organ in Hong Kong	1.9	15
2013-2014	-	0	0
2014-2015	Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region	52.3	6
2015-2016	Ministry of Commerce of the People's Republic of China	3.6	8
	Subsidiary company of a CPG's organ in Hong Kong	15.6	15
2016-2017	Subsidiary company of a CPG's organ in Hong Kong	8.4	0
2017-2018	-	0	0
2018-2019 (as at 28 February 2019)	Subsidiary company of a CPG's organ in Hong Kong	47.9	25

We do not comment on individual cases. Nevertheless, we would emphasize that in implementing SDO (including its provision on stamp duty remission), the HKSAR Government will carefully examine each case and the information provided by the persons concerned and confirm that the requirements are met before granting remission in accordance with the law.

### **Car parks owned or sold by the Link Real Estate Investment Trust**

22. **MR JAMES TO** (in Chinese): *President, it is learnt that since 2014, Link Real Estate Investment Trust ("Link REIT") has sold one after another its car parks located within or near public housing estates and housing courts. Some acquirers have in turn divided up and sold the parking spaces of the car parks concerned to individuals. On the other hand, it has been stipulated in the land leases for some of the car parks that the relevant parking spaces are for parking only by vehicles of the residents, occupiers or bona fide visitors of the housing estates or courts concerned ("user restriction"). In this connection, will the Government inform this Council:*

- (1) *whether it knows the following information about each of the car parks which are owned and which have been sold by Link REIT (set out in a table):*
  - (i) *the name of the housing estate/court concerned;*
  - (ii) *the number of parking spaces provided; and*
  - (iii) *a breakdown of the number of parking spaces by type of their owners (i.e. Link REIT, other companies and individuals), type of vehicles that may be parked thereat, and whether any user restriction is currently in force;*
- (2) *whether it knows, in respect of the three types of parking spaces currently owned by Link REIT, other companies and individuals respectively, the number of those parking spaces the land lease of which contains user restriction clauses; among such parking spaces, the number of those the owners of which have been granted by the Lands Department waivers for complying with such clauses, and a*

*breakdown of the average waiver fees by type of vehicles that may be parked at such parking spaces;*

- (3) of the measures put in place to ensure compliance by individual owners of the parking spaces with the land lease conditions (in particular the user restriction clauses); whether, in the past three years, it instituted prosecutions against or imposed punishments on those persons who had violated the relevant land lease conditions of the parking spaces; if so, of the details and the number of such cases; and*
- (4) whether it has measures in place to ensure that the prospective buyers of individual parking spaces know if the land leases concerned contain user restriction clauses, e.g. by making public whether individual parking spaces in such car parks are subject to such clauses?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, having consulted the Transport and Housing Bureau, my consolidated reply to various parts of the question is as follows:

- (1) Based on the information provided by the Transport and Housing Bureau, the details of the relevant car parks are at Annex 1.
- (2) In 2005, the Hong Kong Housing Authority divested commercial and car parking properties to LINK, including 178 car parks. The lease conditions for 176 of these car parks contain restrictions on the user of parking spaces. Should waiver applications be made by the owners for waiving the relevant restrictions on user of car parks under leases, the Lands Department ("LandsD") would process these applications in accordance with the established procedures, which include consulting the District Offices concerned, the Planning Department, the Transport Department, the Housing Department, and other relevant Policy Bureaux/government departments. Based on LandsD's currently available information, as at end-August 2018, LandsD has approved 20 temporary waivers permitting the use of relevant car parks by users other than those specified under leases,

which involve a total of 261 parking spaces in 20 car parks. The details of these 20 waivers are at Annex 2.

The waiver fee is assessed on the basis of the increase in annual rental value of the premises with the user permitted after the issuance of the waiver letter. As the waiver fee assessment for different housing estates/courts is subject to different effective dates, locations, and other restrictions, etc., it would not be appropriate to draw any general comparisons merely based on the average waiver fee.

- (3) A land lease is a private contract signed between the Government and a land owner. Lease enforcement actions are undertaken by LandsD in its capacity as the landlord in accordance with the lease conditions, and do not involve law enforcement or prosecution measures.

In respect of lease enforcement, as with other private properties, LandsD mainly acts on complaints and referrals about breaches of the leases, by conducting inspections and taking follow-up actions in accordance with the existing procedures. Depending on the circumstances, LandsD will also consult the relevant Policy Bureaux/government departments and seek legal advice. If breaches of the lease conditions are confirmed, LandsD will take appropriate lease enforcement action.

Generally speaking, land leases do not require the owners to pay punitive damages in breach of lease conditions. If breaches of the lease conditions are substantiated, LandsD will handle the cases based on individual circumstances, including demanding the owners to rectify the breaches. Where the breaches have not been rectified, LandsD will consider taking further actions, including registering warning letters at the Land Registry (commonly known as "imposing an encumbrance"), and re-entry of land or vesting the relevant interests in The Financial Secretary Incorporated by invoking the provisions of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126).

Over the past three years, with regard to the relevant car parks divested in 2005, LandsD received complaints concerning the alleged breaches of user restriction by the owners of 13 car parks, and conducted 22 site inspections and issued 24 follow-up letters in accordance with existing procedures. After conducting investigations and seeking legal advice, no breach of the relevant lease conditions have been substantiated.

- (4) The transaction of parking spaces is no different from that of other properties. Prospective purchasers should pay attention to the contents of important documents, such as the conditions of relevant land lease, deed of the property, and deed of mutual covenant, etc., and seek independent professional advice.

With regard to the conditions of individual leases, including any restrictions on the user of parking spaces and their specific details, prospective purchasers may inspect the relevant leases at the Land Registry.

Annex 1

#### Parking Spaces in Divested Properties

<i>No.</i>	<i>Housing Type</i>	<i>Name of Estate/Court</i>	<i>No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)</i>	<i>Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)</i>	<i>Owner of Divested Parking Spaces (Situation in March 2019)</i>
1	Public	Ap Lei Chau Estate	325	Yes	Other Companies/Persons
2	Rental	Butterfly Estate	313	Yes	Link
3	Housing	Cheung Hang Estate	327	Yes	Other Companies/Persons



No.	Housing Type	Name of Estate/Court	No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)	Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)	Owner of Divested Parking Spaces (Situation in March 2019)
4		Cheung Hong Estate	709	Yes	Other Companies/Persons
5		Cheung Wang Estate	333	Yes	Link
6		Choi Fai Estate	93	Yes	Other Companies/Persons
7		Choi Wan (I) Estate	859	Yes	Link
8		Choi Yuen Estate	536	Yes	Link
9		Chuk Yuen (South) Estate	1 103	Yes	Link
10		Chun Shek Estate	583	Yes	Other Companies/Persons
11		Chung On Estate	995	Yes	Link
12		Fortune Estate	153	Yes	Other Companies/Persons
13		Fu Cheong Estate	547	Yes	Link
14		Fu Tai Estate	635	Yes	Link
15		Fu Tung Estate	537	Yes	Link
16		Hau Tak Estate	623	Yes	Link
17		Hing Man Estate	226	Yes	Other Companies/Persons
18		Hing Tung Estate	420	Yes	Link
19		Hing Wah (I) Estate	268	Yes	Link
20		Ho Man Tin Estate	299	Yes	Link
21		Hung Hom Estate	45	Yes	Link
22		Ka Fuk Estate	312	Yes	Other Companies/Persons
23		Kai Tin Estate	461	Yes	Link
24		Kai Yip Estate	383	Yes	Other Companies/Persons
25		Kin Ming Estate	763	Yes	Link
26		Ko Yee Estate	38	Yes	Link
27		Kwai Fong Estate	483	Yes	Other Companies/Persons
28		Kwai Shing East Estate	583	Yes	Other Companies/Persons
29		Kwong Fuk Estate	461	Yes	Link
30		Kwong Tin Estate	53	Yes	Other Companies/Persons
31		Lai Kok Estate	140	Yes	Other Companies/Persons

No.	Housing Type	Name of Estate/Court	No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)	Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)	Owner of Divested Parking Spaces (Situation in March 2019)
32		Lai On Estate	181	Yes	Link
33		Lee On Estate	390	Yes	Other Companies/Persons
34		Lek Yuen Estate	433	Yes	Link
35		Lok Fu Estate	753	Yes	Link
36		Lok Wah (North) Estate	650	Yes	Link
37		Lok Wah (South) Estate	226	Yes	Link
38		Lower Wong Tai Sin (II) Estate	688	Yes	Link
39		Lung Hang Estate	440	Yes	Link
40		Ma Hang Estate	426	Yes	Link
41		Mei Lam Estate	375	Yes	Link
42		Ming Tak Estate	383	Yes	Other Companies/Persons
43		Oi Man Estate	808	Yes	Link
44		Oi Tung Estate	634	Yes	Link
45		On Ting Estate	546	Yes	Other Companies/Persons
46		On Yam Estate	347	Yes	Other Companies/Persons
47		Ping Tin Estate	406	Yes	Link
48		Po Tat Estate	1 083	Yes	Link
49		Po Tin Estate	62	Yes	Other Companies/Persons
50		Sam Shing Estate	176	Yes	Link
51		Sau Mau Ping Estate <sup>(1)</sup>	-	Yes	-
52		Sau Mau Ping Estate I	395	Yes	Link
53		Sau Mau Ping Estate III	816	Yes	Link
54		Sha Kok Estate	662	Yes	Link
55		Shek Lei (I) Estate	459	Yes	Other Companies/Persons
56		Shek Lei (II) Estate	179	Yes	Other Companies/Persons
57		Shek Wai Kok Estate	578	Yes	Other Companies/Persons

No.	Housing Type	Name of Estate/Court	No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)	Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)	Owner of Divested Parking Spaces (Situation in March 2019)
58		Shek Yam Estate	424	Yes	Other Companies/Persons
59		Sheung Tak Estate	1 280	Yes	Link
60		Shun Lee Estate	731	Yes	Link
61		Shun On Estate	459	Yes	Link
62		Shun Tin Estate	581	Yes	Other Companies/Persons
63		Siu Sai Wan Estate	558	Yes	Link
64		Sun Chui Estate	620	Yes	Link
65		Sun Tin Wai Estate	320	Yes	Other Companies/Persons
66		Tai Hing Estate	672	Yes	Link
67		Tai Wo Hau Estate	609	Yes	Other Companies/Persons
68		Tai Yuen Estate	594	Yes	Link
69		Tin Chak Estate	302	Yes	Link
70		Tin Shui Estate	577	Yes	Link
71		Tin Tsz Estate	289	Yes	Link
72		Tin Wah Estate	287	Yes	Link
73		Tin Wan Estate	417	Yes	Other Companies/Persons
74		Tin Yat Estate	446	Yes	Link
75		Tin Yiu Estate	480	Yes	Link
76		Tin Yuet Estate	560	Yes	Link
77		Tsui Ping (South) Estate	229	Yes	Link
78		Tsz Ching Estate	882	Yes	Other Companies/Persons
79		Tsz Lok Estate	940	Yes	Link
80		Tsz Man Estate	364	Yes	Link
81		Un Chau Estate	213	Yes	Link
82		Upper Ngau Tau Kok Estate	228	Yes	Link
83		Upper Wong Tai Sin Estate	473	Yes	Link
84		Wah Lai Estate	411	Yes	Link

No.	Housing Type	Name of Estate/Court	No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)	Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)	Owner of Divested Parking Spaces (Situation in March 2019)	
85		Wah Sum Estate	356	Yes	Other Companies/Persons	
86		Wan Tsui Estate	359	Yes	Link	
87		Wang Tau Hom Estate	290	Yes	Other Companies/Persons	
88		Wo Che Estate	828	Yes	Link	
89		Yat Tung Estate	1 900	Yes	Link	
90		Yau Oi Estate	780	Yes	Other Companies/Persons	
91		Yiu Tung Estate	685	Yes	Link	
92		Tenants Purchase Scheme	Cheung On Estate	484	Yes	Link
93			Cheung Fat Estate	590	Yes	Link
94			Cheung Wah Estate	353	Yes	Link
95			Choi Ha Estate	205	Yes	Other Companies/Persons
96	Chuk Yuen (North) Estate		61	Yes	Link	
97	Fu Heng Estate		517	Yes	Link	
98	Fu Shin Estate		525	Yes	Link	
99	Fung Tak Estate		487	Yes	Link	
100	Fung Wah Estate		161	Yes	Other Companies/Persons	
101	Heng On Estate		585	Yes	Link	
102	Hin Keng Estate		636	Yes	Link	
103	Hing Tin Estate	387	Yes	Other Companies/Persons		
104	Kin Sang Estate	273	Yes	Link		
105	King Lam Estate	418	Yes	Other Companies/Persons		
106	Kwai Hing Estate	277	Yes	Other Companies/Persons		
107	Kwong Yuen Estate	736	Yes	Link		
108	Lei Cheng Uk Estate	461	Yes	Other Companies/Persons		
109	Lei Tung Estate	687	Yes	Other Companies/Persons		
110	Leung King Estate	616	Yes	Link		
111	Long Ping Estate	564	Yes	Link		
112	Lower Wong Tai Sin (I) Estate	70	Yes	Link		

No.	Housing Type	Name of Estate/Court	No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)	Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)	Owner of Divested Parking Spaces (Situation in March 2019)	
113		Nam Cheong Estate	156	Yes	Link	
114		Po Lam Estate	398	Yes	Link	
115		Shan King Estate	638	Yes	Other Companies/Persons	
116		Tai Ping Estate	101	Yes	Other Companies/Persons	
117		Tai Wo Estate	454	Yes	Link	
118		Tak Tin Estate	754	Yes	Link	
119		Tin King Estate	380	Yes	Link	
120		Tin Ping Estate	471	Yes	Other Companies/Persons	
121		Tsing Yi Estate	344	Yes	Other Companies/Persons	
122		Tsui Lam Estate	711	Yes	Other Companies/Persons	
123		Tsui Ping (North) Estate	421	Yes	Link	
124		Tsui Wan Estate	182	Yes	Link	
125		Tung Tau (II) Estate	493	Yes	Link	
126		Wah Kwai Estate	413	Yes	Other Companies/Persons	
127		Wah Ming Estate	295	Yes	Other Companies/Persons	
128		Wan Tau Tong Estate	438	Yes	Other Companies/Persons	
129		Yiu On Estate	547	Yes	Link	
130		Home Ownership Scheme	Ching Wah Court	348	Yes	Link
131			Ching Wang Court	179	Yes	Link
132	Fung Lai Court		134	Yes	Link	
133	Hiu Lai Court		637	Yes	Link	
134	Hong Keung Court		93	Yes	Link	
135	Hong Pak Court		549	Yes	Link	
136	Hong Shui Court		102	Yes	Link	
137	Hong Yat Court		355	Yes	Link	
138	Ka Tin Court		348	Yes	Link	
139	Kam On Court		238	Yes	Link	
140	Kam Tai Court		758	Yes	Other Companies/Persons	
141	Kam Ying Court		492	Yes	Other Companies/Persons	

No.	Housing Type	Name of Estate/Court	No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)	Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)	Owner of Divested Parking Spaces (Situation in March 2019)
142		King Lai Court	158	Yes	Link
143		Ko Chun Court	323	Yes	Link
144		Kwai Hong Court	88	Yes	Link
145		Lok Nga Court	265	Yes	Link
146		Mei Chung Court	385	Yes	Other Companies/Persons
147		Ming Nga Court	345	Yes	Link
148		Ning Fung Court	299	Yes	Link
149		Pang Ching Court	67	Yes	Link
150		Po Nga Court	246	Yes	Other Companies/Persons
151		Po Pui Court	277	Yes	Link
152		San Wai Court	185	Yes	Link
153		Siu Hei Court	560	Yes	Other Companies/Persons
154		Siu Lun Court	463	Yes	Other Companies/Persons
155		Siu On Court	273	No	Other Companies/Persons
156		Sui Wo Court	980	No	Other Companies/Persons
157		Tin Chung Court	1 177	Yes	Link
158		Tin Ma Court	585	Yes	Other Companies/Persons
159		Tin Shing Court	1 458	Yes	Link
160		Tin Wang Court	79	Yes	Link
161		Tin Yau Court	192	Yes	Link
162		Tong Ming Court	291	Yes	Link
163		Tsz Oi Court	199	Yes	Link
164		Tung Hei Court	146	Yes	Other Companies/Persons
165		Wang Fuk Court	408	Yes	Link
166		Wo Ming Court	379	Yes	Link
167		Yan Ming Court	262	Yes	Link
168		Yan Shing Court	252	Yes	Other Companies/Persons
169		Yee Kok Court	240	Yes	Link
170		Yee Nga Court	159	Yes	Link
171		Yin Lai Court	150	Yes	Link

No.	Housing Type	Name of Estate/Court	No. of Divested Parking Spaces (Situation when divesting the properties to Link in 2005)	Whether the land lease contains restrictions on users of the parking spaces (Yes/No) (Situation when divesting the properties to Link in 2005)	Owner of Divested Parking Spaces (Situation in March 2019)
172		Ying Fuk Court	163	Yes	Link
173		Ying Ming Court	274	Yes	Link
174		Yu Chui Court	1 175	Yes	Link
175		Yue On Court	296	Yes	Link
176	Buy-or-Rent	Choi Ming Court	765	Yes	Link
177	Option	Hoi Fu Court	225	Yes	Link
178		Yung Shing Court	283	Yes	Other Companies/Persons
Total			79 440		

Source: Apart from the information contained in the last column of the table, other information is contained in the Offering Circular of Link REIT issued in November 2005.

Note:

- (1) The number of divested parking spaces of Sau Mau Ping Estate and Sau Mau Ping Estate III were grouped together.

Annex 2

### Parking Spaces with Approved Temporary Waivers

No.	Name of Estate/Court	Number of Parking Spaces approved under Temporary Waivers	Holder of the Relevant Temporary Waivers
1	Oi Tung Estate	9	Link
2	Siu Sai Wan Estate	11	Link
3	Fu Tung Estate	5	Link
4	Chuk Yuen (South) Estate	37	Link

<i>No.</i>	<i>Name of Estate/Court</i>	<i>Number of Parking Spaces approved under Temporary Waivers</i>	<i>Holder of the Relevant Temporary Waivers</i>
5	Tak Tin Estate	11	Link
6	Tsz Lok Estate	8	Link
7	Tsz Man Estate	18	Link
8	Wah Sum Estate	8	Link <sup>(1)</sup>
9	Hau Tak Estate	14	Link
10	King Lam Estate	9	Link <sup>(1)</sup>
11	Ming Tak Estate	4	Link <sup>(1)</sup>
12	Sheung Tak Estate	38	Link
13	Chun Shek Estate	18	Link <sup>(1)</sup>
14	Chung On Estate	38	Link
15	Kwong Yuen Estate	17	Link
16	Sha Kok Estate	1	Link
17	Yiu On Estate	8	Link
18	Tin King Estate	3	Link
19	Cheung Fat Estate	3	Link
20	Tin Shui Estate	1	Link

Note:

- (1) According to information from the Land Registry, as of 25 March 2019, an Agreement for Sale and Purchase has been signed by Link to dispose the relevant car park to a third party. As the Assignment has not been registered at the Land Register, Link remains as the holder of the relevant temporary waivers.

## **GOVERNMENT BILL**

### **First Reading and Second Reading of Government Bill**

#### **First Reading of Government Bill**

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



**BROADCASTING AND TELECOMMUNICATIONS LEGISLATION  
(AMENDMENT) BILL 2019**

**CLERK** (in Cantonese): Broadcasting and Telecommunications Legislation (Amendment) Bill 2019.

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

**Second Reading of Government Bill**

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

**BROADCASTING AND TELECOMMUNICATIONS LEGISLATION  
(AMENDMENT) BILL 2019**

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I move the Second Reading of the Broadcasting and Telecommunications Legislation (Amendment) Bill 2019 ("the Bill").

To promote the sustainable development of the broadcasting and telecommunications sectors in Hong Kong, the Government has been committed to modernizing the regulatory framework set out in the relevant legislation. Upon completion of the First Stage of the modernization exercise in 2012 with the establishment of the Communications Authority ("CA") as the unified regulator of the broadcasting and telecommunications sectors, the Government is currently conducting the Second Stage of the modernization exercise. In the Second Stage, a review of the legislative and regulatory regimes governing Hong Kong's broadcasting and telecommunications sectors is being conducted in two phases to facilitate a more focused discussion. While the first phase focuses on examining the regulatory regime governing the broadcasting sector, the second phase focuses on the regulatory regime governing the telecommunications sector.

The Bill mainly seeks to implement the measures proposed in the Review of Television and Sound Broadcasting Regulatory Framework ("the Review") in the first phase.

In recent years, the robust development of Internet-based broadcasting services has put the traditional broadcasting sector under intense competition and pressure. Removal and relaxation of restrictions in the traditional broadcasting sector, as and where appropriate, can enable the sector to make investments and operate under a relatively balanced and sustainable environment.

The Review has concluded that the existing broadcasting regulatory framework is still proportionate and reasonable, and should therefore remain intact. The current arrangement under which the two-tier licensing regime, comprising the Chief Executive in Council and CA, issue different licences based on the prevalence of broadcasting services should also be retained. In the meantime, Internet-based TV and radio programme services should remain not subject to licensing control. Although the Review has suggested that the overall regulatory regime be kept intact, the Government considers that there is room for relaxation in individual areas.

Our proposed relaxations cover three main areas, including relaxing "cross-media ownership restrictions", relaxing "foreign control restrictions" and removing the "requirement of a licensee being a non-subsidiary company".

Firstly, regarding "cross-media ownership restrictions", under the Broadcasting Ordinance ("BO") and Part 3A of the Telecommunications Ordinance ("TO"), "disqualified persons" ("DPs") may not hold or exercise control of a free TV or pay TV licence or a sound broadcasting licence, unless the Chief Executive in Council in the public interest so approves. We propose removing some of the obsolete categories from the definition of DP, such as "non-domestic TV licensee", "other licensable TV licensee", "advertising agency", "proprietor of a local newspaper", etc., and narrowing the scope of "relative" under the definition of "associate".

Secondly, in respect of "foreign control restrictions", various measures pertaining to foreign control restrictions embodied in the existing BO and Part 3A of TO, such as the residency requirement on a licensee and attenuation of voting control exercised by non-Hong Kong resident shareholders at general meetings, have all along been implemented effectively. We suggest that they be kept intact. Based on practical operational experience, we only propose minor refinements to the threshold shareholdings of a free TV licensee by an unqualified

voting controller that requires CA's prior approval from the existing "2%, 6%, 10% and above" to "5%, 10%, 15% and above".

Thirdly, we recommend removing the current requirement that a free TV or sound broadcasting licence must not be granted to a subsidiary with a view to facilitating more flexible operation and development of licensees.

We have set out the details of the above recommendations in the Legislative Council Brief. In this connection, the Commerce and Economic Development Bureau also completed a three-month public consultation in May last year. In general, the stakeholder respondents supported the legislative proposals to relax the above obsolete requirements and rationalize the regulatory arrangements.

The Government has been adopting a multipronged approach to facilitating the development of the broadcasting industry. Other than legislative proposals, non-legislative measures have also been taken forward successively. For example, CA revised its Code of Practice to relax the regulation of indirect advertising in TV programmes in July 2018. CA has also taken on board the suggestions made by stakeholders during the public consultation by implementing a series of administrative measures to further facilitate the operation of the broadcasting industry and reduce the industry's compliance cost.

Deputy President, I hope that Members will support the Bill so that the proposed relaxation measures can be implemented as early as possible, thereby promoting innovation, investments and sustainable development of the broadcasting sector.

I so submit. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Broadcasting and Telecommunications Legislation (Amendment) Bill 2019 be read the Second time.

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

**MEMBERS' MOTIONS**

**DEPUTY PRESIDENT** (in Cantonese): Debate on motion with no legislative effect.

Motion on "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders between Mainland China and Hong Kong".

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

I call upon Mr Alvin YEUNG to speak and move the motion.

**MOTION ON "REQUESTING THE GOVERNMENT TO SHELVE THE FORMULATION OF ARRANGEMENTS FOR THE SURRENDER OF FUGITIVE OFFENDERS BETWEEN MAINLAND CHINA AND HONG KONG"**

**MR ALVIN YEUNG** (in Cantonese): Deputy President, I move my motion.

Last year there was a homicide case in Taiwan involving Hong Kong residents, and the suspect later escaped and returned to Hong Kong. As the existing laws of Hong Kong forbid the SAR Government from surrendering fugitive offenders to other parts of China, we are thus unable to surrender the suspect to Taiwan for trial. In order to plug the loophole, the Security Bureau proposed to amend the Fugitive Offenders Ordinance ("the Ordinance") and at the same time, relax the restrictions on extraditing fugitive offenders to the Mainland. In future, Hong Kong not only can surrender the suspect to Taiwan, but also surrender fugitive offenders to the Mainland. Objectively speaking, once the amendments to the Ordinance are passed, the protection accorded to Hong Kong people and non-locals in Hong Kong over the past 20 years or so against the jurisdiction of Mainland courts will be gone.

Deputy President, the Secretary said that if we failed to do so, the offender would escape the long arm of the law, and Hong Kong would become a haven for fugitive offenders. Objectively speaking, has the Secretary provided any figures to convince Hong Kong people that Hong Kong has become a haven for fugitive offenders over the past 20 years or so? No. Has Hong Kong actually become a

haven for fugitive offenders of the world over the past 20 years or so? No. In other words, the Secretary has been a scaremonger. When the Secretary failed to use figures to convince Hong Kong people, he has taken advantage of this tragedy in Taiwan to covertly facilitate extradition between Mainland China and Hong Kong in the name of facilitating extradition between Hong Kong and Taiwan, thus forcing the Legislative Council to pass within a short period of time the amendments to a law that has not been amended for some 20 years. Secretary Edward YAU has just left the Chamber. While he conducted a three-month public consultation on the Broadcasting and Telecommunications Legislation (Amendment) Bill 2019, he dared not even conduct consultation on this issue involving China-Hong Kong extradition. He has simply uploaded documents online and solicited views of various sectors. What is the Government up to? Has it been acting in an open and transparent way? This approach is downright unacceptable.

In fact, over the 20 years or so since the reunification, no progress has been made on China-Hong Kong extradition for the Chinese Government does not accept the spirit of the rule of law and the principles of human rights upheld by Hong Kong people. Our concern is that if we open this gate, Hong Kong people and non-locals in Hong Kong will possibly face unfair trials. The SAR Government has made it clear that it will seek justice for the deceased, but how can it ensure justice for Hong Kong people in the future?

The Bureau probably knows that members of the public are displeased with this kind of forced enactment, it thus explains that for all applications for surrender of fugitive offenders in the future, the court will play a gatekeeping role. Even if people do not trust the Bureau and the Chief Executive, they can still trust our courts. Our courts indeed enjoy a worldwide reputation, and our judicial system wins accolades around the world, but why does the Secretary only tell half of the truth while concealing the other half? How can courts serve as gatekeepers? Courts possess no superhuman powers. Despite having judicial independence and the intent to perform a gatekeeping role, courts can only serve as gatekeepers within the permissible scope of the law.

In fact, to what extent can courts exercise their powers in the process of extradition hearings? Deputy President, I must reiterate and I also expect the Secretary to know clearly that the process of handling an extradition application by the court is by no means an ordinary criminal trial, and the court can only handle the case under the *prima facie* principle. As long as the applicant

provides sufficient and duly signed documents, the court will assume all documents presented to be trustworthy and reliable under the prima facie principle. Even if a defendant wishes to provide certain evidence in his favour, the court cannot admit the evidence at this stage, and it can only request the defendant to do so in a court of the country making the application. This is a framework designed under the law. The court will consider whether the case involves religion or political views, but will any country or government be so stupid as to frankly state that the prosecution is politically motivated? For this reason, Deputy President, if the Secretary believes that he can convince Hong Kong people or deceive Hong Kong people into thinking that the argument that courts will serve as gatekeepers is tenable, he has certainly underestimated our common sense and wisdom about laws.

Deputy President, people in Hong Kong clearly understand the concept of justice and the spirit of the rule of law. A person is innocent before being found guilty, and should not be detained indefinitely or even tortured before being convicted. Legal proceedings should be initiated expeditiously for all cases, the detainee should be guaranteed a legal representative as far as possible and have the right to meet his family. All these are, just like oxygen, essential. More importantly, the trial of every legal case, particularly criminal case, should be open, and the judgment on every case should be made known to all people.

We treasure Hong Kong's well-established appeal mechanism, which reflects its legal tradition and the rule of law. All such things that we are talking about are not available on the Mainland at this moment. The amendments to the Ordinance will open the gate, and Hong Kong people will be put on trial under a legal system that is completely different from ours; why does the Secretary believe that Hong Kong people can still be protected? Deputy President, this is the area which I believe the SAR Government has acted most irresponsibly. The system of the Mainland and ours are obviously poles apart, but why does the SAR Government remain headstrong and insist on doing so? For the Taiwan tragedy, every Hong Kong citizen hopes that justice will be done for the deceased, but this should by no means be the exclusive right of one political party or one Member.

Deputy President, let us make reference to the experience of Taiwan in 1990 and 2009. At that time, Taipei and Beijing had the wisdom to reach a judicial mutual assistance agreement on extradition of illegal immigrants through the Straits Exchange Foundation and the Association for Relations Across the Taiwan Straits. While the two sides across the Taiwan Straits had the wisdom to

reach an agreement in those days, how come today in 2019, Hong Kong and Taipei do not have the wisdom and breadth of mind to solve the issue through the Hong Kong-Taiwan Economic and Cultural Cooperation and Promotion Council and the Taiwan-Hong Kong Economic and Cultural Co-operation Council? This platform has been established for quite some time, and the Taiwan authorities also hope to reach an agreement with Hong Kong through this platform. Why has the SAR Government turned a deaf ear to the request made by the Taiwan authorities on three occasions? I do not know. Certainly, the SAR Government may have other serious reasons, but is there any other channel that can address the request of Taiwan more directly than this platform, thus avoiding being dragged into other unnecessary political controversies? However, the SAR Government seems to have neither the interest nor breadth of mind to do so. I dare not say whether the SAR Government has the wisdom to do so, Deputy President.

Yesterday, the SAR Government indicated that when the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") is formally presented to the Legislative Council next month, certain items of economic offences will be removed, including offences relating to taxes, bankruptcy law, company law, securities and futures trading, intellectual property, environmental pollution and the unlawful use of computers. Certainly, the Government also stated that only when offences are punishable with imprisonment for more than three years can fugitive offenders be surrendered. The Government has been making pretentious efforts to reassure the public, saying that the Mainland will not arbitrarily prosecute Hong Kong people for economic offences and they will not be surrendered to China for trial.

In this amendment exercise, offences such as corruption, bribery, smuggling and import and export of prohibited items will not be removed. On the Mainland, these offences often involve specious evidences that serve to conceal real political ends. We must know that such a compromise can hardly address the queries raised in the local and international community about the differences between the legal systems of the two places. Chief Executive Carrie LAM said yesterday that she decided to amend the laws on surrender of fugitive offenders out of empathy or compassion, but does she have any empathy with frightened Hong Kong people?

More ridiculously, Deputy President, when the SAR Government indicated that it would amend the Ordinance to prevent Hong Kong from becoming a haven for fugitive offenders, certain pro-establishment Members of this Council applauded, saying that Hong Kong would not be a haven for fugitive offenders when the loophole was plugged. However, when the Government indicated to remove these items of economic offences, they again rendered support. Is it that they do not mind Hong Kong becoming a haven for economic offenders? Deputy President, should Hong Kong leave the gate wide open and attract people worldwide who have committed offences relating to bankruptcy, environmental pollution or intellectual property to regard Hong Kong as a haven? I think this argument is devoid of any reason or logic. Deputy President, the only logic is that they, being pro-establishment Members, agree with whatever the Government says. Regardless of whether 9 or 90 items of offences are removed by the Government, they still consider the act justifiable. This is a skill the pro-democracy camp will never be able to master.

The demand of the pro-democracy camp is very simple, that is, before the Mainland's legal system and protection of human rights are on a par with ours, we should not permit any Hong Kong people or any non-locals in Hong Kong to be repatriated to the Mainland for trial. The reason is that this will have profound implications for the rule of law and reputation of Hong Kong. If the SAR Government truly cares about Hong Kong people as it claims, it should take account of this point. The SAR Government and Secretary John LEE still have time to consider not presenting this controversial Bill to the Legislative Council. The Bill has yet to be read the First time, and there is no urgency to deal with it.

Deputy President, we hope that the SAR Government will listen to our concerns in a rational manner. The pro-democracy camp has all along considered the implications of various laws for Hong Kong in a very prudent way. Certainly, we hoped our prediction was wrong, but unfortunately our prediction turned out to be correct in each and every case. Retrospectively, our prophecy in each and every case had proved to be no scaremongering. In a way that is like "ceding five cities today and ten tomorrow" as stated in *On the Six States*, the SAR Government is progressively relinquishing our autonomy and reputation to which we are entitled. The SAR Government actually still has time, and I hope Secretary John LEE will repent and salvation is at hands.

I so submit.



**Mr Alvin YEUNG moved the following motion: (Translation)**

"That, as Mainland China has not yet implemented judicial independence and fair trial, in order to safeguard Hong Kong's internationally recognized reputation for rule of law under 'one country, two systems', and to protect the human rights of Hong Kong people and individuals travelling to and from Hong Kong, this Council requests the Government to shelve the formulation of any extradition arrangement permitting Hong Kong to surrender fugitive offenders to Mainland China."

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

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

I will call upon Members who will move the amendments to speak in the following order: Ms Claudia MO and Mr James TO, but they may not move the amendments at this stage.

**MS CLAUDIA MO** (in Cantonese): The amendments to the Fugitive Offenders Ordinance apparently aim to do a favour to China by surrendering whoever Beijing wants. If China asks for LAM Wing-kee, we would immediately turn him in, end of story.

Though I hate using Chinese idioms, I simply cannot help doing so this time, as even the Hong Kong Bar Association says that the amendment to the Fugitive Offenders Ordinance is a pretext to advance a hidden agenda. The Chinese description is to kill someone by another's hand, and the Western way of description is a case of Trojan Horse. By opening the doors wide open, China can do whatever it wants. Some people say we are leaving the back door open—what kind of back door is it? This is simply opening all the front doors.

Now, the Government claims that there are concerns among the business sector, using the business sector as an excuse for exempting nine items of economic offences. We thus find it odd, for initially there were 46 items of offences. According to the rule of law, everyone is equal before the law. Why, then, should businessmen be superior to others? We really should recall George ORWELL's *Animal Farm*. Initially, animals wanted to overthrow humans, saying "two legs bad, four legs good", but they ended up taking on the bad habits of humans. This is the process of development. China can talk about capitalism and socialism with Chinese characteristics, or whatever ideologies it likes, but at the end of the day, the conclusion is, "two legs better". This is most regrettable.

I really hope this is not the actual situation, and that trade associations and the business sector are not, in the eyes of others, digging their own grave and wrecking their own wall of defence by helping the tyrant to do evil. If we have to surrender a murderer or an arsonist, I cannot stop the surrender; but if someone is guilty of corruption or tax evasion, please do not surrender him. It is difficult to justify to the people of Hong Kong.

The level of hypocrisy of the Hong Kong Government and Carrie LAM is overwhelming and off the charts. She said that passage of the legislative amendments would provide a legal basis for discussion with Taiwan—but what is there to discuss? The Taiwan Government has made it clear that, regardless of whatever amendments we may make and pass, they will disregard and refuse to hold any negotiation with us. In case the legislative amendments are passed, the Taiwan Government will directly issue a travel alert to remind Taiwan businessmen in Hong Kong and transit travellers to stay more vigilant. This morning, Carrie LAM said weakly that passage of the legislative amendments would provide a legal basis for discussion with Taiwan. My amendment therefore urges the authorities to endeavour and take the initiative to discuss expeditiously with the Taiwan Government.

Carrie LAM seemed to imply that it was not possible to discuss with Taiwan at the moment, but this morning, she mentioned that contact was made with the Taiwan earlier this month, indicating that communication would be undertaken as soon as possible. Didn't she say that communication was not possible? All the talk about empathy, sympathy and compassion ... such hypocrisy is beyond me. Since Carrie LAM said that all efforts were made for the sake of the case, of the tragedy, why did she not discuss with Taiwan?

Taiwan has clearly stated that even if the proposed amendments were passed, it would give us the cold shoulder. Yet Carrie LAM, with a rascal-like attitude, insisted on passing the legislative amendments first before having a discussion. At present, on the premise that Taiwan has stated clearly that discussion was out of the question regardless of the passage of the legislative amendments or otherwise, she still wanted to trick Taiwan into carelessly agreeing to the amendments and acknowledging that Taiwan was part of China. It is better to be honest with people. I urge political parties, including the Democratic Alliance for the Betterment and Progress of Hong Kong not to collude so obviously with the SAR Government. Even a blind man can tell that they are dragging the family of the victim into this incident by claiming to help them. If they truly want to help, everyone will support them; but they are not. They want to fool the people of Hong Kong when knowing clearly what cannot be done.

After so much has been said, it all boils down to the fact that we do not trust Mainland China, for there is no such thing as fair trial in the Mainland. What do I mean in saying there are no fair trials? It means that trials are held behind closed doors and not even family members are allowed to go inside the court. The accused would be sentenced to life imprisonment or imprisonment for 15 years or 18 years, and deprived of their political rights. How could this happen? Can I call my own witnesses at the trial, or can I cross-examine the plaintiff's witnesses? The answer is in the negative. In all cases, the prosecution calls the shots. What kind of a trial is this?

There are views that the opposition camp simply does not have faith in the judicial system of China. However, just about two days ago, the Administration submitted a paper on the Greater Bay Area to the Legislative Council Panel on Administration of Justice and Legal Services. I am fully convinced that this document is not prepared by the "Western District", but prepared by a normal legal practitioner. The paper is about how Hong Kong can play the role of an arbitrator in the development of the Greater Bay Area, which allows legal practitioners to reap benefits and earn money. The paper raises a question: Is it better to handle certain disputes under the laws of Hong Kong than under the laws of the Mainland? It is mentioned in the paper that the Greater Bay Area is currently developing legal framework which aligns with international standard and the rule of law. How ridiculous. This implies that we are yet to be on a par with international standards.

According to paragraph 18 of the paper, applying Hong Kong law in arbitration "may help to accurately grasp the legal issues of the cases concerning Hong Kong, enhance the efficiency of resolution of cases and the credibility of judgments". In other words, trials and arbitrations conducted in the Mainland under Mainland laws would be of dubious credibility. In fact, at the end of the day, all this boils down to a lack of confidence in Mainland China's judicial and legal system.

I also have a word of reminder for the business sector and trade associations in Hong Kong. I do not agree to the adverse comment that businessmen are mean and put profits before everything else. In my opinion, businessmen make a substantial contribution to society and economy. As the Secretary for Education likes to say, under the traditional Chinese social hierarchy of scholar-gentry, peasants, artisans and merchants, merchants are at the lowest strata while intellectuals are at the highest. Nowadays the hierarchy of the world has just reversed. Intellectuals, whose integrity and honor obligate them to tell the truth, are prone to danger any time; while merchants on the other hand, tend to have the mentality of making money together. My following words may not be fair, but the business sector must bear in mind that there is a rich list in Mainland China, also known as the "list of pigs to be slaughtered". They will be slaughtered one by one. Though I said at the start that I hated using Chinese idioms, there are eight words that I have to use to describe the Hong Kong Government, which are "politics above all else and full of lies".

**MR JAMES TO** (in Cantonese): Deputy President, my assistant had originally prepared a fairly well written script for me. However, he sent me a message at 12:00 midnight yesterday, saying: "Boss, you really have to take note of a highly unconventional speech delivered by Mr Charles HO, a member of the Standing Committee of the Chinese People's Political Consultative Conference ('CPPCC')." I consider it really necessary to share his speech with all Members first. Please keep in mind that Mr HO is a member of the CPPCC Standing Committee, not a member of the opposition camp who often mistrusts the Chinese Government.

Mr HO attended a dinner reception hosted by his group yesterday night; the Chief Executive was also present. In his speech, Mr HO cited a friend, saying that he was not sure if he could attend the next dinner reception after the one held yesterday night. After being pressed by Mr HO for an explanation, his friend

replied: I might be arrested and imprisoned in the future. I cite Mr HO's subsequent remarks as follows: Hong Kong's success hinges on the adoption of the common law system. If the legislative amendments introduced this time were to dovetail with other common law jurisdictions, they would have been more readily accepted by various sectors in the community. However, as the legislative amendments seek to align with the system of places with different levels of rule of law from us, we really have to consider carefully. We should not ruin the common law system so as to preserve Hong Kong's favourable business environment. Of course, we have no intention to smear Mr HO. He has not specified Mainland China in his speech.

Our Secretary is so daring as to suggest opening up Hong Kong to over 100 countries in the world, even including regions ranked 118<sup>th</sup>, 119<sup>th</sup> and 120<sup>th</sup> in terms of global rule of law ranking. It is therefore not surprising for some foreign governments to point out that the legislative amendments would put their nationals in danger. As an international financial centre, we certainly hope to see more foreign investors come to Hong Kong; as an international aviation hub, we also hope that other people will transit through Hong Kong. Nevertheless, the Hong Kong Government has abruptly announced that it would possibly surrender fugitives to North Korea and even to countries ranked 118<sup>th</sup> and 119<sup>th</sup>. Although the Government has responded that it would perform the gatekeeping role, the current problem is that foreigners can see the difference. While many other places which are available for transit have not concluded any extradition agreement with North Korea, Hong Kong may possibly surrender fugitives to North Korea. They would be frightened at the mere thought of a transit through Hong Kong. Why did the Hong Kong Government make such an abrupt move? Frankly speaking, never would we have imagined, not even in our dreams, that the Hong Kong Government would negotiate an agreement with North Korea, not to mention opening up Hong Kong to over 100 countries around the world, including some countries which are politically unstable at present. Is it really a move to show its universal love and forbearance? To put it bluntly, the move is intended to package and cover up the objective of the Hong Kong Government to surrender fugitives to Mainland China. The reason is as simple as that.

The Hong Kong Government has used a mere homicide case in Taiwan as an opportunity to advance its hidden agenda. I must tell all members of the public that such draconian amendments to the Fugitive Offenders Ordinance will be even more destructive than enacting legislation to implement Article 23 of the Basic Law ("the Article 23 legislation") because the Article 23 legislation will be

drafted based on the Hong Kong legislation and enforced by Hong Kong law enforcement agencies, and evidence will be closely examined and various parties concerned cross-examined by Hong Kong courts. In contrast, this draconian extradition law will involve the Mainland, North Korea and even the country ranked 119<sup>th</sup>. I will not comment on any individual country for now. In a trial over any offences described in the Schedule, once prima facie evidence is established, the suspect concerned can be surrendered to the place where the crime was committed for further trial. Whether the Article 23 legislation will be enacted will not matter anymore because the Mainland Government can simply subject a suspect to a trial under Mainland laws. By then, will the suspect be defended by an independent and impartial lawyer? All human rights lawyers have been arrested. Will the trial be open to the public? Is the suspect eligible to apply for legal aid in Hong Kong? Worse still, the Mainland Government may even charge the suspect with offences other than those for which he is extradited, which can even be offences of political nature. Despite negotiation for 20 years, the Mainland and Hong Kong has not reached any agreement on extradition arrangement. However, presently the Hong Kong Government has only spent a few months and even abruptly proposed a 20-day consultation period before making a decision to surrender fugitives to so many countries and places. Its intention is reprehensible. What is the reason for the Hong Kong Government to do so?

I will not blame Secretary John LEE. As a police officer for most of his lifetime, he certainly focuses on law enforcement by the Police. However, there is no reason for Carrie LAM, a former Administrative Officer, to be unaware of the concepts of human right, the rule of law, objectivity and impartiality upheld during the British colonial era. As the leader of Hong Kong, she must have a world outlook. Yet, she has made such a decision. Most regrettably, it is noteworthy that the Central Government has denied any relations with the proposals, which I cannot authenticate. That being said, even Miss Maria TAM has also made a similar remark; and Mr TAM Yiu-chung also said: "It does not matter. The Hong Kong Government may proceed with what they are doing." After all, even members of the CPPCC Standing Committee, Mr Charles HO and Dr Peter LAM have criticized the Government. Is it really true that they are out of their minds?

Is the Chief Executive using this case as an opportunity to curry favour with the Central Government at the expense of Hong Kong's interests and even the safety of international transit travellers and also Hong Kong residents? What

on earth is in the mind of the Chief Executive? She claimed to have been driven by compassion. Had that been the case, she should have handled the Taiwan case separately. Other people, including pro-establishment figures from the business sector and foreigners, have also told the Chief Executive: "Beware of a 'collision'. Consider more carefully." Instead, she has accelerated and suddenly announced, without listening to all the views, that the Chief Executive in Council decided that Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 would be published in the Gazette on 29 March 2019 and introduced into the Legislative Council on 3 April. Why did she have to do so?

The Hong Kong Government has ignored the initiative taken by Taiwan for a communication in the past 11 months. In its main reply today, however, the Hong Kong Government indicated that it had commenced liaison with the Taiwan side in March last year and that Taiwan had provided information upon its request during the gathering of evidence. Thereafter, requests from the Taiwan authorities for discussion with the SAR Government on the relevant agreement had been turned down by the SAR Government. It is March now; 11 months had been wasted. Hong Kong and Taiwan are quite similar in that both places honour international human rights treaties. Both sides should originally have conducted discussion in the past 11 months. Had the Chief Executive been genuinely compassionate, she should have conducted discussion in the past 11 months. However, the Hong Kong Government had all along refused to hold discussions. Instead, it has now used the case as an opportunity to link Hong Kong with Mainland China and some 100-odd countries. What is the intention of the Hong Kong Government? After all, instead of being compassionate, the Hong Kong Government has ulterior motives; it has an axe to grind. Even the Hong Kong Bar Association has also cited the Chinese idiom used by Ms Claudia MO "advance a hidden agenda" for this reason.

Hong Kong has been discussing with Mainland China over extradition arrangements for 20 years. If an agreement could be reached simply by removing 9 of the 46 items of offences described in Schedule 1 to the Fugitive Offenders Ordinance, both sides should have concluded an agreement as early as 15 or 20 years ago. Let me cite an extreme example. Based on the principle of resolving simple issues before difficult ones, let us assume that only the item of "murder" remains in the Schedule. Should there be no problem in doing so, both sides should have reached an agreement long ago. Therefore, the problem lies

not in the number of offence items, but in the different legal systems and human rights standards of the two places. In Mr Charles HO's words, the difficulty lies in the difference between common law jurisdiction and a place with a different level of the rule of law.

While Hong Kong's insistence has made it difficult for an agreement to be reached, the Mainland may also hold a firm position. In 2011, an essay published by the Renmin University of China advised the Mainland against reaching an agreement on non-extradition of political offenders with Hong Kong; otherwise, the agreement would be tantamount to denying the human rights in the socialist China with Hong Kong's capitalist system. The Mainland has branded LIU Xiaobo a criminal. Will it be possible that John LEE, Carrie LAM or the Secretary for Justice also brands LIU Xiaobo and WANG Dan a political criminal? The Mainland is worried about Hong Kong's denial of their system. The Mainland is unwilling to enter into an agreement with the Hong Kong Government because they fundamentally disapprove of our values. However, the Hong Kong Government is now leaving the door wide open to pander to the Mainland, putting all people from around the world in danger. Why is it necessary to do so? Friends in the business sector, sober up. Once arrested, a suspect can be trumped up an additional offence anytime.

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, to begin with, I have to state strongly that the proposition of Mr YEUNG's motion is erroneous, as it totally fails to reflect the proposals of the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill"). The SAR Government and the Mainland are still negotiating for long-term surrender arrangements on fugitive offenders, and the conclusion is yet to be reached; should there be any agreement, we will definitely submit it to the Legislative Council for deliberation and scrutiny. The Government currently proposes that the same criteria be adopted for case-based surrender mechanism, applicable to all jurisdictions, instead of one single jurisdiction, with which Hong Kong has currently not signed any long-term surrender agreement. The Bill does not, as described in the motion, provide for the surrender of fugitive offenders between Mainland China and Hong Kong. Given that the proposition in Mr YEUNG's motion may easily mislead Members in the subsequent debate, it is necessary for me to make a clear exposition in my opening remark.



The cooperation in criminal matters between Hong Kong and other places has all along been premised on long-term cooperation agreements with other jurisdictions. The policy objective of the Hong Kong SAR Government is to sign long-term cooperation agreements with other places. We will continue with the relevant efforts. Any long-term surrender agreement on fugitive offenders signed by Hong Kong will be submitted to the Legislative Council for scrutiny.

Case-based surrender is a supplementary measure before long-term cooperation arrangements come into effect, and case-based surrender will be adopted only when a jurisdiction does not have any long-term agreement with Hong Kong. Our proposals will not affect any long-term agreement on surrender of fugitive offenders in force.

As regards the current regime, the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance provide the requisite legal bases for cooperation between Hong Kong and other places on surrender of fugitive offenders and mutual legal assistance in criminal matters. With the two aforementioned ordinances containing various substantive and procedural safeguards on human rights, the fugitive offender surrender regime is very strict in Hong Kong.

In early 2018 there was a case in Taiwan in which a Hong Kong permanent resident was suspected to have murdered another Hong Kong permanent resident and then returned to Hong Kong. In this case, the suspect cannot be subject to surrender despite Taiwan's requests due to the restrictions of the existing laws. The suspect has been remanded in custody for money laundering for more than a year already, and is now awaiting judgment from the court. The existing Fugitive Offenders Ordinance and Mutual Legal Assistance in Criminal Matters Ordinance have revealed two practical problems, namely geographical restrictions and impracticable operational requirements. First, geographical restriction hinders cooperation with some places outside Hong Kong. At present, the two aforementioned ordinances are not applicable to requests for surrender of fugitive offenders and mutual legal assistance in criminal matters between Hong Kong and other parts of the People's Republic of China. This makes Hong Kong unable to tackle the Taiwan homicide case. Fugitives from such places outside Hong Kong may make use of this loophole to evade legal responsibility or seek refuge in Hong Kong.

The second practical problem is the impracticality of the current operation of case-based surrender. Under the current mechanism, unless a place outside Hong Kong voluntarily agrees to surrender a fugitive to Hong Kong, surrender arrangements must be given effect through making subsidiary legislation with publication in the Gazette. When the Legislative Council scrutinizes a case-based surrender, details of the case would inevitably be publicly disclosed. Even if the personal particulars of the offenders were redacted, given the uniqueness of some case details, such public scrutiny would alarm the offender who would then flee. Furthermore, even if the offender was arrested, he might judicially challenge the authorities on the ground that his case details had been divulged and publicly discussed, thereby compromising his opportunity for a fair hearing.

In addition, the Fugitive Offenders Ordinance stipulates that the relevant procedures and orders (inclusive of the arrest procedure) cannot come into effect before Legislative Council's scrutiny period expires. So even if a request for individual surrender is received from another place during Legislative Council's scrutiny (ranging from 28 to 49 days), there is nothing that can be done in the interim, including any provisional arrest. The fugitive would probably flee during this period, as a result of which no subsequent committal or surrender could ever be executed on him. That is to say, the existing arrangement is operationally impracticable and not enforceable. For this reason, no case-based surrender arrangement has been activated in the past 21 years.

In the event that Hong Kong cannot arrest the suspect because of the disclosure of case details, this would affect the arresting actions of the requesting party. Other places may cast doubts on Hong Kong's commitment in combating serious crimes, or challenge our ability in doing so.

The Taiwan homicide case has highlighted the loopholes in our existing regimes. Though the suspect is in Hong Kong, the authorities have no way to handle him. Apart from frustrating due administration of justice, this also poses serious threat to Hong Kong's law and order and personal safety of Hong Kong residents. We must therefore plug the loopholes, strengthen cooperation with places outside Hong Kong in combating crimes and upholding justice. The Bill was already provided to Members with the relevant Legislative Council Brief on 26 March and will be gazetted on Friday.

I reiterate that our proposal is to address two practical problems, viz. (1) the Taiwan homicide case, and (2) plug the loopholes in Hong Kong's overall cooperation mechanism in criminal and juridical assistance matters. We propose to remove the loopholes under the existing legal framework, and clearly distinguish the case-based surrender arrangement from the general long-term arrangements. Our current proposal has drawn reference from similar case-based surrender arrangements which have been practiced in the United Kingdom and Canada for years, and similar models in countries like New Zealand. All existing human rights and procedural safeguards provided for in the two existing ordinances will be maintained.

On receiving a case-based surrender request, the SAR Government has the sole discretion to decide whether or not to deal with the request, and the same human right and legal safeguards as those under long-term agreements will be invoked, such as requests in relation to offences of a political character shall be refused; the principle that the act concerned must constitute an offence in both the requesting and requested jurisdictions shall be complied with; offence punishable with death shall not be surrendered; an offence being tried in one place cannot be tried again in another, and the fugitive offender shall not be re-surrendered to any other place.

Since the announcement of the proposed legislative amendments, I have been explaining the amendments concerned on various occasions, including meetings with the media to explain the amendments concerned and respond to enquiries. We have also been invited to meet with political parties, local and foreign chambers of commerce as well as different institutions and organizations. As observed from the views collected, supporting views outnumber those opposing, given that the legislative amendments can enhance Hong Kong's regime in the surrender of fugitive offenders and mutual legal assistance in criminal matters, and remove loopholes. However, there are also people which do not understand the principle of double criminality or do not have a clear picture of or have worries about the extraditable offences. We have fully considered all these views when formulating the Bill.

Deputy President, since there is a time factor when considering the surrender of the suspect in the Taiwan homicide case, we have to deal with the issue as soon as possible. We have received the request from Taiwan for information, legal assistance and surrender of the suspect to Taiwan for trial. We have communicated with Taiwan to discuss matters related to the case. We

hope to reach an agreement with Taiwan in a pragmatic and mutually respectful manner that focuses solely on the case per se, human rights and legal safeguards. If the Bill is passed, we will then have a legal basis to cooperate with Taiwan with a view to reaching a case-based arrangement in tackling the Taiwan homicide case.

In reply to Members' questions this morning, I had already stated that we have communicated with Taiwan side to discuss the case. Despite my statement that communication has already taken place, Mr YEUNG just turns a deaf ear and still claims that we have made no communication. This runs counter to the fact.

Deputy President, the Taiwan homicide case not only reveals the inadequacies of our regime which must be rectified, but also proves that there is absolutely a possibility that similar serious crimes may happen in places other than the 20 countries which have currently entered into long-term agreements with Hong Kong. The questions are when and where such crimes will take place and who the victims will be. Therefore, when dealing with the Taiwan homicide case, we must also make up for the shortcomings of the current regime, so that Hong Kong would not become a haven for criminals, and the safety of the general public would not be jeopardized. I oppose Mr YEUNG's motion. I will give a further response after listening to Members' speeches.

Thank you, Deputy President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, the Chief Executive in Council yesterday proposed the removal of nine items of extraditable offences in the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill"), including, inter alia, offences relating to bankruptcy law, companies law, securities law, intellectual property, environmental pollution, exportation or importation of goods or international transfer of funds, unlawful use of computers, taxes or duties, false or misleading trade descriptions; and at the same time proposed raising the application threshold for extraditable offences, from those punishable with imprisonment for more than one year to those punishable with imprisonment for more than three years.

According to Chief Executive Carrie LAM, the legislative amendment exercise serves two main purposes: First, tackle a homicide case that took place in Taiwan; and second, plug the loopholes in the current regime so that Hong Kong

can cooperate with other places effectively and avoid becoming a refuge for criminals to evade justice. She has even claimed to have been driven by empathy and compassion. Deputy President, in my view, the Chief Executive is mendacious and hypocritical when making those remarks. In fact, her real intention is to deceive the community and advance her political agenda by weaponizing the Bill.

As Members may still remember, the Fugitive Offenders Ordinance ("the Ordinance") was enacted shortly before Hong Kong's handover to China, under which Mainland China had not been included as an applicable jurisdiction. This was a deliberate act rather than a loophole, given that the judicial system of Mainland China failed to meet the most basic requirements back then. The Sino-British Joint Declaration has clearly stipulated that both China and Britain agreed that, in accordance with the requirements of the United Nations, international agreements on surrender of fugitives must comply with the most fundamental principle that a suspect can be given a fair trial after the surrender; and "fair trial" has been clearly defined in international human rights treaties. However, the judicial system and human rights protection of Mainland China have apparently been inadequate before or after the reunification. Hence, the exclusion of China from the scope of the Ordinance back then was well founded and justified; it was absolutely not a loophole. The Ordinance is a bastion of human rights.

In fact, the Legislative Council had a discussion in 1998 on whether a suspect should be surrendered from Hong Kong to the Mainland for trial. Different political parties had failed to reach a consensus in the end because they could not ensure that a suspect could be given a "fair trial" as defined by international human rights treaties after being surrendered to the Mainland.

Twenty years have passed. According to the annual Rule of Law Index published last year by the World Justice Project, a non-governmental organization in the United States, Hong Kong ranked 16<sup>th</sup> among 113 countries and regions, whereas Mainland China ranked 75<sup>th</sup>, showing a wide gap between Mainland China and Hong Kong in terms of judicial system. Furthermore, the numerous incidents of relentless suppression of human rights activists have precisely reflected the worrying human rights condition in Mainland China. The current condition might be even worse than that of 20 years ago. So, on what grounds can the authorities propose the legislative amendments?

Deputy President, when it comes to the Taiwan homicide case, will the suspect be successfully surrendered even if the legislation has been amended by the SAR Government? I have doubts about this. In fact, it will be impossible to surrender the suspect even after the legislative amendments. Deputy President, the Taiwan authorities have clearly stated that in order to safeguard Taiwan's political status, the amended legislation cannot serve to foster cooperation between the governments of Taiwan and Hong Kong. Is the surrender of suspects really that simple? In fact, CHIU Chui-cheng, Deputy Minister of Taiwan's Mainland Affairs Council, has openly criticized the Bill, stressing that the Bill would relegate Taiwan's political status given its basis on the "One China" principle defined by the Central Government, and therefore they would absolutely refrain from engaging in any negotiations.

Deputy President, the SAR Government, particularly Secretary John LEE, have reiterated the need to seek justice for the victimized teenage girl. However, have the SAR Government and even Secretary John LEE ever considered Taiwan's current position and stance, and whether their plan is just wishful thinking on their part? Moreover, for such a significant legislative amendment proposal, how come the consultation period is so short and the Taiwan side has never been consulted. Are they trying to take advantage of the homicide case to advance their political agenda of paving the way for enacting legislation to implement Article 23 of the Basic Law, or do they have other intentions?

Deputy President, I consider it necessary to shelve the Bill. In the Bill, the Government has proposed to remove items of economic offences. This shows that the Government has bowed to the business sector on the one hand, and the business sector does not trust the judicial system of Mainland China at all on the other. That being the case, the Government should not force Hong Kong people to accept the Bill, shouldn't it? As the Chinese saying goes, "never impose on others what you do not wish for yourself". I strongly wish that members of the business sector will refrain from being so selfish and self-interested, take the overall interests of Hong Kong into account and support the shelving of the Bill altogether, so as to enable the Hong Kong community and the public to be safeguarded by additional human rights.

Deputy President, I so submit.

**MR IP KIN-YUEN** (in Cantonese): Deputy President, Chief Executive Carrie LAM, Secretary for Security John LEE and Secretary for Transport and Housing Frank CHAN held a press conference yesterday to explain the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") relating to the surrender arrangements of fugitive offenders between China and Hong Kong. The Bill will undergo the First Reading on 3 April, and eight items of economic offences and one item of offence relating to protection of public health will not be dealt with under the surrender arrangements.

Deputy President, in respect of the proposed legislative amendments relating to the surrender of fugitive offenders, since the Government's announcement on 13 February, there have been heated discussions in the community but there are very limited chances for Members and the public to have discussions with the Government. The Legislative Council Panel on Security only held one meeting and it was required to make submissions within 19 days (i.e. on or before 4 March). In the face of the legislative amendments affecting the human rights of Hong Kong people and people travelling between Hong Kong and various countries, there is very little room for us to have communication with the Government, which is a really poor arrangement. Therefore, I am grateful to Mr Alvin YEUNG for proposing this motion debate allowing us to convey the public's worries.

(THE PRESIDENT resumed the Chair)

President, the controversies stemmed from the incident early last year where a person from Hong Kong fled back to Hong Kong after murdering someone in Taiwan. While we thought that the SAR Government had been working hard last year to discuss with the Taiwan authorities how to bring the murderer to justice, the proposed legislative amendments created more loopholes and aroused worries. Although the Government responded to the demands of the business community and excluded eight items of economic offences, the Government has yet to respond to the concerns of the legal profession, the civil society and our society as a whole about the surrender arrangement for fugitive offenders.

President, whether from a human rights or a commercial point of view, the grave concern is whether a suspect can be given a fair trial after being surrendered, including whether he will be tried by a judicial body independent of the Government, whether he will have the right to hire a lawyer, whether the trial will be open and transparent, and whether he has the right to apply for bail, etc.. These are the criteria for us to measure whether a certain place has a fair trial mechanism. Let me give a concrete example. After the arrest of the Mainland human rights lawyer, WANG Quanzhang in 2015, nothing was heard about him and he only appeared in court for trial three years and eight months later. The lawyers he hired were either forced to withdraw or arrested, and at the time of the official trial, he was tried behind closed doors on the grounds that state secrets were involved. He was finally sentenced to four and a half years of imprisonment in January this year because he committed the offence of subversion of state power. The public was completely unaware of whether WANG Quanzhang had sufficient opportunity of defence in court and whether the evidence provided by the prosecution was reasonable.

President, the Government stated that anyone who is involved in offences of a political character and is being prejudiced, prosecuted or punished on account of his political opinions will not be extradited to the Mainland. Let us consider some other examples. AI Weiwei was fined RMB250,000 in 2001 for tax evasion. In 2015, YAO Wentian, a publisher of banned books in Hong Kong, was sentenced to 10 years' imprisonment for smuggling ordinary goods. Even though they were not prosecuted by the Mainland authorities for political reasons, the public are generally convinced that these are political prosecutions.

The Government may present the second reason—it has actually presented this reason, i.e. the court will play a gatekeeper's role. As Dr Margaret NG said earlier, this was a misleading statement. In playing the so-called gatekeeper's role, the court only examines whether the documents issued by the party requesting extradition are complete, including the acts committed by the parties and the evidence, and whether there are officially signed documents and an authority to proceed signed by the Chief Executive. If the extradition request has not violated the five principles and the information in the documents is correct, the court has to grant the request and it does not have the right to consider on its own whether the suspects requested to be extradited have committed the offences referred to by the requesting party or whether the evidence is sufficient.



Therefore, I urge the Government not to shirk political responsibilities onto the Judiciary, putting them under unnecessary pressure or requiring them to do something that they cannot do.

President, though the legislative amendments stemmed from a Taiwan murder case, the Taiwan authorities have suspicions and are resisting. In fact, the Taiwan Legislative Yuan passed a motion on 12 March requesting the Mainland Affairs Council ("MAC") and the Ministry of Justice to actively negotiate with the Hong Kong SAR Government and effectively solve the problem of extradition in accordance with the agreements applicable to Taiwan and Hong Kong. Interviewed by the Hong Kong media, MAC said that it would not rule out the possibility of issuing a warning about travelling to Hong Kong. If so, the international reputation of Hong Kong will certainly be ruined.

The Administration stresses that the legislative amendments have been made in response to the murder case in Taiwan. However, the current extradition arrangements have caused controversies and are not accepted by the Taiwan authorities, and the community and the legal profession may march against the legislative amendments on Sunday. Are these situations satisfactory? Why does the Government wilfully insist on making the legislative amendments? I so submit.

**MR KENNETH LEUNG** (in Cantonese): President, regarding Mr Alvin YEUNG's motion on "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders between Mainland China and Hong Kong", I disagree with some views of Secretary John LEE and I would like to respond to these views. Secretary John LEE says that this arrangement will be dealt with on a case-based approach and is applicable only to regions or countries that have not made surrender arrangements with Hong Kong for fugitive offenders. President, I would like to ask the Secretary: If the proposed legislative amendments are passed, what incentives do we have to negotiate with other countries or regions for such surrender or mutual legal assistance agreements for fugitive offenders? It can be said that this arrangement leaves the door wide open and the surrender of fugitives can be handled with any country in the world on a case-based approach. Although this is a very convenient approach, the problem is that not only people doing business but also

all Hong Kong people will have a hidden worry, i.e. based on prima facie evidence, we may be extradited to a place with a completely different judicial system for no reason.

I have met with Secretary John LEE to discuss a number of issues. He says that this system of case handling is based on similar systems in New Zealand, the United Kingdom and Canada. However, I would like to reiterate that if the Central People's Government is requesting extradition, our status is not equal because Hong Kong is only a special administrative region in China. Nevertheless, Canada and China or New Zealand and China have equal status. Philip DYKES, Chairman of the Hong Kong Bar Association, says that we will never discuss the surrender issue as we do not have equal status. In what way will the Chief Executive accept a surrender request? When and under what conditions will the Chief Executive accept a surrender request? This is the first question.

The second question is that it is really strange that, after Secretary John LEE submitted the proposed legislative amendments to the Panel on Security for discussion, the first person to give a positive response was CHEN Zhimin, former Vice Minister of the Ministry of Public Security of the People's Republic of China, who is now a CPPCC member. He said that there were more than 300 fugitives in Hong Kong with established identity but there might be 3 000 people on the list when the proposed legislative amendments were passed. Will everyone live in fear? Secretary John LEE also says that the court will play a gatekeeper's role. Of course, Honourable colleagues also questioned whether the court's gatekeeper's role means being a gatekeeper on the surface or a real gatekeeper. I would like to ask two questions. If there are 300 cases as mentioned by the CPPCC member, does the court have sufficient resources to handle these cases? If the number of cases has increased to 3 000, what should be done? Has Secretary John LEE discussed the proposed legislative amendments with the Judiciary?

The third question is, if a person has committed the so-called political offence, there is no need to surrender him but I believe no country will be so stupid as to say that someone has committed a political offence. Even after the Bureau has excluded nine items of offences, there are still 37 items of offences that can be used for packaging—of course, it is easier to package some and it is more difficult to package some others—President, as a businessman, you should

clearly know that many items of economic offences have not been excluded such as corruption and bribery. As long as there is prima facie evidence, a witness has reported the case and the prima facie evidence is established, the extradition mechanism can be activated. What criteria will the court base on to measure whether there is sufficient evidence? In fact, the court does not need to consider this point because whether there is sufficient evidence is not a factor to be considered by the judge in an extradition case.

Is the gatekeeper's role nominal or substantive? The Secretary said last week that these 46 items of offences could not be excluded according to international practice. The Fugitive Offenders Ordinance has been proved effective throughout the years but the Secretary suddenly said that nine items could be excluded. What criteria has he based on to exclude these nine items of offences? Can the Secretary explain the relevant criteria? Is it because these are economic offences or the Secretary is under pressure? Where does the pressure come from? Why should these items of offences be excluded? Why should nine items rather than 19 or 29 items of offences be excluded? What are the criteria? The Secretary is completely unable to explain that and he has just said that it is based on our concerns. Whose concerns is he talking about? Is he talking about the concerns of the business community, all Hong Kong people or other countries? I really want the Secretary to explain that. If the Secretary humbly asks us for advice about how to deal with the same issue through legal procedures, I believe that Honourable colleagues, including Mr Alvin YEUNG, and I can advise the Secretary within a week on which existing legislation can be amended so that this incident that happened in Taiwan can be resolved satisfactorily.

President, I so submit.

**MR GARY FAN** (in Cantonese): President, I speak in support of Mr Alvin YEUNG's motion on "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders between Mainland China and Hong Kong" and the amendments proposed by Ms Claudia MO and Mr James TO. According to the Security Bureau yesterday, nine items of economic offences will be exempted from the 46 items of offences covered by the extradition arrangements. I want the people of Hong Kong to take a look at this mace—the Government is in effect telling Hong Kong people that the solution to the problem is simply to take nine nails out of the mace which, in fact, will not

change its lethal nature. The arrangement under the Fugitive Offenders Ordinance ("the Ordinance") is just like this.

President, in the 2018-2019 Rule of Law Index released by World Justice Project, a U.S. non-government organization, Hong Kong is ranked 16<sup>th</sup> in terms of rule of law, whereas China is ranked at 82<sup>nd</sup>, a very low position. Although the Government has repeatedly claimed that political cases will not be included in the amendment bill, let us look at what has happened in recent years. At least 20 human rights activists have been brought to trial under non-political charges by the Mainland authorities, and in Hong Kong there was the Causeway Bay bookstore incident. In light of this, the amendment to the Ordinance is absolutely unacceptable to Hong Kong people so long as judicial independence and fair trials are yet to be achieved on the Mainland. For 20 years, there have been unfair and unjust cases showing that under the Mainland's judicial system and in the eyes of its leaders, the law is merely there to protect the ruling regime. It has become hard for us to believe in the possibility of justice and trials being administered in the Mainland in an open, impartial and fair manner.

In fact, under the present Ordinance, one-off case-based surrender arrangements are available by request to all jurisdictions other than China with which Hong Kong has no long-term arrangements, subject to a three-tier scrutiny by the executive, judiciary and the legislature. What is the Government's current proposed amendment? It is to completely remove the Council's role as a gatekeeper. Chief Executive Carrie LAM said at a press conference yesterday that the SAR Government proposed the amendment out of deep sympathy and compassion for the gruesome Taiwan homicide case. President, I really felt a chill down my spine on hearing this. The Chief Executive's wickedness and her evil schemes gave me a chill down the spine.

The suspect in the Taiwan homicide case, who is also a Hong Kong resident, has escaped trial by taking advantage of a loophole. This is, of course, outrageous. If Hong Kong's Chief Executive and Secretary for Security truly intend to bring justice to the victim and her family, they can simply adopt the existing approach while focusing the amendments to apply only to Taiwan, which will enable the suspect's extradition to Taiwan. They can even add a sunset clause to that. They do not have to use the case as a circuitous justification for proposing a law change that extends extradition to Mainland China and other jurisdictions. Is this not a cunning plan with a malicious intent?

President, my second point is that the amendment is detrimental to the human rights and security of Taiwan. The SAR Government proposing the amendment without consulting Taiwan has provoked strong reactions. The Deputy Chairman of the Mainland Affairs Council of Taiwan has indicated that if the Hong Kong Government intends to use this case as an opportunity to advance Beijing's total control over Hong Kong by expanding the scope of extradition under the Ordinance, Taiwan would not preclude the issuance of a travel alert. He also indicated that the amendment was likely to cause concern among the people of Hong Kong about personal freedom, rule of law and human rights. When even the people of Hong Kong are having doubts, what can the Hong Kong Government do to protect the rights and safety of Taiwan visitors? Does the Government think that it can dispel the doubts among the people of Hong Kong and visitors from other countries about the amendments simply by eliminating nine out of the 46 items of offences?

President, thirdly, the amendments to the Ordinance will further stifle human rights and the "high degree of autonomy" in Hong Kong. The existing Ordinance provides that it is not applicable to the People's Republic of China and any part thereof, entailing that fugitive offenders within Hong Kong cannot be surrendered to the Mainland. The arrangement is not only a demonstration of the entirely different judicial systems in Hong Kong and the Mainland. Let us not forget that, in a political sense, it is also a representation of the protection of human rights afforded to the people of Hong Kong after its transfer of sovereignty to China. In other words, under the principle of "one country, two systems", Hong Kong will continue to enjoy judicial independence, as well as human rights and freedom. In addition, the Chinese legislation would not be imposed on Hong Kong and political offenders should not be extradited to the Mainland. However, ever since the 1997 handover, not only have the fundamental freedoms of Hong Kong been gradually eroded, the high degree of autonomy promised under "one country, two systems" is also being gradually encroached by Beijing. The SAR Government's current amendment to the Ordinance will further place a stranglehold on the protection for our human rights.

President, what is more important is that the SAR Government's current amendment to the Ordinance has violated its obligations under the international convention. The United Nations Committee against Torture, after its review of human rights in China (including Hong Kong and Macao) in November 2015,

urges Hong Kong to ensure that any agreement on the transfer of offenders or sentenced persons from Hong Kong to Mainland China or via Macao should be in line with the obligations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and contains sufficient legal safeguards and judicial oversight mechanisms to protect fugitive offenders against torture or ill-treatment upon transfer. It also requires that Hong Kong should not transfer a fugitive to Mainland China where there are substantial grounds to believe that the fugitive would be in danger of being subjected to torture or ill-treatment upon return or upon indirect transfer. Therefore, I support the idea that the Government should immediately shelve the formulation of arrangements for the surrender of fugitive offenders between Mainland China and Hong Kong, and I hope Members will exercise caution and make their judgment.

President, I so submit.

**MR SHIU KA-CHUN** (in Cantonese): President, I speak on the motion "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders between Mainland China and Hong Kong" moved by Mr Alvin YEUNG.

On 24 March, last Sunday, 19 professional bodies, including the social welfare sector, jointly held a press conference to oppose the amendments proposed by the Security Bureau to the Fugitive Offenders Ordinance ("the Ordinance"). They accused the SAR Government of destroying our own bulwark. It should be noted that it is not easy to have 19 professional groups coming forward together to do something because each of them comes from a different profession which has its own judgment based on its own principle. When 19 groups get together, it must be about a serious matter.

The reaction of the 19 professional groups to the Government's legislative amendments can be succinctly described with eight words: opposing a deliberate move with an ulterior motive. The social welfare sector has made its position very clear. It queries whether the Government is, on the pretext of the extradition of the suspect of Taiwan's homicide case, actually undermining the fair judicial proceedings in Hong Kong. This is bound to cause endless troubles.

Citing the case of ZHEN Jianguhua, a human rights activist in Guangdong, as an example. He was convicted of "inciting subversion of State power" in 2018. Mainland social workers who assist their clients to defend their rights would be arrested and detained even though what they do is reasonable and legitimate. Once such a precedent of amending the Ordinance is set, it is possible that social workers from Hong Kong who have engaged in or supported human rights activities in the Mainland would be transferred to the Mainland after returning to Hong Kong, for breaching the new legislation to be enacted under Article 23 of the Basic Law in the future. In view of the frequent exchanges and contacts between China and Hong Kong, different clients travelling between China and Hong Kong are prone to breaking the law inadvertently due to a lack of understanding of the Mainland laws. It is also possible that they would be transferred to the Mainland on trumped-up charges, which would thus put personal safety, freedom of expression, the rule of law and human rights at stake. Apparently, the Ordinance affects not only politicians but also the general public.

Prof Jerome COHEN, Dean of the U.S.-Asia Law Institute at the New York University School of Law, wrote an article specifically on the surrender of fugitive offenders between China and Hong Kong to remind the Hong Kong Government of the need to consider the impact on human rights safeguards. In his article entitled "Hong Kong, China, 'Rendition' and Human Rights", the author highlights that the United States, Canada, the United Kingdom and Australia have not finalized extradition agreements with China largely because of their concerns about the pervasive problems in China's criminal justice system, especially for non-violent crimes, which often result in arbitrary detention, torture, coerced confessions, political prosecutions, unfair trials and capital punishment. For similar reasons, the Hong Kong Government has not been able to conclude an agreement on the surrender arrangements with the Chinese Government in the past. Today, I fail to see that China has a better human rights record that is worthy for Hong Kong to change its status quo to facilitate such an arrangement.

When the Chairman of the Hong Kong Bar Association Philip DYKES was interviewed by the media, he also raised a few important points. He said that to conclude an agreement on the surrender of fugitive offenders with another region, the latter must offer "basic standards of protection", which include the guarantee of independent and open trials, representation of suspects by lawyers, conformity of the penal system with human rights, and so on. According to his understanding, the Ordinance did not cover Mainland China back then because it

was "not up to an acceptable level" in these areas. This is not a legal issue, but one about trust. After an agreement on the surrender arrangements is concluded between two countries, if one party fails to respect the undertaking, the other party may cancel it. However, given that Hong Kong is a territory of China, the SAR Government and the Central Authorities are simply not on equal footing. Even if Beijing contravenes any of the undertakings in the agreement, what can the Hong Kong Government do? This is exactly what Dr Margaret NG has said. The SAR Government is not plugging a loophole but removing the safeguards.

Last of all, I would like to highlight in particular that in the present legislative amendment, the most hypocritical people are the government officials and the pro-establishment camp. They stand up to call for the quest for justice and support the surrender of the suspect. I nonetheless feel very puzzled. When the Mainland arrested 300 human rights lawyers, why did I not hear any of them speaking righteously in public in quest for justice? When the Xinjiang authorities detained Uighurs in those heavily guarded training center for "brainwashing", who has stood up to speak for them? These self-proclaimed disciples of Jesus Christ who also bow to the Communist Party and the State at the same time, why did I not see them stand up and speak in quest for justice when the Mainland Government burnt the cross and suppressed their brothers and sisters in Christ?

Also, I would like to invite colleagues from the pro-establishment camp who proclaim to be very concerned about the plight of the people to examine their conscience. Over the past few years, there have been an awful lot of cases of Hong Kong people being caught in legal disputes, suffered injustice when doing business, cheated in the purchase of properties and even detained unreasonably by powerful agencies when they were in the Mainland. They were denied fair trials, denied access to lawyers, denied visits by their families and denied open trials. Have those pro-establishment Members, who shout loudly that "legislative amendment is justice", upheld justice fairly for these people who have been suppressed and fought for them?

No one wants to see a homicide suspect escaping prosecution in Hong Kong, but we do not want to see the emergence of thousands of unjust, false or wrongs cases as a result of the legislative amendment either. Nor do we want to see that in the future, once an order is given, our 300 000 policemen from the Hong Kong Police Force will be reduced to minions of the powerful agencies, and have to serve a country that despises judicial independence, does not have



fair trial, forces people to plead guilty in front of the television and uses laws as guns to govern the country.

Law is both a weapon and a strategy. It is not uncommon for the powerful agencies to trump up charges, such as moral and economic crimes, against political prisoners. This issue of the surrender of fugitive offenders has been debated for 20 years, but neither Elsie LEUNG nor former Secretary for Security Regina IP dared to force the law through back then. Today, however, the Secretary for Security dares to make this move. We finally realized that the freedom and autonomy of Hong Kong were not seized by Beijing but were ruined bit by bit by the people of Hong Kong.

President, as a Member of the social welfare sector, I often say that it is a tragedy to have "services following disasters", but it would be an even worse tragedy to have a draconian law following disasters in Hong Kong.

President, I so submit.

**DR KWOK KA-KI** (in Cantonese): President, I think the most absurd thing that Hong Kong people saw yesterday was that Secretary John LEE, who is sitting opposite to me, righteously asked, "Are we going to turn a blind eye to certain murder cases and certain homicide cases as well?" What has this Government, including John LEE and Carrie LAM, said about the tragedies that happened in China? What have Secretary John LEE and Carrie LAM said about the incidents of WANG Quanzhang's detention for more than three years, LIU Xiaobo's death in prison, LI Wangyang's "alleged suicide" and the "forced disappearance" of LEE Po and GUI Minhai of Causeway Bay Books? They remind me of the memorable movie scene from *Godfather*, in which Al PACINO was praying while his assassins were killing people behind him. This Government dares to talk about virtues and morals. The most outrageous of all is that government officials come forward to pursue justice for a homicide case in Taiwan. It is reported that the Taiwan authorities have been approaching the SAR Government since mid-2018, but the latter has not replied at all over the past six months or so. Subsequently, the Democratic Alliance for the Betterment and Progress of Hong Kong and everyone else come forward to seek justice for the victim. However, we all know that this is nothing but a move to kill with a borrowed knife. The Government is pursuing justice for the homicide case in Taiwan in name, but actually taking a circuitous route of achieving an ulterior motive. First, the Mainland feels good about itself and sees Taiwan as

part of Mainland China. Second, Hong Kong can blatantly invoke the amended Fugitive Offenders Ordinance on legitimate grounds to arrest anyone at will in the future.

Yesterday, some people from the business sector said they could rest assured after nine items of offences were exempted, but I really want to tell them not to be too happy. About three years ago, LAU Hei-wing, the owner of the Kimberley Hotel in Hong Kong, was reportedly ill-treated by nine Mainland prosecutors in the Mainland. Those nine men used toilet utensils to cover his nostrils and face, and stabbed his body with keys. He suffered bone fractures in various places and the entire body was "folded up". As a result, those nine people together killed one person. The Tianjin Court then prosecuted those nine accused. Eventually, of course, it ended up with nothing under the Mainland laws. This is precisely the place where Secretary John LEE tells us to rest assured about its rule of law.

Let us take a look at the world ranking of Mainland China in the rule of law. It is nearly at the bottom of the list and this is what we as Chinese should feel ashamed. In fact, this should not be the case. We should tell other people uprightly that we do have the rule of law. But, where does the rule of law come from? In the Mainland, anyone could be accused of a trumped-up offence of various kinds, such as picking quarrels and provoking trouble and inciting subversion of state power. Recently, a human rights volunteer was arrested in a case related to the explosion of a chemical plant in the Mainland. Even the protection of human rights is not allowed, let alone other things else. The Secretary tells us to trust this country. Is he treating all Hong Kong people as fools? We all know very well whether John LEE is a righteous man. He should not challenge anyone here anymore.

Secondly, worst comes to worst, the Mainland Affairs Council of Taiwan has already indicated that if Hong Kong forced through the legislative amendment, it would consider issuing a travel alert to call on the Taiwanese not to come to Hong Kong for leisure or business. In the eyes of the international or Asian communities, Hong Kong has always been a place that attaches importance to the rule of law and is civilized, and both Hong Kong people and foreigners know that Hong Kong respects the rule of law. However, Hong Kong is now going to break open a big hole. By amending the Fugitive Offenders Ordinance, there will be a "swing door" for Mainland China to enforce Mainland laws in Hong Kong and extradite whoever it wants.

I can tell Members that this proposed amendment is more draconian than Article 23 of the Basic Law. While the latter still requires actions by the courts of Hong Kong, the extradition law affects not only the people of Hong Kong. Taiwan and even the Ambassador of the European Union Office to Hong Kong are very nervous because anyone in Hong Kong can be extradited, including foreigners, journalists or human rights activists who come to work in Hong Kong. So long as they are people whom the Mainland wants to extradite, extradition can be invoked in this way.

Some people say that the amended legislation only deals with offences punishable with imprisonment for more than three years with the exemption of nine items of economic offences. Nonetheless, there are still 37 items of offences after removing nine of them. We are not unaware of how corrupt, ugly and incapable the judicial system of the Mainland is, but the Government still wants us to trust it. How can the courts of Hong Kong reject extradition requests from the courts of the Mainland? Trials will be conducted in the Mainland and there will be no need to go through rigorous procedures, such as the hearing of evidence, as in the courts of Hong Kong. As we all know, this is not required by this extradition law. Therefore, I think the most outrageous and unpleasant remark, which is even more unpleasant to the ears than derogative terms, is the righteous speech given by Secretary John LEE yesterday. If he were really that righteous, why has he refused to discuss with Taiwan over the past nine months? He knows clearly that this is a challenge for Taiwan, but he refuses to sort things out and conduct independent discussion with Taiwan to show respect for Taiwan's independent sovereignty (*The buzzer sounded*) ... Why has he not done so?

**PRESIDENT** (in Cantonese): Dr KWOK, please stop speaking.

**MR CHAN CHI-CHUEN** (in Cantonese): Carrie LAM claimed that by amending the Fugitive Offenders Ordinance this time, two purposes would be served in parallel. First, it would address the problems of the homicide case in Taiwan; and second, it would plug the loopholes in the current system. Thus, some people say that the SAR Government is trying to kill two birds with one stone.

At first, I pondered whether the Government was trying to kill two birds with one stone, but later I concluded that this proposition was wrong. At a meeting of the Panel on Security, I asked Secretary John LEE whether he had ever worried about Taiwan's refusal to accept the proposed legislative amendments. He replied that my question was provocative and he was deeply saddened by it. Then I went to Taiwan to liaise with members of the Mainland Affairs Council and members of the ruling and the opposition parties. After seeing the press conference yesterday, I can clearly tell Hong Kong people that the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") is not trying to "kill two birds with one stone". It would be more apt to use idioms such as "kiss the baby for the nurse's sake", "act with a hidden motive" or "pretend to advance along one path while secretly going along another". The reason is that the SAR Government does not care about the first "bird", i.e. whether the suspect of the homicide case in Taiwan can be extradited. The purpose of the Government is to subject all Hong Kong people, as well as all foreigners, Mainlanders and Taiwanese who are working, travelling or transiting via Hong Kong, to extradition to the Mainland. That is the biggest "bird" that the Secretary and the SAR Government have in mind.

In the oral question session today, John LEE said that in early March this year, Hong Kong conveyed again the intention to commence early liaison with Taiwan on the case. Was it "early" liaison? Taiwan had been making enquiries with Hong Kong about the case for months, but Hong Kong did not respond. It was only after the Government drafted the Bill that it told Taiwan of its intention to commence early liaison. President, I made these remarks not according to reports, but according to my personal liaison with members of the Mainland Affairs Council who told me that the Hong Kong side had on many occasions read but not replied to their messages and ignored them. It was only recently that Hong Kong told Taiwan it would commence early liaison with them. This morning, the Secretary also said, "Hong Kong will communicate with Taiwan on the case pragmatically under the principle of mutual respect and solely focusing on the case and its facts." Has there been "mutual respect"? The Taiwan authorities consider that Hong Kong does not respect them at all. On 12 March, the Legislative Yuan of the Republic of China unanimously passed a motion to the effect that the Mainland Affairs Council and the Ministry of Justice should proactively negotiate with the Hong Kong SAR Government to pragmatically address the need for extradition of the case by means of an

agreement which is only applicable to Taiwan and Hong Kong according to the principle of mutual respect so as to uphold the judicial sovereignty of Taiwan.

Nevertheless, what is the current situation? Hong Kong has not listened to the views of Taiwan and after Hong Kong has drafted the Bill, it adopts the attitude of "take it or leave it". I am not talking about whether Hong Kong has downgraded the sovereignty of Taiwan. Taiwan worries about the safety of Taiwanese people in Hong Kong because it considers that the Mainland Government has the greatest hostility towards Taiwanese people. Thus, Taiwan has indicated that if the Bill is passed, it may consider issuing a travel warning. The Secretary would certainly say that Hong Kong should take the lead in its own legislative amendment exercise. However, if the Secretary really wants to solve the problems of the homicide case in Taiwan, and if this legislative amendment exercise has really been conducted out of empathy, as Carrie LAM claimed, Hong Kong would not have handled the matter in such a way. May I ask the Secretary what empathy is? Empathy is considering things from the perspective of another. Has the Secretary considered the matter from the perspective of Taiwan? When the Secretary has not given the slightest thought on Taiwan's acceptability of the Bill, what is the use of talking about empathy?

At the "three-in-one" press conference yesterday, a reporter raised a very good and reasonable question, but John LEE threatened him. The reporter said that Taiwan did not ask Hong Kong to amend the laws with this approach and it had great reservations about it. Is it possible that after making all the effort, Taiwan will not accept the Bill after its passage in the Legislative Council? In other words, is the second purpose mentioned by the Government, i.e. plugging the loopholes, actually more important than practically assisting the family of the deceased? The reporter then continued with the most important question, "Why can't the authorities discuss with Taiwan on how to resolve this case first?" What he meant was, the authorities could first try to negotiate and collaborate with Taiwan by deceiving it or otherwise, before comprehensively plugging the loopholes in the laws of Hong Kong at the next stage. How did John LEE respond to the question of the reporter? He threatened him and said, "Are you encouraging me to turn a blind eye to the problems? Do you agree that I should turn a blind eye to the defects of the system? Are you asking me to turn a blind eye to them forever?" In fact, who would ask him to turn a blind eye to the defects forever? Even Carrie LAM said that the loopholes were not created in a day and they were not noticed only recently. The reporter was really asking why the Government could not adopt a smarter approach to solve the problem

between Taiwan and Hong Kong before comprehensively plugging the loopholes, but the Secretary twisted the meaning of the reporter. It is very clear that the authorities are taking the easy way out. When the reporter pointed out the crux of the problem, the Secretary got panicky and threatened him.

Thus, I would ask Carrie LAM not to say the exercise is conducted out of sympathy, empathy or mercy in the hope to assist the family of the deceased again. Each and every act of the authorities is done to piggyback on the Taiwan case, instead of killing two birds with one stone, because they do not care about the first bird at all and they clearly understand that Taiwan will probably indicate in a few days that it cannot accept the legislative amendment proposal of Hong Kong. After that, what other excuse can John LEE use to compel the Legislative Council to pass the Bill before the recess in July? As consensus on the issue has not been reached after discussions for 20-plus years, why is there a need to reach an agreement in these few months? I invite Hong Kong people to join us in the march at Southorn Playground at 3:00 pm on 31 March (Sunday) and walk to the Central Government Offices to oppose the proposed law which is even more draconian than enactment on Article 23 of the Basic Law. This SAR Government, comprising of officials from Carrie LAM to John LEE, is only pretending to be kind, righteous and merciful. These people are piggybacking on the Taiwan case and they are "eating buns dipped in a dead person's blood".

**MR WU CHI-WAI** (in Cantonese): President, the Government first used the homicide case in Taiwan as the starting point for proposing amendments to the Fugitive Offenders Ordinance and then claimed that out of all kindness and righteousness, it had to manifest justice in the case. What does "manifesting justice" mean? Justice cannot be manifested simply by completing one task ...

(There was interference with the broadcasting system in the Chamber)

**PRESIDENT** (in Cantonese): Mr WU Chi-wai, please put your mobile phone away.

(Mr WU Chi-wai put his mobile phone away)

**MR WU CHI-WAI** (in Cantonese): ... Since the Government proposed to amend the Fugitive Offenders Ordinance, the Taiwan Government has on many occasions indicated that it cannot accept the arrangement for surrendering fugitive offenders on the premise of one country. What will happen then? Will the passage of the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") be useful? The answer is obvious enough for members of the public.

I remember that a Member asked Secretary John LEE the same question. The Secretary said that after passage of the Bill, it would depend on what the Taiwanese authorities would do. Although they might not accept the Bill at this juncture, they might at the next. The Government used the homicide case in Taiwan as the starting point for proposing amendments to the laws and when the Secretary explained the proposal to the public, he also said that justice could be manifested by amending the laws. However, it turns out that whether justice can be manifested after passing the Bill depends on the final decision of the Taiwanese authorities after considering the effect of the arrangement for surrendering fugitive offenders on the Taiwanese. Will the exercise actually open the Pandora's box?

Second, I remember that when we started discussing the arrangement for surrendering fugitive offenders, we challenged the Secretary by saying that the system of upholding the rule of law and the legal system on the Mainland were very different from those in Hong Kong and therefore we were very worried. The Secretary responded that Hong Kong people should trust that the courts of Hong Kong would act as gatekeepers. I think theoretically, the courts of Hong Kong should act as gatekeepers regarding all 46 items of offences applicable for surrendering fugitive offenders. However, after the business sector has expressed its fear and worries, the Secretary indicates that nine items of the commercial offences can be removed from the list. In other words, with some items of offences, we have to trust the courts of Hong Kong as gatekeepers; with other items, we do not have to or should not trust the courts as such. What are the reasons for that and what is the logic of it?

The Secretary responded that many commercial offences involved not only acts of companies, but also those of individuals. However, if we carefully read the 46 items of offences applicable for surrendering fugitive offenders, many offences which have not been removed from the list obviously involve acts of individuals too. These offences include bigamy, unlawful termination of

pregnancy and offences relating to gambling. As interactions between the Mainland and Hong Kong are frequent, why has the Government incorporated acts of individuals or matters commonly occurred or encountered in the daily lives of people living both on the Mainland and in Hong Kong in the arrangement for surrendering fugitive offenders? In the past, Hong Kong people living in Hong Kong could live without fear because of the protection under "one country, two systems" provided by the Basic Law. After amendments to the laws, will a back door be opened? Or, as someone has put it, will the main gate lie open all the time?

Furthermore, in relation to the proposed arrangement for surrendering fugitive offenders, the Hong Kong Bar Association suggests to replace it with amendment to the Criminal Jurisdiction Ordinance. The Secretary responds that as amending the Criminal Jurisdiction Ordinance will not have retrospective effect, the suggestion cannot be adopted. According to this concept, the legislation will not only take effect upon passage of the Bill, but also have retrospective effect to cover offences committed in the past. Imagine that when Hong Kong opens this back door, Hong Kong people will have to face the problem that the power to surrender them will have retrospective effect. How can the Secretary make Hong Kong people rest assured?

Given this background, one may ask, "Since the Government intends to solve the homicide case in Taiwan, should it directly deal with the problem?" The Secretary has not adopted such an approach. Instead, he has taken a very big move in presenting the Bill and caused unnecessary fear and worries among Hong Kong people regarding matters which they commonly encounter in their daily lives.

I remember that the Secretary pointed out in his response today why a one-off arrangement could not be made in this case. The Secretary said that currently, case-based surrender of fugitive offenders was not operationally feasible. He responded that he was worried that conducting an open hearing of the case would alert the fugitive offender and incidences of alerting fugitive offenders might also occur in the future. However, regarding this homicide case in Taiwan, the possibility of alerting the fugitive offender or abscondment does not exist. The reason is that the suspect has been detained by the Police and is awaiting trial since the beginning of last year. As time flies, it has been more than 12 months now. Considering that the suspect has been detained for such a long time and the Secretary could have handled the matter on a case-based



approach, but he has not chosen to do so. How then can he tell Hong Kong people that he does not have an ulterior motive?

**MS STARRY LEE** (in Cantonese): President, a lady from Hong Kong was killed and abandoned when she was travelling with her boyfriend in Taiwan and the suspect returned to Hong Kong afterwards. There is obvious evidence in the case. However, as there is no agreement for mutual legal assistance in criminal matters between Hong Kong and Taiwan, even though the suspect is in Hong Kong, he cannot be surrendered to Taiwan for trial. The situation has broken the hearts of the family members of the deceased and people in Hong Kong and Taiwan. After the case has been widely reported, many members of the public realize that if a murderer flees to Hong Kong after murdering somebody, he may not necessarily be surrendered. Many people have started to discuss this issue; some even questioned the existence of justice.

The victims are indeed quite helpless and their family members are deeply grieved. We fully understand that and we have been providing assistance to their family members, and we hope that the victim's injustice will be redressed. The incident happened more than a year ago. My party members and I have personally learnt about the situation from the family members and discussed matters with them. I have also communicated with the Chief Executive, the Secretary for Justice and the Secretary for Security many times. I hope that the authorities will think of ways to surrender fugitive offenders under "one country, two systems" so that the injustice of the deceased will be redressed, the family members will rest assured and they understand that the case is being handled.

President, we finally have these results a year after the incident happened and I know that the proposed legislative amendments have been made after various parties have made great efforts. In the past year, everyone could understand the pains and difficulties of the family members. In particular, before this arrangement was made, the family members were worried that the suspect might escape after being released and the handling of the case on the daughter's murder would discontinue. However, they rest assured when they know that the Government will propose legislative amendments and they hope that the Legislative Council will pass the Bill as soon as possible so that the fugitive offenders will be successfully surrendered for trial by the District Court in Taiwan and the related courts.

President, when the Government proposes amendments to the Fugitive Offenders Ordinance ("the Ordinance"), it also knows that this is a very sensitive matter and believes that there will be a lot of discussions in the community while different stakeholders will express their views. The Government has added different safeguards which include, firstly, the court's gatekeeping role. We should absolutely trust the judicial system and have confidence in the court's gatekeeping. If, as opposition Members just said, the passage of the Ordinance will leave the door wide open and all suspects who are subject to extradition will be extradited immediately, I am afraid this will completely defy the gatekeeping ability of the court. If Honourable colleagues have paid attention, the court's trial results show that the judges do not support all positions of the Government. Otherwise, there would not have been so many cases, including cases related to politics, the Occupy Central case or the recent riot case in the New Territories. Therefore, we should have confidence in the court's judgment. Speaking of the stringent trial process, I believe that a recent case can help the public understand that the court stringently perform its gatekeeper's role. The MENG Wanzhou case is a very good example that helps us understand the extradition process.

In the past few months, we often discussed the MENG Wanzhou case. Since the United States wants to extradite MENG Wanzhou to stand trial and the Canadian courts have to try the case under the supervision of the media and the public, it will take a long time. After the court has given a judgment, it is believed that the parties will lodge an appeal and even apply for habeas corpus. As Hong Kong has an independent system of rule of law and strong media supervision, I believe that, if the proposed legislative amendments are passed, this arrangement will be dealt with in a case-based manner. I do not think that other places will rashly initiate the extradition process unless there are cases where extradition is essential or cases related to serious offences. This will not leave the door wide open as opposition Members have suggested and it is not true that those concerned will be sent to different places for trial if the proposed legislative amendments are passed.

Secondly, the Secretary has repeatedly stressed that even if we want to initiate the handover procedure, there must be proportional offences. In short, if some offences are criminal offences in other countries but not so in Hong Kong, the extradition procedures cannot be initiated. The third safeguard is that politics and religion cannot be involved. The Government has clearly highlighted this on a number of occasions.

In addition, the Government revised its initial proposals yesterday in response to the concerns and worries of different stakeholders in the community. We all understand that when the amended legislation comes into operation, there will be circumstances of particular concern to the public. When the Democratic Alliance for the Betterment and Progress of Hong Kong met with the business community and the Secretary for Security earlier, we mentioned matters of their particular concern, which included taxation and the ordinances relating to environmental protection, copyright and the use of computers, etc. The suggestions made yesterday intended to help everyone feel relieved about the arrangements.

President, summing up, I think this is a balanced proposal and I understand why the opposition camp have such arguments and concerns. But let us view from another perspective. If the Ordinance is not amended to plug the legal loopholes, when suspects of murder cases or serious offences in other places have fled to Hong Kong, can we not extradite the suspects? Can justice not be manifested? In fact, the extradition of suspects is an international responsibility and the international community discussed the relevant arrangements long ago.

President, I so submit.

**IR DR LO WAI-KWOK** (in Cantonese): President, "one country, two systems" is implemented in Hong Kong and under Article 96 of the Basic Law, which prescribes, "With the assistance or authorization of the Central People's Government, the Government of the Hong Kong Special Administrative Region may make appropriate arrangements with foreign states for reciprocal juridical assistance". At present, Hong Kong has signed with 32 jurisdictions agreements on mutual legal assistance in criminal matters and we have also signed agreements with 20 jurisdictions on the surrender of fugitive offenders. As for jurisdictions that have not signed such agreements, there are case-based requests for surrender of fugitive offenders. Under the existing Ordinance, after a request for surrender has been made by the Government, the request has to be considered by the Legislative Council before the issuance of a provisional warrant will be applied.

Moreover, the current Fugitive Offenders Ordinance, the Mutual Legal Assistance in Criminal Matters Ordinance and the arrangement for the case-based surrender of fugitive offenders are not applicable to Hong Kong and other parts of

China. In 2018, there was a case in which a person from Hong Kong was suspected of absconding to Hong Kong after killing somebody in Taiwan and the Taiwan authorities had discussed with the Hong Kong Special Administrative Region ("HKSAR") Government the extradition of the suspect. Owing to the limitations under the existing legislation, the HKSAR Government cannot deal with this request. Under these circumstances, it is practically necessary to plug the legal loopholes through amending the Fugitive Offenders Ordinance so that the arrangements for case-based surrender of fugitive offenders can be made to places such as the Mainland or Taiwan which have not yet signed mutual legal assistance agreements with Hong Kong. This will also help protect Hong Kong people and secure Hong Kong's internationally recognized reputation of the rule of law under "one country, two systems".

However, according to Schedule 1 of the current Fugitive Offenders Ordinance, there are 46 items of offences relating to surrender of fugitive offenders, covering a wide range and involving different stakeholders. In jurisdictions that have already signed surrender of fugitive offenders agreements with Hong Kong, the agreements may not necessarily include 46 items of offences. The party members of the Business and Professionals Alliance for Hong Kong ("BPA") and I have repeatedly reflected to the Security Bureau the worries of the public, including the industrial, commercial and professional sectors. We have pointed out that the behaviours and circumstances as specified in the Ordinance require particular attention. These include offences against bankruptcy law, offences relating to securities and futures trading, offences against the law relating to protection of intellectual property, copyrights, patents or trademarks, offences against the law relating to companies, offences against the law relating to false or misleading trade descriptions, offences against the law relating to environmental pollution or protection of public health, offences involving the unlawful use of computers, and offences relating to fiscal matters, taxes or duties, etc. There are many grey areas with significant differences between the legal provisions and understandings of the related offences among different jurisdictions. BPA has repeatedly urged the HKSAR Government to handle this issue carefully and pay particular attention to the three major areas.

First of all, it is inappropriate to copy all the 46 items of offences listed in the Fugitive Offenders Ordinance. We should adopt the phased approach of "resolving the simple issues before the difficult ones" and deal with serious offences that are not very controversial first so as to expedite the legislative amendments to plug the loopholes. At the same time, the HKSAR Government

should explain clearly to the public how the surrender mechanism will be initiated and how the HKSAR Government will play its gatekeeper's role. Thirdly, for the procedures to surrender fugitive offenders to be initiated, how serious should the relevant criminal acts be?

We are pleased to notice that the Chief Executive and the Secretary for Security announced yesterday that the one-off case-based surrender arrangement will be differentiated clearly from the general long-term surrender arrangement and nine items of offences that are much more controversial in the community will be excluded. The Government has also referred to the threshold for surrender arrangements, i.e. only offences punishable with imprisonment for more than three years and triable on indictment in Hong Kong are covered. I think that the Administration has accepted good advice and adopted the approach of "resolving the simple issues before the difficult ones" in making legislative amendments. It excludes items of offences that are considered by the community as having a too extensive scope or inexplicit. This can uphold the rule of law and manifest justice, prevent the problem from becoming complicated, as well as allay the concerns of various sectors of the community, including the business and professional sectors. This practice is worth affirmation.

Some people have questioned that most of the nine items of offences being excluded are related to commercial behaviours and whether the authorities are inclined towards the business community. This is a specious view. For example, the 10<sup>th</sup> item on offences against bankruptcy law and the 21<sup>st</sup> item on offences against the law relating to environmental pollution or protection of public health are offences that may be related to commercial and individual behaviours and they may also be related to various sectors of the community. I also think that there is a consistent practice in the international arena about judicial agreements on criminal matters. Other jurisdictions should have a pragmatic view of the HKSAR Government's legislative amendments and they should not have unnecessary political considerations.

Nevertheless, there is no perpetual solution to this problem. For the remaining 37 items of offences such as the 15<sup>th</sup> item on offences against the law relating to breach of trust, the scope is still rather extensive. The HKSAR Government needs to explain clearly to the public and do its best to allay public concern. In addition, the threshold is set at offences punishable with imprisonment for more than three years but should a higher threshold be set?

How long is the retrospective period for each offence? These matters await further consideration by and explanation from the Government.

President, the HKSAR Government has indicated that it is imperative to amend the Fugitive Offenders Ordinance to combat crime and improve the criminal justice cooperation system so as to manifest justice. Although members of the public have different opinions on some specific contents, I believe that most of them will agree with the amendments. However, the original motion and the two amendments ask the Government to suspend making extradition arrangements that allow Hong Kong to surrender fugitive offenders to Mainland China. I think that this is neither realistic nor helpful, and it is really difficult for me to indicate support.

President, I so submit.

**MR CHU HOI-DICK** (in Cantonese): President, many colleagues have said that there are two reasons for the Government's proposing to amend the Fugitive Offenders Ordinance ("the Ordinance"): first, to enable justice to be done in the homicide case in Taiwan by surrendering the suspect to Taiwan; and second, to plug a loophole. The present loophole in the Ordinance that the Government refers to is concerned with the Interpretation in the Ordinance which stipulates that the arrangements for the surrender of fugitive offenders are not applicable to any part of the People's Republic of China. It is a complete fallacy to treat this provision which makes the Ordinance inapplicable to the surrender arrangements between the People's Republic of China and Hong Kong as a loophole and it is the Government's deliberate misrepresentation.

Many colleagues have pointed out why the Ordinance was drafted this way and it was for the protection of Hong Kong people against tyranny, allaying their fears of being surrendered to Mainland China. That is the reason why the Ordinance was drafted this way. Secretary John LEE dares to term this protection provided as a loophole. Why? His aim is to breach this barrier that has not been breached for over 20 years.

If someone asks me whether there is a loophole in the Ordinance, I would say yes. The loophole lies with the Interpretation in the Ordinance which considers the Republic of China, or Taiwan, which has its own military force and

government that governs its own affairs, as part of the People's Republic of China, which is unacceptable even to HAN Kuo-yu. It is due to such a wrongful interpretation by the Government that creates this so-called legislative loophole. Many colleagues have pointed out, and so has Taiwan, that if there is indeed a loophole in the legislation in dealing with the homicide case in Taiwan, the authorities can negotiate with Taiwan concerning the case only and even if the Ordinance has to be amended, the amendment should be restricted to Taiwan alone.

Ms Starry LEE has just said that there would be homicides running amok in the streets in Hong Kong if the Ordinance is not amended. We must understand that to attain the "justice" referred to by Ms Starry LEE, it does not imply surrendering a certain person in Hong Kong who is known to be a suspect of a homicide in a foreign place to that foreign place directly, be it North Korea or the People's Republic of China, without considering how unfair the justice system in that place is or how hard the human rights is suppressed there. It does not mean that. While we endeavour to enable justice to be done, we must also ensure that the fugitive offender will receive a fair trial after being extradited to that place. To protect Hong Kong citizens against tyranny is also a form to enable justice to be done. What Ms Starry LEE and some colleagues are pushing for is to hand Hong Kong citizens over to tyranny.

President, watching this farce about the amendment of the Ordinance, I find three groups of people particularly repulsive. The first is of course the pretentious and hypocritical SAR officials such as Secretary John LEE and Chief Executive Carrie LAM. The second group with the same level of repulsiveness is the Members from DAB, including Ms Starry LEE and Mr Holden CHOW, who collude with the Government and piggyback on the Taiwan homicide by making the excuse of helping the family of the victim in the homicide. The third group is members of the business sector who are anxious to protect themselves, and to the people of Hong Kong, they are a disgrace and repulsion. It reminds me of a frequent scene in many science fictions and sci-fi movies in which the world is in calamity and ordinary people are in dire straits and dying in millions. At this time, there is always a lifeboat or space craft parking somewhere ready to rescue the rich, business tycoons, and presidents and prime ministers of countries. Dr Priscilla LEUNG called the ability to possess such a personal lifeboat the manifestation of power. She said it personally in a radio programme. Everyone must look very clearly at the true colours of such members of the business sector who think being able to save their own hide is their real power.

This reminds me of the last scene in the movie *From Beijing with Love*, in which a few prisoners are about to be shot. One of them says that he has attained the skill of gliding on water after years of practice and he is about to use that skill. People from the business sector think they can fly and as long as nine items of offences are excluded from the Ordinance, and they can rest assured without any fears even though the Government continues to amend the Ordinance. But then out of the blue, the public security officers have a mortar and no matter how far they can glide on water or fly, they will be shot down. Friends from the business sector, do you really think that you can escape the grip of the Communist Party of China?

**MR ANDREW WAN** (in Cantonese): President, many colleagues have already talked about the principles that have to be reasoned with and yet I cannot help but respond to the hypocritical comments and deliberate misrepresentations of the pro-establishment colleagues in this Chamber.

President, today I have heard many Chinese idioms such as "pretend to advance along one path while secretly going along another", "kill with a borrowed knife" and so on. Obviously, the Government, Chief Executive Carrie LAM as well as Secretary John LEE are piggybacking on the homicide in Taiwan last year and taking advantage of the victim and her family to attain their political objective. It is just immoral to do so.

Mr CHU Hoi-dick has said it well just now. Few colleagues have mentioned that matter. The Secretary and many former Secretaries or former Commissioners of Police said it was outrageous that the loophole had not been plugged for over 20 years and it was high time that the legislation should be amended. Buddy, from which parallel time and space did they come to Hong Kong? From outer space? Have they heard of DENG Xiaoping's promise of "river water not encroaching on well water"? President, you must have heard it. The solemn promise of "one country, two systems" was made years ago to ensure that Hong Kong would operate independently with respect to its economy and its governance under the rule of law. Why was this promise made? Do you think that the leaders of our country in the past were fools? Without the promise of "river water not encroaching on well water" made then, would Hong Kong attain its status today? How serious was the brain drain then. Without that promise, I believe those from the business sector backing the amendment of the Fugitive Offenders Ordinance ("the Ordinance") today would have left Hong Kong long



ago. That is the reason for the clear stipulation in the Interpretation of the Ordinance that the arrangements for the surrender of fugitive offenders are inapplicable to "the People's Republic of China".

It was not coincidence or a typographical error. Can it be the case that the Secretary, who has worked up all the way from the bottom, does not know about it? I am shocked. It is more outrageous if he really does not know, which proves that he is not qualified for the post of the Secretary. If he pretends not to know, then he is mendacious and, like Carrie LAM, he is also shedding crocodile tears. At the end of the day, they only wish to piggyback on the homicide case to surrender fugitive offenders to Mainland China, a task that has been deemed impossible in the past, by hurriedly passing the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") like cutting the Gordian knot.

President, why do we find such a legislative amendment unacceptable? Why are the people of Hong Kong so worried? The answer is very simple. I believe that in the past, at present and in a very distant future, the level of rule of law in Hong Kong has always been and will still be more advanced than that of Mainland China. Otherwise, why are people from the business sector in Hong Kong, including our colleagues present here, so frightened? Hong Kong's rule of law index ranks the 16<sup>th</sup> in the world this year but Mainland China ranks the 82<sup>nd</sup>, dropping two ranks from last year's. Under such circumstances, seeing that the Secretary lays the heads of Hong Kong people on the guillotine of the rule of law by submitting the Bill now, how can we not raise objection?

President, many colleagues have already refuted Secretary John LEE. To save time, I will just talk about other issues that I resent, issues that I must get them out of my chest. Do not repeat such comments as enabling justice to be done or not letting Hong Kong turn a blind eye to criminals running amok. There are actually many ways to handle the Taiwan homicide case. Some colleagues have pointed out that the Hong Kong authorities can negotiate a single extradition agreement with the Taiwan authorities but the Secretary has not done so. Some colleagues of this Council have personally visited the Mainland Affairs Council in Hong Kong to criticize the Hong Kong Government for failing to negotiate with Taiwan. The Secretary tried to remedy in March by submitting the Bill to this Council after finishing the legislative work but it does no help as Taiwan will no longer consider it. How does the Government enable justice to

be done? In respect of the Taiwan homicide case, there is nothing it can do now. Why does it still persist in going ahead with the amendment of the Ordinance? With its political motive already laid bare, the Government still argues by giving far-fetched reasons. Ms Starry LEE still defended the Secretary just now. What were they doing? How dare they talk black into white like that!

President, as pointed out by the Hong Kong Bar Association, there is another way to deal with the case, which is to amend the Criminal Jurisdiction Ordinance. Although the amended ordinance has no retrospective effect, it will do the job by taking both measures simultaneously. No one asks the Government to choose one only. All it needs to do is to negotiate with Taiwan for a single extradition agreement. As regards what to do in future, it can amend the Criminal Jurisdiction Ordinance. Why does the Government refuse to consider other options but choose an approach that cannot achieve the practical effect of surrendering the suspected offender of the Taiwan homicide to Taiwan but will give rise to many problems in the future? What is its reason for that?

President, some colleagues have explained why Hong Kong people are so worried. I believe people still shiver when recalling the Causeway Bay Books incident and the "shampoo boat" incident, and thinking about what the conditions of human rights and rule of law in the Mainland are like. How did the "709 Crackdown" in which a few hundred people were rounded up in one go happen? How did LIU Xiaobo end up? In what situation is WANG Quanzhang now? Do we want to see Hong Kong citizens being pinned labels arbitrarily, wrongly accused of violating a certain law and abducted to the Mainland? Can the courts of Hong Kong protect us from that? No. How can they protect us? All the courts can do is window dressing only. Have the Chinese authorities requested for the surrender of a fugitive offender? Has the Chief Executive activated the mechanism? Is the fugitive offender in Hong Kong? With all these three conditions satisfied, the surrender can go ahead.

Hong Kong has no jurisdiction over these. How do we know whether the accusation is true? Buddy, one must tell all the truth and stop cheating Hong Kong people by talking black into white. What Ms Starry LEE just said was outrageous and I must refute her. People like us are not frightened and we can be abducted in Hong Kong anytime. Haven't there been such incidents as people being abducted from Hong Kong to China before? They can abduct people in Hong Kong and such incidents have all been exposed. We are not frightened. It is the ordinary people, especially those from the business sector, who are

frightened. They are frightened to death and beg the authorities to exclude nine items of offences. They think they will be free from worries from then on.

Last week Secretary John LEE told this Council that it could not be done but why does he say it can be done this week? Why? Mr WU Chi-wai asked why just now. It is very simple. It is because those people are the electors of Carrie LAM. They belong to the privileged class as they are members of the Election Committee, people who have the right to elect a Chief Executive. That is the reason why. Some people in Hong Kong have more rights than others. How about the rest? Why has Ms Starry LEE not spoken for those Hong Kong people? Are they second class citizens, a lower class than Ms LEE's? The ordinances to be amended next will likely be those on bigamy, termination of pregnancy and gambling. What are Hong Kong people going to do then? Why has Ms LEE not spoken for those people?

President, there are endless things I wish to rail against. Finally, as a conclusion, I wish Secretary John LEE will stop before it is too late. Carrie LAM pretends to be merciful but is genuinely malicious. If Secretary John LEE truly wishes to do justice to Hong Kong people, he should not piggyback on this homicide. Members have already pointed out two ways to deal with it, that is, to negotiate a single extradition agreement and also amend the Criminal Jurisdiction Ordinance, which are sufficient to solve the problem of surrendering the offender in the homicide to Taiwan. I find it repulsive that the Secretary persists wilfully in going ahead with the legislative procedure and tell lies with open eyes. Even if the Bill is passed, I believe that he and Carrie LAM's betrayal of Hong Kong will be nailed to the "Pillar of Shame" in Hong Kong's history.

President, I so submit.

**MR HOLDEN CHOW** (in Cantonese): President, when we are dismayed by or displeased with the fact that justice has not been upheld for the Hong Kong girl in a murder case in Taiwan last year, when we lament the failure to undo the injustice done to the deceased over the one year or so, the suspect in this case can fear no wanted circular and face no legal sanctions. I am likewise infuriated. We do not hope that the murderer in this Taiwan homicide can escape the long arm of the law. Nor do we hope that in similar cases in any other places, the offender can escape the long arm of the law.

I have a question for Members who support Mr Alvin YEUNG's motion to shelve the amendment bill today. How can they have the heart to watch the victim's family members gazing at the sky and standing speechless and helpless? While claiming to be sympathetic, they had gone to Taiwan and abetted people there in opposing the Fugitive Offenders Ordinance. They are hypocritical. Who are piggybacking on this incident? As we can all clearly see, Members sitting in this Chamber who are prepared to support the motion to shelve the amendment bill today are exactly piggybacking on this incident.

President, I have made my explanation on various occasions. I have briefly explained that the most important point in this amendment exercise is that courts will serve as gatekeepers. I have reiterated that under the common law system of Hong Kong, courts serve as gatekeepers pursuant to existing laws of Hong Kong. The relevant offence shall not be political in nature. The request for surrender shall not be made by reason of a person's political opinions, race or religion. In addition, under existing laws of Hong Kong, many common law principles are upheld, including the rule against double jeopardy, the principle that the person to be surrendered shall not be re-surrendered to another jurisdiction, and the principle that the person to be surrendered will not be sentenced to death. Courts will certainly be able to properly play their role as gatekeepers.

I have heard opposition Members saying that a political offence could be packaged as a serious offence. Section 5(1) of the Fugitive Offenders Ordinance provides for such a scenario. Section 5(1) provides that if the request for surrender (though purporting to be made on account of a serious offence) is in fact made on account of another offence, the court will reject the request. We can thus see that the current legislation provides for this and offers protection. For this reason, I do not hope to see opposition Members constantly referring to the packaging of an offence. Some opposition Members have even said recently that under the judicial system of Hong Kong, judges or courts are basically ignorant or are unable to raise any queries as gatekeepers, and they can only accept all documents provided by the requesting party. I am dismayed by such sayings. How can opposition Members ignore the facts, speak against their conscience, attack our judicial system and humiliate our judicial system?

President, courts serve as gatekeepers under the common law. In fact, under the common law system, Western countries have dealt with numerous cases concerning surrender of fugitive offenders and handed down numerous judgments. Hong Kong courts are not the first to deal with cases concerning

surrender of fugitive offenders, and they can certainly make reference to judgments made by courts in other common law countries when dealing with such cases. There will thus be a high level of protection for human rights. President, since Hong Kong courts will start dealing with such cases at a later stage, we can even formulate higher gatekeeping standards for them. I believe that the court will certainly not approve the request for surrender if it suspects, albeit slightly, that there is violation of human rights or involvement of a political offence in any case.

President, why am I getting more infuriated? The reason is that my colleagues in this Chamber who oppose the amendment exercise have been constantly smearing or defaming people who have been handling this case. I have assisted family members of the victim in asking the Security Bureau about the progress of this case. I know that it is not easy to handle this case, and many people have made considerable efforts in this regard. Some say that the Government should have entered into a long-term agreement with Taiwan long ago. This should be the best approach. But we need to know that when two jurisdictions are to enter into an agreement, the process of negotiation will not be easy and will often last years. If this had been that simple, Hong Kong would not have only entered into long-term agreements with only 20 jurisdictions on surrender of fugitive offenders.

President, various sectors, including the industrial and commercial sectors, may have their concerns. The Democratic Alliance for the Betterment and Progress of Hong Kong has accompanied certain representatives of the commercial sector to the Security Bureau to raise their views. They are particularly concerned about items of offences involving taxation, environmental responsibility and bankruptcy. I have also noted that the Security Bureau has removed the relevant items of offences to allay their concerns in business operation. We have tried to balance the views of various sides. We hope to expeditiously finish the amendment exercise in this Council, so as to seriously seek justice for the victim's family members. I so submit.

**DR FERNANDO CHEUNG** (in Cantonese): President, the speeches of pro-establishment Members are really imaginative. If they think that Members of the Legislative Council of Hong Kong can influence Taiwan's stance on our current amendment or enactment of legislation, they are actually looking down on the Taiwan authorities.

Taiwan has its own independent thinking and sovereignty and it operates in its own way. It also has its own legal system and other systems which apply to the whole country and society. Therefore, there is no way that Members of the Legislative Council of Hong Kong can influence Taiwan. Carrie LAM, John LEE and royalists in this Chamber today are hypocritical. As the family members of the young female murder victim in this tragic case are heartbroken, every one of us in Hong Kong would wish to see the suspect being put to justice as soon as possible.

Yet, the Government should have negotiated and liaised with the Taiwan authorities long ago if it truly cares about this case. A year has passed since the murder, but why isn't there any concrete exchange of views or dialogue between the Government and Taiwan? What will Taiwan think? The Mainland Affairs Council ("MAC") of Taiwan has made it clear that Taiwan will never accept any acts which intend to eliminate its sovereignty. Moreover, MAC has said that the public in Taiwan are gravely concerned about the lack of protection for personal safety of Taiwanese people in Hong Kong after legislative amendment and that they may fall prey like LEE Ming-che in their future visits to Hong Kong. According to MAC, the Ministry of Justice is still waiting for Hong Kong to respond to Taiwan's request that the suspect of the Hong Kong woman's murder case be surrendered to Taiwan. MAC has, however, stressed that even if the surrender procedures can be invoked after legislative amendment, Taiwan will not accept the surrender in case the procedures go against the aforesaid principle. Taiwan has already stated its stance clearly, but the SAR Government continues to bulldoze its way through to do the impossible, i.e. the Government, though knowing the direction of the current legislative amendments, seeks to forcibly turn Taiwan into part of the People's Republic of China with the aim to eliminate the sovereignty of Taiwan. This move will not be accepted by Taiwan. The Government is clear that Taiwan will not accept the surrender in this situation but it insists on pushing through the legislative amendments and tells the world that the amendments are proposed for the sake of the murder case. How can the Government be so malicious? Its motive is condemnable.

Plugging loopholes is never the main purpose of the Government. Rather, it has exploited the murder case to remove the shield which protects Hong Kong and our human rights under "one country, two systems". We must not surrender any fugitive offender or suspect from Hong Kong to a jurisdiction where neither basic human rights nor the right to a fair trial is guaranteed. This is a fundamental principle enshrined in the Bill of Rights. Unfortunately, the Government now wants to destroy such protection.

Why didn't the two Ordinances in question cover the Mainland in 1997? The reason was simple: we had no trust in the Mainland's judicial system. Today, all of us in Hong Kong know that the judicial system of the Mainland is not comparable to that of Hong Kong. While suspects in the Mainland may openly confess to their crimes on television, be framed or be placed under house arrest, those who are under arrest can come out to deny rumours. A plethora of anomalies just keep coming up. Can we trust this system? No way.

As the Government is trying to destroy the shield, are the current legislative amendments truly proposed for the sake of the murder case in Taiwan? The answer is clearly in the negative. According to the Hong Kong Bar Association, the proposed legislative amendments, which will have substantial and widespread impacts, may undermine the protection of the rule of law, freedom and safety in Hong Kong. This point goes without saying.

Mr Holden CHOW kept saying that everything would just be fine as the court would act as the gatekeeper. Yet, as advised by Billy LI, Convenor of the Progressive Lawyers Group, the court can only rely on the prima facie evidence provided by the requesting jurisdiction to decide whether the surrender request should be allowed, without considering whether there is a fair trial system in the requesting jurisdiction to adequately protect the rights of the suspect. This point is clear. How can the court be a gatekeeper when it does not have the power to consider the system of the requesting jurisdiction? As long as the act concerned is an offence in both the requesting and requested jurisdictions ... the Government has, however, removed nine items of commercial offences from the 46 items of offences to do the business sector an obvious favour. At the same time, it puts Hong Kong people and even transit travellers at risk.

**MR LAM CHEUK-TING** (in Cantonese): President, speaking of the murder case in Taiwan, everyone in Hong Kong feels as sad as the victim's family and hopes that justice will soon be done to the victim. But how can justice be done? I dare to tell all members of the public that the answer lies definitely not in the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") proposed by the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB"), the pro-establishment camp, the Security Bureau or the Hong Kong Government. This point of view does not come from my imagination or assessment. Instead, it comes from the fact that the Taiwan Government has said a clear "no" to the arrangements under which the jurisdiction of Taiwan will be considered as part of China owing to the

"one China" principle. In other words, even if the Bill, which is supported by DAB and the pledge of Mr Holden CHOW, is passed, there is a high chance that the suspect cannot be surrendered to Taiwan.

Mr Holden CHOW also alleged that democrats had instigated the Taiwan Government to oppose such arrangements during our visit to Taiwan. Was that true? The Taiwan Government is an elected government. Mr Holden CHOW, please think about this: Were you instigated by LEUNG Chun-ying to help him interfere with the investigation of the Legislative Council? Aren't you a brainless puppet who will just dance to the tune of others? Please review what you have done in the Legislative Council before accusing us of hitting and insulting Hong Kong's judicial system by raising doubts over the gate-keeping role of the court. You have completely destroyed the mechanism for the Legislative Council to monitor the Executive Authorities. Yet you dare to speak like that. Shame on you!

President, if it is the wish of the Government to surrender the murder suspect, the simplest and most straightforward approach will be to negotiate with the Taiwan authorities an agreement on the surrender of that fugitive. However, the Government has not done so. Instead, it takes a broad-brush approach to allow the surrender of fugitive offenders to the Mainland, which is notorious for its poor human right records. That is putting the cart before the horse. At the end of the day, the Government will not be able to surrender the fugitive to Taiwan but will surrender Hong Kong people to the Mainland for trial. The Government has a hidden agenda. It does not mean to surrender the fugitive of this murder case to Taiwan. Instead, it wants to open the floodgates of Hong Kong's rule of law for the Mainland's legal system to have influence over Hong Kong, which will end up posing threats to everyone in Hong Kong

A basic concept in human rights is that a jurisdiction, if comparatively legally sound, should not surrender a suspect to a jurisdiction with no rule of law and poor human rights records. This is because the suspect, after reaching the jurisdiction with poor human rights records, may have his human rights infringed without getting a fair trial. He will not be protected by an independent judicial system either. In this situation, there should not be a surrender of suspect if the universal basic values dictate. Years after the handover, there is so far no channel for Hong Kong to surrender fugitive offenders to the Mainland. The reason lies squarely on the terrifying human rights situation, judicial and legal problems in the Mainland.



President, Mr Holden CHOW also argued that a number of safeguards, including the political offence bar, the rule against double jeopardy and the protection against death penalty, would then be available to the court. Being a lawyer, he clearly knows that surrender hearings are different from formal trials. Once the requested jurisdiction has provided sufficient information and evidence to support its surrender request, the court will not go beyond its duties to look into the case in detail, ask for submissions from both the prosecution and the defence sides or cross-examine witnesses. All these are well-known to him as a lawyer, but he speaks against his conscience. If the requested suspect asks the court to turn down the surrender request on the grounds of poor human rights conditions in the requested jurisdiction, the court will only say that this is out of its purview in the handling of surrender requests. Given that the Government has already signed an agreement on the surrender of fugitive offenders with the jurisdiction concerned, do you think our local court will go thoroughly into the judicial records of the court in the requested jurisdiction?

President, we understand that for an offence punishable with death penalty, the suspect may not be surrendered. However, the Mainland does not have to make a surrender request by relating it to an offence of this type. LIU Xiaobo had never been sentenced to death before he died in jail. All Hong Kong people know too well how the judicial system of the Mainland goes.

(Mr Jeremy TAM stood next to the seat of Mr Alvin YEUNG to speak with him)

**PRESIDENT** (in Cantonese): Mr Jeremy TAM, if you wish to speak with Mr Alvin YEUNG, please go outside to have your discussion.

(Mr Jeremy TAM returned to his own seat)

**MR AU NOK-HIN** (in Cantonese): As I pointed out in an earlier oral question, the so-called case-based surrender is something "invented" by the Government. So, Secretary John LEE, please stop saying that the legislative amendments will differentiate the two surrender arrangements. While the Government has named something non-existent as "case-based surrender" to cover up the truth, its lie is exposed by former Member Dr Margaret NG. Today, as the Secretary and the Chief Executive are still obsessed with their own arguments, the Secretary has no choice but to make a self-contradictory remark—Honourable colleagues may

recall—in his main reply to the oral question that "there has been no case-based surrender arrangement activated in the past 21 years". I wish to ask officers of the Security Bureau why they dare not put this remark into the brief of the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") to be gazetted?

Just now, Mr James TO said that the Secretary had been a policeman for a lifetime, but I beg to differ. Recently, the Secretary has become a salesman, although he is selling policies as if he were pointing a gun at members of the public and businessmen, giving them no alternatives but to accept the legislative amendments. Mr TO, I must however say that the Secretary, being the policy salesman, is selling too aggressively. I have carefully observed the arguments of the Secretary in selling the Bill over the past few months, and I am increasingly convinced that case-based surrender is a new mechanism tailor-made by the SAR Government for the Chinese Government. This mechanism eventually becomes the "extradition arrangement permitting Hong Kong to surrender fugitive offenders to Mainland China" stated in today's motion.

Why do I say so? After listening to Mr TO, who just quoted a research article entitled "An Analysis of Legal Obstacles and Strategies for the Mainland and Hong Kong to Cooperate on the Surrender of Fugitive Offenders" published by the China Criminal Justice in 2011, I rushed to read this article. It was pointed out in the article that "the establishment of a criminal cooperation mechanism for surrendering fugitive offenders has become a pressing task for the judicial authorities of both the Mainland and Hong Kong". What has to be done under this "pressing task"? The "differences in the standards of and procedures for examining surrender requests" are one of the items to be addressed. I quote, "The mechanism established under the Fugitive Offenders Ordinance of Hong Kong is a stringent double-examination mechanism in line with international practices ... comparatively speaking, the standards and procedures that Hong Kong has adopted for examining extradition requests from overseas countries are relatively stringent and cumbersome ... while the extradition agreements signed between the Mainland and overseas countries tend to adopt the zero-evidence standard."

The article also remarked that the procedures for examining surrender requests should be streamlined. In other words, "The judicial authorities of the two places will only be required to conduct an examination in the form for a surrender request, i.e. during the examination, the authorities will only have to

look into the surrender request and check whether supporting documents are provided as required by the agreement, without examining in substance the crimes involved in the request. Therefore, the requesting party will not be required to provide indispensable or prima facie evidence to show corpus delicti." Secretary John LEE, is that the mechanism that you want to establish?

The Mainland and Hong Kong held four expert meetings in 2000, but their negotiations over the arrangements for surrendering fugitive offenders in the past 20 years or so have never been fruitful and do not seem to offer any hope for a satisfactory agreement in future, given that there are concerns about the differences in the judicial systems of the two places. Now, the Security Bureau is "playing smart" by introducing the Bill, forgetting about the past negotiations and concerns. It will then open the floodgates for extradition between the Mainland and Hong Kong, streamlining the procedures for surrendering fugitive offenders as suggested by the aforesaid article.

Yet, I have to point out to all members of the public in Hong Kong that while on the surface of it, Secretary John LEE is working hard to sell the Bill, there is another important figure in the introduction of the Bill, i.e. the Secretary for Justice. She has hidden behind the scene and never showed up. This is the organization chart of the Department of Justice which indicates the existence of the International Law Division. Under this Division, there is the Mutual Legal Assistance Unit, which is divided into two teams, with the first one being responsible for handling the surrender of fugitive offenders and the other mainly for the transfer of sentenced persons. Where has the Mutual Legal Assistance Unit gone? None of its officers has ever come up to explain the relevant arrangements.

Last week, Michael BLANCHFLOWER, SC, former public prosecutor of the Department of Justice, had an interview with *South China Morning Post*. He could speak sensibly perhaps because he had left the bureaucracy. According to BLANCHFLOWER, the current legislative amendments are highly problematic because none of the 37 countries which have signed extradition agreements with China practises common law. The objective effect of the legislative amendments is that suspects in Hong Kong may then be surrendered to places in lack of legal protection. However, today, Secretary John LEE claims that he is sure the legislative amendments will not affect any long-term agreements on surrender of fugitive offender of which Hong Kong is a signing party. How can he be so sure? Did he ask all the 32 jurisdictions concerned before saying that

such agreements would not be affected? If not, he should not comment as such to mislead the public and the international community.

The remarks of Mr Holden CHOW were even more ridiculous. He said that everything would just be fine as the court in Hong Kong would act as the gatekeeper. He should first take a look at the Mainland's legal system. LI Fei stated in *A Guide to the Legal System under Socialism with Chinese Characteristics* that "China implements a system under which the enforcement of the Constitution is supervised by the power organ of the State", and the highest state organ is the Standing Committee of the National People's Congress. In view of this, how could Mr Holden CHOW give such a comment on the system issue?

As officers of the Security Bureau may now be listening to the debate, I will go to great lengths to describe what they have done in my remaining speaking time. After the Panel meeting on 15 February, I wrote to the Security Bureau to raise nine questions. As the so-called consultation would end on 4 March, my colleagues had called the Bureau repeatedly to urge for its response. But which questions had the Bureau responded to? It only gave me a reply of 47 words. It was not until this morning—which is the end of March—that the Bureau responded to my questions but the drafting of the Bill is already done. What is the use of having this response? It comes far too late. Since the Secretary has refused to give a written response, we will certainly urge for an answer in the Bills Committee.

**DR HELENA WONG** (in Cantonese): President, a Hong Kong man suspected of killing a Hong Kong woman in Taiwan in 2018 has absconded back to Hong Kong. For this case, the Democratic Party certainly has sympathy for the victim's family and hopes that the Government will help them deal with the surrender issue. Indeed, the Taiwan authorities, which look forward to Hong Kong's extradition arrangement for this suspect, have contacted the SAR Government several times, but are yet to receive positive response from Hong Kong. Now, the Government is taking a move. However, rather than solving the case, the Government is exploiting it to "rock the world". The Secretary for Security currently proposes to amend the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance in order to handle requests for the surrender of fugitive offenders or suspects from places such as Mainland China, Taiwan and Macao where no mutual legal assistance agreement

has been signed with the Hong Kong SAR Government. The Democratic Party strongly opposes this proposal and supports Mr Alvin YEUNG's original motion and Mr James TO's amendment.

In today's debate, both the pro-establishment camp and the Government claim that the reasons for the Government to propose these legislative amendments are to, first, remove loopholes and, second, do justice. While these two reasons may sound nice and the legislative amendments thus seem desirable, we should give a second thought. First of all, according to Secretary John LEE, the legislative amendments are meant to remove loopholes and ensure public safety. Yet, some Members have already expressed doubts as to whether loopholes do exist in the existing Ordinances. When we say that there are loopholes in an ordinance, we mean there are defects which need to be rectified. This is what we call "removing loopholes". However, the Government and the Secretary now seem to be acting blindly. Even so, they still have many blind supporters. For example, Members from the Democratic Alliance for the Betterment and Progress of Hong Kong have parroted the view of the Government to say that the legislative amendments are meant to remove loopholes.

Just now, Mr LAM Cheuk-ting criticized the Government and Members in support of the proposed legislative amendments for being brainless. He was actually right to say so. Many Members from the business sector have become "smarter" this time. Are there really loopholes in the existing Ordinances? In fact, the loopholes that they claim to exist today are non-existent but are fabricated deliberately and groundlessly. The aforesaid Ordinances were passed in 1997 to give protection to Hong Kong people under "one country, two systems" and the so-called loopholes are hence a kind of protection. On this point, former Member Dr Margaret NG has repeatedly reminded people that they have mistaken something good as bad and proposed such legislative amendments carelessly. The current move of the Government, as well as the royalists' blind support to the Government, is actually the very thing which compromises "one country, two systems".

The legislative intent back then was to reassure Hong Kong people so that they would not have to worry about what would happen after 1997 despite the differences in legal system between the Mainland and Hong Kong. For instance, there is death penalty in the Mainland but not in Hong Kong. Judicial independence, to a certain extent, exists in Hong Kong but not in the Mainland. Please imagine: If the Mainland has developed in a different way over the past

two decades and has hence established an independent judiciary, abolished death penalty and provided fair trials, with its government respecting human rights highly and granting its people democracy and freedom so that China has now become a democratic country which respects the rule of law, we will certainly be more than happy. If that had been the case for China, universal suffrage would have come true in Hong Kong. Regrettably, that is not the reality. What has China achieved over the past two decades? China is still under the one-party rule of the Communist Party of China ("CPC"), with its court under the control of CPC. Is there judicial independence in China? Secretary John LEE, I don't think so.

Therefore, the Government should not rush into making such a significant change by exploiting the murder case in Taiwan. The Government is removing not the loopholes but the protection now available to Hong Kong people, transit travellers and non-Hong Kong residents staying in Hong Kong. The Government will open the floodgates for the surrender of people in Hong Kong to the Mainland. As for Taiwan, they do not feel right after consideration either. In spite of their wish to solve the murder case, they cannot put Taiwanese visitors in Hong Kong at risk as their visitors may then be surrendered to the Mainland by the Hong Kong Government in an unknown manner.

So, please don't say that we do not care about or have no sympathy for the victim's family. We very much hope that Taiwan can solve the case and that the Government will liaise with the Taiwan authorities. However, we will not break or dig open the barricade which is in desperate need of protection under "one country, two systems". The Government is actually creating the biggest loophole with its proposed legislative amendments, digging a hole on the barricade of "one country, two systems" for people in Hong Kong to be surrendered to the Mainland at any time. Can the court act as the gatekeeper to safeguard the rights of Hong Kong people? I don't think so. I am not saying that the court is unjust. I am only saying that the court is required to faithfully enforce the laws enacted by the Legislative Council. If it is provided in the Ordinances that the requested persons can be extradited to the Mainland, all the court can do is to examine the relevant evidence. As long as the court is satisfied that there is sufficient evidence, it will have to allow the surrender request. Although some Members have argued that the Chief Executive will also act as a gatekeeper, I do not think there will be anyone believing that Carrie LAM dares to say no to the Central Government on the grounds that the requested offender may not be given a fair trial in the Mainland.

We will not support the legislative amendments proposed by Secretary John LEE unless there are judicial independence, human rights, democracy and freedom in China. In other words, we may support his proposals only if the gap between the legal systems in the Mainland and Hong Kong is drawn closer. For the time being, we will firmly object to his proposals.

**MR JEFFREY LAM** (in Cantonese): President, the SAR Government's proposal to amend the Fugitive Offenders Ordinance ("the Ordinance") has indeed aroused widespread discussion and concerns among various sectors of the community. First, I would hereby make it clear that the Business and Professionals Alliance for Hong Kong ("BPA") endorses removing legal loopholes by means of legislative amendments. In our view, the coverage of 46 items of offences originally proposed by the Government has been too extensive and some areas have been ambiguous. Furthermore, a number of provisions involve some commercial laws and regulations. Not only are the industrial and commercial sectors worried that they may fall into traps mistakenly and breach the laws inadvertently, the general public may possibly fall into traps in their daily life as well. Therefore, to allay the concerns of the community, we have repeatedly communicated with the Security Bureau and urged the Government to remove some offences against commercial laws and regulations which are not very serious.

We welcome the Government's decisive move to announce the removal of nine most controversial items of offences yesterday. I also believe that the amendments will significantly allay public concerns.

President, many removed items are related to commercial laws and regulations. Some people have questioned whether the business sector has privileges, and whether the Government has offered favourable treatment to the business sector. I consider such claims to be unfair because the nine items of offences removed will affect not only the business sector and the employees working in commercial organizations, but also the general public.

For example, item 11 "Offences against the law relating to companies offences", not only will company bosses and directors be involved, the relevant executives may fall into traps as well. Another example is item 12 "Offences relating to securities and futures trading". Under this item, both buyers and sellers may be held liable. While sellers can be securities firms, brokers or firm

owners, buyers can be any member of the public. In respect of item 21 "Offences against the law relating to environmental pollution or protection of public health", many people may breach it unknowingly. Item 35 "Offences involving the unlawful use of computers" is even more closely related to the daily life of the public. When it comes to the use of computers, anyone can possibly get implicated nowadays.

President, I would therefore stress that we are definitely not asking the Government to give merchants favourable treatment; nor are we striving for privileges for the business sector. We are just asking for the removal of items of offences against commercial laws and regulations which are too broad in scope, ambiguous and not too serious, so as to provide safeguards for merchants and even various sectors of community in future.

President, as the representative of the Hong Kong General Chamber of Commerce ("HKGCC") in the Legislative Council and the Vice Chairman of BPA, I have met and communicated with the Secretary for Security on a number of occasions to clearly express our views and suggestions on the amendments to the Ordinance.

HKGCC's position has been very clear. It hopes that the authorities can carefully scrutinize each and every item of offences covered by the Ordinance, with particular emphasis on commercial and economic offences, and revise their seriousness, definitions and standards. For example, requests for surrender of fugitives shall only be initiated in the event of a relatively large amount involved in commercial and economic offences so as to allay the concerns of the business sector.

We have also recommended that future requests for surrender be made by the highest-level local judicial authorities of the requesting jurisdiction. For example, requests by the Mainland Government to the SAR Government for the surrender of fugitive offenders should be cleared by such central authorities as the Supreme People's Court in advance.

President, I understand that the Chief Executive and the Security Bureau deeply feel the pain over the killing of the Hong Kong teenage girl in Taiwan. They strongly hope to remove the legal loopholes by means of legislative amendments in order to bring the person involved to justice. However, to this end, it is not necessary to tackle all offences in one go. We may set priorities to



tackle some serious crimes first, such as murder, arson, kidnapping, drug trafficking, robbery, etc., before proceeding to discuss some controversial offences. Although the Government has taken our view on board by removing nine items of offences, we still notice some ambiguities in the remaining 37 items of offences, including offences against the law relating to "trust" in item 15. We hope that the Government will further explain and examine if there is any room of improvement later.

We cannot support the original motion of Mr Alvin YEUNG because we disagree with those Members who oppose everything related to the Mainland and view the Mainland judicial system from a biased perspective.

President, I so submit.

**MR TOMMY CHEUNG** (in Cantonese): President, the Government proposes a case-based arrangement for the surrender of suspects, and the business sector has expressed grave concern about 10-odd items of offences contained in the 46 items of offences set out in the list of extraditable offences. As the political party representing the business sector and the middle class, the Liberal Party is obliged to truthfully reflect the problems therein to the Administration and hopes that the Government can clearly explain to the business sector direct.

It can be said that we are the first business representatives to put forward the relevant views to the Government, which responded very positively. Over the past few weeks, the Liberal Party has met frequently and conducted in-depth discussions with the relevant government officials. The Secretary for Security sometimes responded to our questions within the same day. The Liberal Party has presented a lot of opinions, including a proposal to exempt or defer the implementation of more than 10 business-related items of offences from the list of extraditable offences. We have also put forward proposals in respect of the retrospective period, hoping that the legislation providing for the case-based surrender arrangements will not apply to offences committed before it comes into effect.

Furthermore, we propose to raise the threshold for the surrender arrangements from summary offences triable in the Magistrates' Courts, that is, offences punishable with imprisonment for one year under the existing law, to indictable offences triable in the District Courts. Also, we suggest that the

surrender procedures can only be activated after the issuance of arrest warrants by the Procuratorate or courts at the central level. In addition, we also propose that certain administrative measures must be taken after the surrender. The Secretary for Security has taken heed of our advice and undertakes to relay it to the Central Government.

Of course, the Administration has its own perspective and considerations and will not take on board all the opinions from the business sector. However, it has somehow accepted most of them and this shows the Administration's sincerity and willingness to listen. As to whether the concerns of the business sector have been fully addressed, I believe the answer is surely in the negative and the Liberal Party still needs to explain to and consult different industries to understand their intentions.

The Liberal Party must reiterate that this does not represent our disagreement with the Government's amendment to the Fugitive Offenders Ordinance ("the Ordinance"), because we understand that it is our responsibility to extradite fugitive offenders of serious crimes. As a matter of fact, the present legislative amendment does not target at the Mainland, Macao or Taiwan. Instead, it targets at the international community, and involves any country with which Hong Kong has not entered into long-term arrangement for the surrender of fugitive offenders. What is more, the two pieces of existing legislation on mutual legal assistance in criminal matters and the surrender of fugitive offenders provide that they are not applicable to any arrangement between Hong Kong and other parts of China. Hence, Hong Kong is not allowed to deal with a case that shocked Hong Kong and Taiwan in February last year, where a Hong Kong man returned to Hong Kong after allegedly killing his Hong Kong girlfriend in Taiwan. This case has highlighted the shortcomings and deficiencies of our legislation in this respect.

Therefore, we agree in principle on the need to plug the existing legal loopholes, particularly serious crimes such as murder and arson. There is no reason for Hong Kong to let such criminals go unpunished by taking advantage of our loopholes and escape from the legal sanctions they deserve.

In fact, the business sector understands the purpose of the Government's present legislative amendment. It is not because they do not trust the judicial system of the Mainland, but differences do exist between the judicial systems of the Mainland and Hong Kong and the enforcement of law in different parts of the

Mainland also varies. It should be noted that in the past 40 years of reform and opening up of China, Guangdong Province has been the vanguard of reform and engaged in extensive development. Given that the local governments adopted the "early and pilot measures", the rules and regulations enforced by various monitoring authorities of different regions and even within the same region may be different, and there are often inconsistencies and even contradictions. It is thus understandable that the business sector is concerned about the introduction of arrangements for the surrender of fugitive offenders under such circumstances.

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

Over the past few weeks, the Liberal Party and the Government have devoted a lot of time on discussions. Both sought to address each other's concerns by all means and proactively explore improvement measures so that Hong Kong people can confidently accept the role of the courts as a gatekeeper in the arrangements for the surrender of suspects. Therefore, I do not see the need to shelve the amendment legislation. Members who do not like it might as well raise objection or propose amendments when it is tabled to the Legislative Council, rather than putting it on hold.

Deputy President, as I still have some time, I would like to raise one more point. Three weeks ago, I thought this was a piece of legislation that, on a rare occasion, I found so strange and hard to understand after 19 years as a Member of the Legislative Council. Over the past few weeks, I have spent a lot of time trying to learn the Ordinance, but still, I believe I have yet to fully comprehend it. Perhaps colleagues are smarter than I am, they find it very easy to understand. Therefore, I understand why some people with ulterior motives took advantage of the complexity of this piece of legislation—it is very difficult for me as a Member who is not coming from the legal profession to understand. But supposedly, I should understand better than other people—and spoke in a roundabout way, or caused confusion and panic.

Over the past few weeks, I have been telling the Secretary that apart from him, we as Members who support this amendment legislation are also obliged to explain to the industry whether it is true, as pan-democratic colleagues have said, that the Administration has undertaken to perform a task even though it cannot be accomplished. Their remarks sound so plausible. Therefore, I think we should

all step up our effort, and the Government and the Secretary, in particular, should make more explanations in this regard. Over the past few weeks, I observe that the Secretary has given explanation with great sincerity and patience. I hope that the Secretary can continue his work in this regard.

**DR CHENG CHUNG-TAI** (in Cantonese): Deputy President, the speech made by Mr Tommy CHEUNG just now is pretty interesting. He said that when the Government announced its amendments to the Fugitive Offenders Ordinance ("the Ordinance"), there were many areas that he failed to understand and he found the Ordinance pretty difficult to comprehend. In fact, I believe when the Government presented the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill"), even the business sector or people with a clear mind could not help but ask: What was really in the mind of the Government?

It is obvious that the Government could have dealt with the homicide case in Taiwan in other ways, but why did it include in one go all the 46 items of offences in the Bill at the outset and build a door between Hong Kong and Mainland China? This is nonetheless a "swing door" that allows China to open the door at any time to arrest people. Yesterday, to address the concerns of the business sector, the Government removed nine items of offences. I have no intention to severely criticize people from the business sector, but with regard to the reaction of the general public, I can only cite the saying of Mencius and describe them as being rich but heartless.

Over the past few decades, it is known to all that Hong Kong people have all along criticized and expressed grave dissatisfaction with property developers and consortia, otherwise LEUNG Chun-ying would not have been able to take advantage of populism and gain the so-called popular support in the wave against the hegemony of property developers back then. However, today, in respect of this Bill which deals a direct blow to Hong Kong's legal system, that is, the common law, we have never expected that the Government would grant exemptions to certain items of offences for the privileged class, namely the rich or the business sector. Some Members just now said that offences such as murders and arsons must certainly be dealt with, but actually commercial crimes can also cause great damage. So why was exemption granted to those nine items of offences only? This is the first point.

Secondly, we have to ask a fundamental question about the nine items of offences being exempted, and I hope that the Security Bureau will give a formal response. I am asking this question on behalf of my friends in the business community. Let me reiterate that I am asking this question on behalf of my friends in the business community. If a Hong Kong resident was transferred to the Mainland by the Government for a relatively minor criminal offence, and while in the Mainland, he was charged with an offence related to the nine items of commercial offences, would the Government take the suspect back by then? The Government will please answer this question. Is there any mechanism to take the suspect back?

I can tell Members that this is precisely why we are so worried, and the issue concerned is relatively sensitive. I have listened to Members' speeches for the whole afternoon, but no one has mentioned a case that we all found mysterious. It is the case of GUI Minhai. I wonder if Members still recall that two years ago, after GUI Minhai disappeared from Hong Kong, he suddenly made a representation, stating that he was arrested and tried in the Mainland for he knocked down someone in a traffic accident in Ningbo 11 years ago. I would like to tell Members that the proposed extraditable offences include wounding and also offences punishable with imprisonment for more than three years. In Hong Kong, traffic accidents causing serious injuries are liable to a maximum fine of \$21,000 and up to three years' imprisonment.

Are people in the business community not worried about the possibility of being caught by the Mainland authorities for a traffic accident that happened more than 10 years ago, and then additionally charged with a commercial crime? May I ask if the Security Bureau really thinks that people in the business community are "too simple, always naive"? Members should not be so childish and naïve. The question is not whether the courts of Hong Kong can play the gatekeeping role, but the fact that the Government, the courts and the judicial system of Hong Kong can no longer protect the human rights of a suspect after he is transferred to the Mainland. This is where our concern lies.

Why did the business community react so strongly in the first place? To me, the proposed amendment in the Bill to include 46 items of offences into the list of extraditable offences would make everyone perish together, but the removal of the nine items of offences obviously attains a political effect. Honestly, who has not broken the law when doing business in the Mainland? It

is impossible to make money without breaking the law, and this is common sense. Over the past few years, there has been a phenomenon in Hong Kong's political situation. It is not only that the opposition camp has led Hong Kong people to go more and more extreme, but some members of the pro-establishment camp have failed to act in unison in support of the position of the Central Authorities, or there has been a distinction in the strength of different political parties and groupings. Their concerns are, in the eyes of the Hong Kong community or Members, blatantly clear. They are concerned that if the "swing door" of Hong Kong is opened across the board, then anyone can be arrested and surrendered to the Mainland. Will any member of the pro-establishment camp prefer to be seen as a yellow-ribbon supporter? Will John TSANG feel worried? Their reaction has shown Hong Kong people that they are concerned simply because their personal interests might be undermined if their words and deeds in Hong Kong do not fully tally with that of the Central Authorities, they are thus forced to come forward to demand the exemption of certain commercial crimes. Therefore, when facing these people, I can only say to them that at this moment in time, they stop being rich but heartless.

Last but not least, there is still a little time left, I also hope that Hong Kong people will reflect on themselves. I do not want to spend time discussing the meaning of "righteousness". And yet, in the face of the difference between small and great righteousness, Hong Kong's general public have still clung to the mentality instilled in them by TVB. They do not have the slightest ability in abstract reasoning, nor can they analyse from a broader or macro perspective. Bad guys have to be executed for breaking the law, as was the case decades ago. This is what happened in the cases of LI Yuhui and CHEUNG Tze-keung, and that was the public opinion back then. A more exaggerated example is that, in the case of the murder of five persons in Telford Gardens, as Members may recall, LI Yuhui was arrested and tried in the Mainland. Since the Hong Kong Government did not see any need to surrender LI to Hong Kong, he was thus executed in the Mainland and this was welcomed by the local community back then. *(The buzzer sounded)* ... Today, 20 years later, the local community has remained unchanged.

**DEPUTY PRESIDENT** (in Cantonese): Dr CHENG, your speaking time is up, please stop speaking.

**MR CHAN HAK-KAN** (in Cantonese): Deputy President, the Government's current proposal to amend the Fugitive Offenders Ordinance originated from a homicide case in Taiwan. The Government has stressed on many occasions that it does not wish to adopt a piecemeal approach, but intends to establish a legal framework so that a mechanism is established for surrendering fugitive offenders to jurisdictions which have yet to enter into long-term agreements with Hong Kong on surrender of fugitive offenders. Thus, this discussion is not merely related to the homicide case in Taiwan, but also how to make arrangement with countries which have not entered into long-term agreements with Hong Kong on surrender of fugitive offenders. If Members suggest in this Chamber today that the amendment exercise only targets at the Taiwan case and amendments will be made in the future where necessary, they are obviously proposing a piecemeal approach. Besides, it will also be a waste of time because amending the laws again requires a lot of effort and time, as in the case of this exercise. Suppose there is water leakage in your flat, you will not only fix the spot that leaks water, but also all other spots that may have leakage problem at the same time. Thus, we cannot restrict the scope of legislative amendment to only deal with the Taiwan case, as the pan-democrats have suggested.

Second, a Member asked must Hong Kong accede to any request for surrender made by any country or place. In fact, we have discussed this point many times before. The actual surrender of a fugitive offender has to go through many legal procedures which will certainly involve our Judiciary, i.e. the courts. Another Member then suggested that the Government has shifted the political pressure onto the courts; or if "Grandpa" made a request, approval would surely be given by the court. This view seems to run counter to the remarks made by the pan-democrats all along that they have great confidence in our courts, in our judicial system and in our judges. How come their remarks today differ vastly from what they said in the past?

However, I have great confidence in our judicial system and in our judges. If a judge considers that surrendering a fugitive offender may subject him to unfair or cruel treatment, the court will not approve the request. Do we have such examples in Hong Kong? There are many such examples, and the case of bogus refugees is a good illustration. If our courts arbitrarily repatriate refugees, Deputy President, we would not have more than 100 000 bogus refugees walking on the streets now. If the courts have not acted as cautious gatekeepers, can those people continue to stay in Hong Kong for as long as 10 years? No. Thus, I have great confidence that the courts of Hong Kong will perform the

gatekeeping role stringently. The views expressed by the pan-democrats show that they have ignored the independence of the courts and the fact that the courts will act as stringent gatekeepers.

A Member asked earlier whether, after the amendment of the laws, Hong Kong has to accede to the surrender request made by a country with very low ranking in human rights. The answer is certainly in the negative. If a country with very low ranking in human rights requests Hong Kong to surrender a fugitive offender, the request has to be processed according to the procedures under the judicial system of Hong Kong. In fact, this rationale is very simple and this pan-democratic Member with a legal background should have a better understanding than me. I do not understand why he has not mentioned this point at all and has only cited a very extreme example to scare Hong Kong people.

Another pan-democratic Member is of the view that since the system of the Mainland is different from that of Hong Kong, if we amend the laws today, "one country, two systems" will be ruined. If this argument is substantiated, the pan-democrats are actually saying that our courts cannot perform a gatekeeping role and they are actually assuming that our judicial system is no longer independent. Dr KWOK Ka-ki said earlier that if a court of the Central Authorities requests a Hong Kong court to surrender a fugitive offender, the latter will have no choice but to comply. That is obviously not true and the argument does not hold water.

Another point raised by a pan-democratic Member is that since our systems are different, arrangement cannot be made for us to surrender fugitive offenders. Nevertheless, the systems in many societies and countries in the world are different from those of Hong Kong, can we not surrender fugitive offenders then?

Thus, I think many arguments of the pan-democrats are fallacious and they may mislead Hong Kong people and foreigners. If a Hong Kong court rules that a person is not suitable to be surrendered to another place, even the Chief Executive cannot force the court to surrender the person in question.

Dr CHENG Chung-tai queried whether the Government's sudden removal of 9 items of offences out of the 46 items was due to the fact that the business sector has a louder say and that the sector has no confidence in our courts. My understanding is that the Government has never said that the 46 items of offence have to be incorporated into the legal framework. In fact, when



Hong Kong entered into agreements with other countries, we do not necessarily include all of the 46 items of offences. As the community has objections or reservations about the 9 items of offences, the Government's removal of these items has responded to the demands of the public and the community.

Deputy President, lastly, I would like to say that it will be unjust not to establish a framework on surrender of fugitive offenders, and it will also be unjust to arbitrarily surrender fugitive offenders. The problem currently encountered by the Government is how to strike a balance between the two and let the courts and the Chief Executive act as gatekeepers, so that justice can be manifested. I think this is a reasonable approach. Thus, I oppose the original motion and the two amendments.

Thank you, Deputy President.

**MR TONY TSE** (in Cantonese): Deputy President, the homicide in Taiwan last year, in which the victim was a pregnant young woman from Hong Kong, highlighted the problem that there is no agreement on the surrender of fugitive offenders ("SFO") between Hong Kong and a number of jurisdictions that Hong Kong has close ties with, including Taiwan.

To plug this loophole, the Hong Kong Government proposes to amend the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance, allowing Hong Kong to make SFO arrangements in a case-based manner with jurisdictions such as Taiwan and the Mainland which have not entered into long-term SFO agreements with Hong Kong. The purpose is to do justice to victims of serious crimes and their families, and to administer severe punishment to offenders of serious crimes.

Hong Kong is renowned for its independent, fair and highly transparent legal and judicial systems, which also constitute the cornerstone of Hong Kong's success. The people of Hong Kong respect the rule of law and uphold the law-abiding spirit. They understand that they have to take responsibility for their own actions and when they are in other places outside Hong Kong, they also have to respect the local law. They should not count on luck, thinking that if they break the law or commit crimes abroad, they need not bear any consequences once they return to Hong Kong.

The present Fugitive Offenders Ordinance and the Hong Kong Government's proposed legislative amendments provide great protection to human rights and judicial procedure. For example, a surrender procedure will be activated only for actions that both places recognize as offences, political offenders shall not be extradited, and so on. The Executive Authorities only have the power to activate the relevant procedure. As regards whether the Police can arrest, detain and eventually extradite an offender, each step is regulated by the court independently. During the process, a suspect has the right to appeal, file for judicial review, apply for habeas corpus, engage lawyers or apply for legal aid. Hence, we should not oppose the amendments in principle.

However, owing to the different legal and judicial systems of the Mainland and Hong Kong, coupled with the white terror incessantly created by the opposition camp in Hong Kong and even in the international community, the legislative amendment proposal has been demonized. The opposition camp claims that once the amended legislation takes effect, Hong Kong people will lose their human rights, freedom and judicial protection; Hong Kong residents and even visitors from Taiwan or overseas countries to Hong Kong may arbitrarily be extradited to the Mainland for trial, resulting in suspicion and worries among some Hong Kong people and even people from overseas. However, we must ask if Hong Kong's judicial system is so fragile that can be crushed so easily.

In the initial stage of reform and opening up of the Mainland, the legal and taxation systems therein were not well developed, the law enforcement and vetting systems were immature, and the regulation on intellectual property rights and environmental protection had yet to be established. Hence, people who returned to the Mainland for investment or business worry whether they would be held responsible for some of their acts conducted one or two decades ago and be extradited to the Mainland after the amended legislation takes effect. Hence, there are suggestions to exclude certain items of less serious commercial or economic offences from the list of extraditable offences. They have pointed out that the SFO agreements entered into between Hong Kong and many overseas jurisdictions have not covered all 46 items of extraditable offences under the current Fugitive Offenders Ordinance. For example, the agreement with Singapore does not cover certain items of commercial and economic offences, while the agreement with the United States does not cover items of offences relating to controlling of prostitution and forced abortion. As Singapore and the United States, which practise common law as in the case of Hong Kong, have excluded certain extraditable offences, why is it necessary to include all 46 items

of offences hastily in the agreement between Hong Kong and the Mainland which practises common law and civil law respectively?

After taking into account the public's views, the Hong Kong Government announced yesterday that it would adjust the proposed amendments by excluding nine items of offences relating to companies, securities, taxes and duties, bankruptcy, intellectual property, environmental protection and unlawful use of computers. It also stipulates that surrender arrangements may only be applied for offences punishable with at least three years' imprisonment in Hong Kong. The proposed amendments have taken into account the practical situation and allayed the worries of certain local and overseas people, while the major principle of targeting serious offences has not been violated. These measures are understandable.

Some people query that the Taiwan authorities may not be willing to accept the legislative amendments even if they are passed in Hong Kong. However, we must not forget that the current legislative amendment exercise is triggered by the homicide case involving a dead body being stuffed in a suitcase and the Taiwan authorities took the initiative to request the extradition of the suspect. Even if the incumbent Taiwan Government forsakes the extradition request owing to certain political considerations, we cannot rule out that the Taiwan Government of the next term will take a different approach. However, if Hong Kong does not amend the legislation, no extradition arrangement can be activated. Also, the amended legislation not only applies to Taiwan and the Mainland, but also other jurisdictions with which that Hong Kong has not entered into SFO agreements, including Thailand and Japan where many Hong Kong people visit frequently.

Finally, I must ask: Do we want to see Hong Kong continue to be a haven for fugitives and a shelter for offenders of serious crimes, as described by the Mainland?

With these remarks, Deputy President, I oppose the original motion and all amendments.

**MR LUK CHUNG-HUNG** (in Cantonese): Deputy President, I have all along believed that the mills of God grind slowly, but surely, but today a loophole actually exists, that is, Hong Kong has not entered into agreements on surrender

of fugitive offenders ("SFO") with many countries and regions, and thus fugitive offenders are not brought to justice and they continue to escape the long arm of the law even though there is sufficient evidence against them. The Taiwan murder case is a typical case in point. The injustice done to the victim in this case has yet to be undone. The Government has proposed the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") to allow case-based surrender arrangement between Hong Kong and countries and regions that have not entered into long-term SFO agreements, so as to prevent Hong Kong from becoming a haven for fugitive offenders and to uphold justice. However, quite a number of opposition Members who used to talk about justice all the time have intentionally distorted the legislative intent of the Bill today. They are scaremongers, targeting and smearing the procuratorate and judicial system of the Mainland. They put politics before justice and oppose the Government's legislative amendment exercise at the cost of possibly turning Hong Kong into a haven for fugitive offenders.

In fact, like Howard LAM making a false report to the Police claiming that he had been kidnapped, thus smearing the co-location arrangement at the West Kowloon Station, and LEE Wing-tat, former Chairman of the Democratic Party and a former Legislative Council Member, recently claiming that each day 40 Communist Party members on a special mission came to Hong Kong on One-way Permits, these Members are also making absurd remarks today, and their political machinations are also the same. When Mr James TO spoke earlier, he said that if the Mainland or a certain country with low levels of the rule of law made a call, a transit traveller at the airport might be arrested. They have been blindly hyping communist phobia. I hope that opposition Members will not mistakenly think that Hong Kong people can be easily deceived or scared. Nor should they underestimate Hong Kong people's determination to defend justice. The Hong Kong Federation of Trade Unions will by no means allow Hong Kong to become a haven for fugitive offenders, and will thus oppose the original motion and the various amendments to it.

As Hong Kong has so far entered into SFO agreements with only 20 jurisdictions, and no such agreements have been entered into with the other 200 countries and regions, we can only adopt a case-based approach to deal with cases involving the latter. Under the current mechanism, however, surrender arrangements must be given effect through making subsidiary legislation with publication in the Gazette and scrutiny by the Legislative Council. Furthermore,

the suspect shall not be arrested during the 49-day scrutiny period, and following the conclusion of all the procedures, the suspect must have fled. For this reason, the current mechanism exists in name only, being of no use at all.

In this Taiwan murder case, when the suspect returned to Hong Kong, all people were at a loss as to what to do given the absence of an SFO agreement between Hong Kong and Taiwan. Taiwan has earnestly hoped that Hong Kong will surrender the offender. This incident has exactly highlighted the inadequacies of the existing legislation. For this reason, the Fugitive Offenders Ordinance must be amended and the amended legislation must be passed expeditiously, so that the suspect will have no opportunity of escaping. We would like to stress that the amendment of the relevant law does not only aim at dealing with the Taiwan murder case but also preventing Hong Kong from becoming a haven for fugitive offenders.

Will the case-based surrender arrangement proposed under the Bill force open the gate that safeguards Hong Kong's rule of law? The answer is certainly in the negative. Many conditions must be fulfilled in surrendering fugitive offenders, including the principle of double criminality, that is, the act concerned must constitute an offence in both jurisdictions. In addition, the request for surrender shall not be made on account of a person's political opinions, religion or race. For an offence punishable with death, the SAR Government must be assured by the requesting party that such punishment will not be imposed before any surrender.

More importantly, we have a sound gatekeeping system, under which all surrender cases must be tried by courts in Hong Kong. The independent, fair, open and just judicial system of Hong Kong enjoys worldwide credibility. The court will deal with a case pursuant to legal provisions. The suspect can appoint a legal representative to defend him, and he may appeal even if he has lost the case. As such, there is a high threshold. Fugitive offenders will not be arbitrarily surrendered, as indicated by Mr James TO from the opposition camp. The saying that courts will arbitrarily hand over fugitive offenders when pressed by Beijing is not only untenable but also an insult to the judiciary. As opposition Members disregard the principle of justice and attack the judicial system of the Mainland, they have demonstrated their political prejudices in bashing China in any event. Can they assure us that in countries and regions that have entered into extradition agreements with Hong Kong, there has never been any case of miscarriage of justice?

In fact, China has signed judicial treaties with 76 countries and regions in the world, including judicial assistance treaties, extradition treaties, and agreements on asset recovery and sharing. Most of the signatories are traditional liberal democracies as we understand, including European countries such as France, Belgium, Italy and Spain. We can thus see that cross-border operation to combat serious crimes is a consensus in the international community. There should not be any exception due to regional and ideological differences. Is it that the countries I just mentioned have left open the gate that safeguards the rule of law? I have even heard some Members using good business environment as a shield. Is it that we should tolerate fugitive offenders as a selling point of good business environment of Hong Kong? This is honestly sarcastic.

The Bill initially covered 46 items of offences, but the Government has decided to remove nine items of minor commercial offences among them. While this will slightly narrow the scope of the loophole intended to be plugged, the Government has after all responded to the concerns of the commercial sector and of the opposition camp about commercial offences being packaged as political offences. The Government has extensively responded to the views of various sectors, allayed public concerns and demonstrated its sincerity in the legislative process.

Deputy President, we will not allow people who have committed serious crimes to escape the long arm of the law and threaten law and order in Hong Kong. In a nutshell, the stance of the opposition camp is that not a single fugitive offender should be surrendered. Even if the principle of double criminality is adhered to, even if no political offenders and religious dissidents will be surrendered, even if courts will play a gatekeeping role, they will not allow any surrender in any event. The opposition camp would rather Hong Kong become a haven for fugitive offenders where murderers, arsonists, thieves, swindlers and venal criminals can live alongside members of the public, such that justice cannot be manifested (*The buzzer sounded*) ... The opposition camp has been relegated from anti-communist and anti-China ...

**DEPUTY PRESIDENT** (in Cantonese): Mr LUK, your speaking time is up.

**MR LUK CHUNG-HUNG** (in Cantonese): ... to anti-intellectual and anti-society. How pathetic and contemptible they are!

**DEPUTY PRESIDENT** (in Cantonese): Mr LUK Chung-hung, please stop speaking.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, in the case of surrender of fugitive offenders between Hong Kong and the Mainland, the most important consideration is the well-being of the people of the two places. In fact, since the case of CHEUNG Tze-keung (nicknamed "Big Spender") in 1999, this issue has been the subject of heated discussions in Hong Kong. At that time, since CHEUNG Tze-keung was arrested in the Mainland, there was a wish to extradite him back to Hong Kong for trial.

Apart from the CHEUNG Tze-keung case, Dr CHENG Chung-tai just now mentioned the Telford Gardens murder case—the LI Yuhui case, which concerns another principle. In case the misdeed is an offence in both places, the international community actually has a very mature way of handling, i.e. the place in which the suspect is first arrested shall proceed with the trial, unless it is willing to surrender the suspect to the other place.

Nevertheless, our discussion today concerns some offences which cannot be tried in Hong Kong. Given that Hong Kong is a territory to which *lex loci actus* applies, the murder suspect of the Taiwan homicide case cannot be tried in Hong Kong despite his return to the territory. Under such circumstances, people talk about the arrangements for the surrender of fugitive offenders. In fact, there are a number of mature principles in different jurisdictions as well as between countries. While such principles have been mentioned by many Members just now, they have also been discussed by us in the academia for a very long time. Some common practices are non-surrender of political offenders, application of double criminality and non-surrender of fugitive offenders punishable with death.

There were many well-known cases in the past. For instance, the litigation relating to the extradition of LAI Changxing in Canada carried on for more than 10 years, during which the authorities had all along requested that LAI would not be punishable with death after his surrender to the Mainland. The Edward SNOWDEN case is another example. The United States requested Hong Kong to surrender SNOWDEN, initially for the offence of treason, and then changed to leaking state secrets, and later further changed to access to computer with dishonest intent. This proves that under the protection against surrender of

political offenders, we should not surrender the subject concerned despite the agreement signed between Hong Kong and the United States. Back then, we did not agree to surrender SNOWDEN because his principle offence was actually a political one.

In fact, to avoid Hong Kong becoming a haven for fugitives, the academia has discussed this subject for a very long time. However, given that there are indeed differences between the laws of Hong Kong and the Mainland, the discussion has failed to come to any conclusion.

The homicide case in Taiwan last year drew extensive public concern. People are particularly worried that the Hong Kong Government basically cannot put a person on trial if he returns to Hong Kong after committing crimes or even killing people abroad. If there is no surrender arrangement against such kind of fugitives, they can just get off scot-free. This problem has been known to the academia for a long time, and now members of the public are also aware of the problem. Under such circumstances, I think there is a substantial worry that many people might adopt this approach to commit serious crimes.

I think it can be said that the Government has readily accepted good advice this time. After listening to the views from different sectors, the authorities have removed nine items from the original 46 listed items of offences. When the Government announced the removal of these nine items of offences, many people criticized the Government for tilting totally in favour of the business sector. Just now, Dr CHENG Chung-tai even reviled the business sector for being rich but heartless.

I urge members of the public to view this matter from another perspective. Indeed, we should welcome the business sector to express views, because the surrender of fugitive offenders actually involves technical issues in law. As pointed out by Mr Tommy CHEUNG, there might be many things that Members have not heard of. Nevertheless, I must point out that although the Government has agreed to remove the items of offences involving unlawful use of computers and intellectual property, these two items are actually not the concern of the business sector; rather the SNOWDEN case that I mentioned a moment ago is their concern. In my view, the removal of the relevant items of offences can eliminate political offenders, because the professional and political sectors may very often be involved in unlawful use of computers. I think the Government has also taken our views on board.



Furthermore, another amendment of the Government is that surrender request can only be made against indictable offences punishable with imprisonment for more than three years. I think this is also a better option, because some offences are indeed frivolous or very minor. In order to avoid arousing concern of the subject concerned or the people of Hong Kong and the Mainland, arrangement for surrender of fugitive offenders for such offences is therefore inappropriate.

On this matter, I particularly hope that opposition Members will not direct against the business sector because it is unfair to do so. In fact, we proposed the items of offences one by one. Moreover, some veteran members of the legal sector opine that it is simply unfair and populist not to prescribe 46 items of offences. But in fact, the numbers of items of offences listed in agreements with different countries vary. For instance, there are 26 items in agreement with the United Kingdom; 36 items with the United States; 21 items with Singapore; 25 items with Canada; and 32 items with Australia.

In fact, not many countries have signed agreements on surrender of fugitive offenders with Hong Kong covering as many as 46 items of offences. The Government may, probably for the sake of convenience, include 46 items of offences in the list, with a view to covering a wider scope. In my opinion, the legislative amendment should not arouse additional unnecessary worry, especially the worry of members of the business sector who support the State and "one country, two systems". The Government's removal of nine items of offences indicates that people's voice has been squarely addressed.

Actually, this is a good practice, so opposition Members should not direct against the business sector. Instead, we should examine if the remaining items of offences involve very serious crimes. I consider that the remaining items of offences involve serious crimes including money laundering. As a matter of fact, the business sector—at least the Members representing the sector—did not propose removing money laundering from the list because it is a crime that really disrupts law and order of the sector. Nonetheless, I urge the Chief Executive and the Government that in exercising this power, although the court will perform a gatekeeping role ... they must be careful and prudent. In my opinion, the court should be stringent rather than loose in monitoring "one country, two systems" for us.

Deputy President, I so submit.

**MR HUI CHI-FUNG** (in Cantonese): Deputy President, when the Secretary spoke just now, he said that the proposition of the motion today was erroneous. He said that the arrangement for the surrender of fugitive offenders ("SFO") was not only made between Hong Kong and the Mainland but between Hong Kong and all other countries on an equal basis. In my view, Mr Alvin YEUNG's motion is certainly not erroneous; he is instead insightful. By amending the Fugitive Offenders Ordinance ("the Ordinance"), the Government seemingly seeks to treat all countries equally; but in reality, we all know that it basically seeks to establish a shortcut arrangement for SFO between Hong Kong and the Mainland. It is obvious to all that the Government wants to move faster for early achievement of this goal. Therefore, the current amendment of the Ordinance disrupts the rule of law, so that all people of Hong Kong and nationals of all countries in Hong Kong would fall into peril easily, and that is, they would be surrendered to a jurisdiction with extremely low level of rule of law, with no judicial independence and with a regime that exploits human rights. This is the extreme peril that we are facing.

Just now, Members from the pro-establishment camp made a lot of fallacies which were indeed ridiculous. First, Mr CHAN Hak-kan said that we could not do without an SFO arrangement, yet an extremely stringent arrangement was also not desirable, thus removal of some items of offences would strike a balance, then everyone would be fine. Is this the case? When we said that the legislative amendment might put many people in peril, he said that by removing some items of offences and having the court as the gatekeeper, fewer people would be affected. As legislators, we should not allow the jeopardy of the rule of law. Even if one Hong Kong resident falls into such kind of peril, it is still too many, right? Even the slightest disruption of the rule of law and the retrogression of "one country, two systems" cannot be tolerated. How can you call this a balance?

Just now, Mr LUK Chung-hung almost burst into tears, pointing out hysterically that it was so dangerous to have fugitive offenders around us. If the authorities really want to strike a balance and deal with the problem, they should make more efforts to lobby each country—or should be lobbied by other countries—to negotiate slowly for signing an agreement with every country. Why does Hong Kong not sign an agreement with Taiwan? Is the Chief Executive exploiting the compassion and sympathy of the Hong Kong people to

accomplish her political mission of surrendering all Hong Kong people to the Communist Party? Will she feel at ease and happy after completing this political mission? So, it is simply ridiculous to talk about striking a balance.

Mr LUK even mentioned bogus refugees and torture claimants. He claimed that the large number of accumulated cases was due to the gatekeeping role of the court. Is this comparison neither fish nor fowl? Regardless of whether the subjects are genuine or bogus refugees, in many cases, they have overstayed in Hong Kong illegally, or they have illegally entered Hong Kong and have overstayed illegally after entering Hong Kong. As such, they have already committed a crime in Hong Kong. Subsequently they lodged torture claims, saying that they did not want to return to their own countries for fear that they would be harmed if they went back. How can you compare this situation with SFO arrangement? We are now talking about common folks in Hong Kong, foreigners working in Hong Kong or transit passengers. These people have not committed any crime in Hong Kong, but they might be surrendered to a certain country which claims that they have committed a crime there. Is this a concept entirely different from torture claim and bogus refugee? How come the two can be so ridiculously lumped together?

Mr Tony TSE just now said that we can perform a gatekeeping role because the law provides that a surrender arrangement can only be carried out for a case that constitutes an offence in both places. If a totalitarian government wants to convict you and says that the crime you committed is an offence in both Hong Kong and the Mainland; can this be done very easily? Take a look at the Mr LAM Wing-kee's Causeway Bay Books incident. In 2015, the Mainland Government alleged that Mr LAM operated a book store illegally, which was not a political offence, and he also operated a book store illegally in Hong Kong. It is so easy for a regime to pick on someone. It may allege casually that a person has committed crimes in both places with all kinds of trumped-up charges.

Therefore, I am going to challenge Carrie LAM. The authorities said they have to treat different countries equally. My question is why should equal treatment be accorded to all countries? Why do we have to adopt the same set of SFO standards when dealing with third world African countries which are extremely backward with very low levels of rule of law and civilization, with advanced countries in Europe and America, or with countries with a high level in

human rights? Have the authorities ever thought about the safety and human rights of Hong Kong people? Is there any ulterior purpose for transferring us to a country with low levels of human rights and rule of law for trial?

For this reason, if the proposed legislative amendments are passed, some countries will issue travel alerts against Hong Kong. In my opinion, such countries are right in taking this action. In particular, some countries are having diplomatic wrestle and trade war with China, they are worried that their nationals might be victimized after coming to Hong Kong, being held hostage and being surrendered to the Mainland, and never be heard of again thereafter. This is a very sensible imagination, which is also practically feasible. The business sector also has justifiable reasons to worry that they would breach the law inadvertently when doing business, or that their commercial practices would lead to retaliation by someone who abused the provisions. In case some investors or multinational companies withdraw their investments and cease operating in Hong Kong because of this legislative amendment exercise, I will also find it very reasonable from their perspective. This is because when Hong Kong is no longer safe without the protective shield of law and order and judicial independence, their investments in Hong Kong will be no different from that in the Mainland, i.e. without any protection.

Therefore, Deputy President, I speak to support Mr Alvin YEUNG's motion. I hope the Government will pull back before it is too late and withdraw this Bill that jeopardizes both Hong Kong citizens and nationals of all countries and makes us personally unsafe.

Thank you, Deputy President.

**DR JUNIUS HO** (in Cantonese): Deputy President, I oppose Mr Alvin YEUNG's motion on "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders ('SFO') between Mainland China and Hong Kong". We understand the Government's position, and Secretary for Security John LEE has also expounded on two cardinal principles: First, the legislative amendments have been proposed due to a cold-blooded homicide case in Taiwan in which the Hong Kong person involved absconded back to Hong Kong after perpetrating the crime. It is therefore necessary for us to plug the loophole. Second, the Administration has taken the opportunity to

examine the current situation and review the need to improve and enhance the arrangements with other countries or regions. For example, given the current SFO agreements between Hong Kong and a number of overseas countries, how come no arrangement is made with the Motherland?

Honourable colleagues from the pan-democratic camp have suggested that there are ulterior motives behind the legislative amendments. The situation in China was undoubtedly far from desirable in the past when anything could happen under its unsound judicial system. Given the situation back then, it was necessary for Hong Kong to erect a boundary wall to separate itself from China deliberately and exclude China from any surrender agreements. Understandably, the previous arrangement had been made out of the needs of the social conditions back then. However, we cannot stay at the same point in time forever. After Hong Kong's reunification, the earth has orbited the sun for over 20 years. Is the condition of the world today still the same as the one we saw in the past? No one can be perfect. Based on the plan of our great designer DENG Xiaoping, with the introduction of "one country, two systems" in Hong Kong, the neighbouring Shenzhen Special Economic Zone would be the first to learn from Hong Kong. DENG hoped that after Shenzhen had successfully modelled itself on Hong Kong, Guangzhou would model itself on Shenzhen, and then cities across China would model themselves on Guangzhou. This process should be gradual. With the implementation of this plan for over 20 years, China has developed from a country with a shortage of foreign exchange and per capita GDP below US\$500 in the past to a comparatively well-off country with per capita GDP of a staggering level of US\$7,000. We should no longer belittle ourselves. That said, we should not go too far in blowing our own trumpet either.

As I see it, pan-democratic colleagues are ashamed of the Chinese nationality, China's economic strength and China's prosperity. They always have a preconception about any interaction between Hong Kong and China, whether it be the Greater Bay Area or transportation infrastructure improvement works. Their predetermined stance is: Hong Kong and the Mainland are as irreconcilable as "river water" and "well water"; worse still, our water is utterly different from those in the Mainland; their water is even not water at all, only our water is real water. Their argument has been so simple that all they want is to make a clean break with China. Asked if they are Chinese, they will only give

staccato replies after considering for four seconds, without directly answering the question. Asked if they are patriotic, they will even evade the question. Asked what patriotism is, they will say that this is very vague. The core essence of patriotism has been enshrined in the Basic Law, namely, forestalling the secession of China. To love our country is to preserve its territorial integrity. People may ask how we can express patriotism. Patriotism is not embodied in 1 000 dozen roses, but in the preservation of the territorial integrity of the Motherland; likewise, those who love Hong Kong should preserve Hong Kong's stability and prosperity. When they were sworn in, they pledged to "uphold the Basic Law", but now they cannot even pinpoint the essence thereof.

Claiming that there are ulterior motives behind the legislative amendments, they have maintained that the authorities should focus on this case by making SFO arrangement with Taiwan alone, while putting aside the arrangements with other regions for the time being. In my view, given the need for us to handle the arrangement with Taiwan, we should deal with the arrangements with all other regions altogether. Will they apply shampoo when they wash their hair? Of course they will. Will they then apply hair conditioner? Of course they will. We should do our work in one go rather than intermittently. By making the suggestion of entering into an agreement with Taiwan but not with other regions, were they frightened by the prospect of their family being arrested? Were they worried that they themselves would be arrested in future? If they conduct themselves in an outright manner, what do they have to fear?

I am not trying to pick on the opposition camp. They may refer to the 46 items of offences described in Schedule 1 to the Fugitive Offenders Ordinance ("the Ordinance"). Even after the removal of nine items therein, they may still be liable for other offences, not to mention the other offences additionally charged against them after being taken to the Mainland. In other words, the coverage of the 46 items of offences can be very broad. In particular, item 46 stipulates that the offences include "aiding, abetting and counselling" on any offences relating to any one of the above items, meaning that the stipulation also applies to those who aid and abet other people in committing any of the 40-odd items of offences described in the Schedule. Therefore, the removal of the nine items of offences by the Administration is not significant at all because those items are not the focus of attention.

After all, do we have the responsibility to safeguard the integrity of Hong Kong's legislation? At the Legislative Council, Members should not espouse a political view which assumes that the Motherland is hostile to us. If they hold such a view, we will never see a single peaceful day. As to the question of whether Taiwan will be required to recognize the People's Republic of China after the legislative amendments are made, under the premise of "one country", it will be the long-term consensus of all parties to recognize "one China". However, the Taiwan authorities may not necessarily accept that Taiwan is part of the People's Republic of China. Taiwan may raise an objection on this issue. Anyway, I have not yet studied the amendments to the Ordinance in detail. I will have no objection if the amendments are based on the premise of recognizing "one China". From the perspective of Hong Kong, we should support the reunification of the Motherland, and we cannot say that Taiwan is not part of the People's Republic of China. This logic is very simple. Of course, whether Taiwan will accept this is another issue. Yet, we should not get the starting point wrong, and we must abide by this principle. Will they possibly say that Macao is not part of the People's Republic of China? Do they dare to say so? Do they think that Taiwan is part of the People's Republic of China? China has always regarded Taiwan as part of the People's Republic of China. However, in all fairness, I would suggest that the legislative amendments be predicated on the premise of "one China". After all, who is the "host" now? The host is of course the People's Republic of China. This is the political reality. Some people have argued that Taiwan has its own military, among other things. This is another issue. This political issue should be resolved by political means.

We are tackling the amendments to the Ordinance today. Please do not consider the matter to be so complicated. Mr Alvin YEUNG usually considers matters in a highly meticulous way. However, the finest details may sometimes prevent him from seeing the whole picture. Therefore, I hope that he will withdraw his motion (*The buzzer sounded*) ... I will not support this motion either. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Dr HO, your speaking time is up.

**MR CHRISTOPHER CHEUNG** (in Cantonese): Deputy President, regarding the motion on "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders ('SFO') between Mainland China and Hong Kong" proposed by Mr Alvin YEUNG, I am of the view that he has, in a sense, made an issue of the legislative amendments and blown them out of proportion infinitely by claiming that they will undermine "one country, two systems". I really cannot see any reason not to oppose the motion.

The SAR Government has proposed amendments to the Fugitive Offenders Ordinance ("the Ordinance") because of a homicide case involving Hong Kong people that took place in Taiwan last year. The suspect later fled back to Hong Kong, rendering it impossible for the family of the deceased to seek justice after a protracted period of time. The legislative amendments aim to plug the loophole in the existing legislation in order to prevent Hong Kong from relegating to a haven for fugitives or a city of crime due to the absence of SFO agreements between Hong Kong and other countries. Therefore, I support amending the Ordinance to uphold social justice, enable Hong Kong to reinforce its position as the safest city and enhance its status as the international financial centre.

The amendments currently proposed by the Government involve 46 items of offences, which include not only such serious criminal crimes as murder and arson, but also other commercial offences. There are many grey areas in the definitions of some commercial offences which cannot be easily explained nor easily understood as either black or white. Hence, many members of the public and members of the business sector are worried that they may land in a situation where they cannot defend themselves clearly in unfair Mainland trial after they unintentionally step out of line or inadvertently breach the law in future.

For example, item 11 "Offences against the law relating to companies including offences committed by officers, directors and promoters", item 12 "Offences relating to securities and futures trading" and item 36 "Offences relating to fiscal matters, taxes or duties" are very broad in scope, and their definitions are not very clear. In particular, in respect of taxation arrangements, different places have different coverage; and this piece of legislation may have unlimited retrospective period. In some places, the judicial system in the past was not as sound as the current system. Since informants would be offered rewards under the reporting system in the past, many people, driven by personal grudges, might have falsely accused other people of economic crimes as



retaliation. Meanwhile, some people may also make use of the clearer regulations at present to pursue responsibilities for ambiguities in the previous legislation. In this way, amending the legislation is tantamount to planting a number of mines which will render people vulnerable to undue blame, causing concerns in the community.

That said, it does not follow that we endorse offenders who try to elude justice by fleeing back to Hong Kong after engaging in smuggling or tax evasion, or committing frauds in other places by taking advantage of the absence of SFO agreement between Hong Kong and the place where they have committed their crimes. We only hope that the Government will clearly explain the controversial parts or grey areas and make amendments where appropriate to reassure the public that they will not fall into traps easily.

I have also noticed that under the SFO agreements signed between Hong Kong and 20 countries, not all the 46 items of so-called serious offences are applicable. Take our SFO agreement with Singapore as an example. With the exception of bankruptcy-related offences, many other commercial offences, including offences relating to securities and futures trading, have not been included. Similarly, offences relating to securities and futures trading have been excluded from our agreements with Canada and the United Kingdom. Therefore, I welcome the Government's willingness to take good advice on board after listening to various views in the community. By removing nine items of offences, including offences relating to taxes, transfer of funds and securities and futures trading, and even offences involving the unlawful use of computers, and by raising the threshold for case-based surrender by excluding some minor offences, the Government has provided the public with better safeguards and allayed their concerns to a considerable extent.

Most importantly, we should have confidence in Hong Kong's judicial system which we have all along taken pride in. Even if the Chief Executive has agreed to activate the extradition mechanism, the court can still perform the gatekeeping role, contrary to what the pan-democrats have described as Hong Kong leaving the door wide open without any protection. That said, when the Bill is introduced to the Legislative Council for scrutiny later, I still hope that the Government will carefully listen to our views on the remaining 37 items of offences and continue to make reasonable adjustments or give clearer explanation so as to better reassure the public.

Lastly, I consider it unnecessary for Mr YEUNG to follow the example of those Members who had travelled all the way to the United States to badmouth China's rule of law by claiming that the legislative amendments will result in the collapse of Hong Kong's rule of law. He should be pragmatic and uphold social justice by proposing constructive refinements based on the most recent amendments proposed by the Administration. He should no longer create unnecessary panic and conflicts by viewing all matters from a conspiratorial perspective.

With these remarks, Deputy President, I oppose the motion and the two amendments thereto.

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

**MR PAUL TSE** (in Cantonese): Deputy President, in response to the speeches delivered by Honourable colleagues just now, I would also hope to add some of my observations at this stage. The bill of the Government has not yet been introduced into the Legislative Council for our scrutiny. However, if we require the Government to put an immediate halt to the formulation of arrangements for the surrender of fugitive offenders ("SFO") between Mainland China and Hong Kong at this stage, I would consider our threshold to be extremely high indeed.

With regard to the speeches delivered by some Members just now, I would like to add a few points. First, Mr HUI Chi-fung has noted that many foreigners who are doing business or living in Hong Kong will be very worried if SFO arrangements between Mainland China and Hong Kong are formulated. After mulling his argument over, I consider it to be unsubstantiated. If I am not mistaken, China has formulated permanent extradition arrangements with 54 countries. In other words, in theory, the nationals of these countries will face the same risk in China as in their own country. In contrast, Hong Kong has no such arrangement in place so far. Even if the SFO arrangements between Mainland China and Hong Kong are really formulated in the future, these people will actually not find themselves in a more dangerous situation in Hong Kong than in their own country. What countries have formulated extradition arrangements with China? I have just scanned through the relevant information, but I do not have the detailed list on hand now. For example, countries like

France, Belgium, Australia, have formulated permanent extradition arrangements with China. By raising this point, has Mr HUI been overly worried, or has he gone too far in playing the scaremongering card?

In fact, when the legislative amendments were first announced, I noticed that preconceptions had already existed. On the one hand, some supporters might have gone too far in playing the sympathy card with the Taiwan case; on the other hand, even more Members or members of the public who disapproved of the legislative amendments seemed to have overplayed the scaremongering card. Scaremongering cards are certainly nothing strange to us. In the discussions on the co-location arrangement or any other issues pertaining to the political regime, judicial system or law enforcement of the Mainland, the opposition camp would often play the scaremongering card. At present, the Hong Kong people ... While Hong Kong is a blessed land, it has also accustomed to intimidation. For many years, we have been subjected to repeated intimidation. Therefore, I hope that the public will not be too frightened by this scaremongering card. Of course, supporters should also refrain from excessively using the sympathy card so as to avoid losing their rationality. We should carefully strike a balance among the justifications from various sides.

Deputy President, secondly, based on the current platform, Hong Kong has entered into long-term SFO agreements with 20 countries. Any application made under the established mechanism would be considered and handled by the court. I am not going to go into the details of the safeguards under the current mechanism, but at least the platform is a permanent one. By rough estimates, if we subtract the 20 countries which have concluded long-term SFO agreements with Hong Kong from the 186 countries around the world, there are still 166 countries which we cannot do anything about in relation to SFO arrangements. No matter how serious and atrocious the crimes involved are, we cannot do anything at all. The legislative amendments currently proposed only aim to "open a crack" for the 166 countries. In the event of a serious case, the Government may try to adopt a case-based SFO arrangement, under which the details of every case will be closely examined under a microscope to see if a surrender arrangement is warranted, with a view to plugging what the authorities have often described as loopholes. In fact, there are loopholes in two areas, the first one being the territorial loophole. As I have just said, if we subtract 20 countries from the 186 countries around the world, there are still 166 countries which represent a loophole in relation to SFO arrangements with Hong Kong.

Secondly, there is a procedural loophole. In line with the previous practice, an application has to be submitted to the Legislative Council for the negative vetting process. The application then has to go through other procedures, such as gazettal, for public information. Once the application is made, all the people concerned might have fled Hong Kong already. This is the procedural loophole. In view of this, it is really necessary for us to plug the loophole.

Of course, unlike some Honourable colleagues, I will not excessively defend the judicial system of the Mainland. As a matter of fact, the news or cases that we have often heard of indicate that our worries are not totally unfounded. However, a country needs to make continuous improvements in the process of development. Some time ago, we used to have much criticism about Taiwan's judicial system.

I have previously cited some examples which may not sit well with some Members. Take the Philippines, with which I am familiar, as an example. I have handled a number of grisly cases there. Shockingly, there is a dark side to their judicial system. Oddly enough, however, the Philippines is one of the 20 countries which have concluded long-term SFO agreements with Hong Kong; whenever an application is lodged, SFO arrangement will be possibly made. Such SFO arrangements can be implemented on a large scale, rather than a small scale, under which a large number of fugitive offenders can be sent away anytime. Given the arrangement between Hong Kong and the Philippines, why do we not try to formulate SFO arrangements with the Mainland? Under such arrangements, all applications will be strictly scrutinized pursuant to a case-based approach. Of course, opponents may play the scaremongering card again.

Deputy President, at this stage, we probably can only hope to take half a step forward and consider if there are ways to plug the territorial and procedural loopholes. As our Motherland, China is also our neighbour. We cannot do anything at all, however. I believe that many people will find this big loophole unacceptable.

Deputy President, many people in the community have accused us of being extremely biased in favour of businessmen. Cases involving the 46 items of offences described in Schedule 1 to the Fugitive Offenders Ordinance, including murder, rape, robbery, serious assault and drug-related offences, will not be exempted. In contrast, a number of countries have started to exempt some

relatively soft or so-called white-collar crimes. Some items of offences have been exempted from Hong Kong's current SFO agreements with 46 countries. Therefore, the proposed arrangements are not biased in favour of businessmen. Businessmen who have perpetrated serious, non-white-collar offences will never be exempted from SFO arrangements. Similarly, members of the general public who have perpetrated white-collar offences with serious consequences will never be exempted as well. As such, the exemption arrangements will be made based on the nature of crimes, not the background of perpetrators. Hence, we are not biased in favour of businessmen. Anyone who has committed serious offences will never be exempted. On the contrary, offenders of less serious white-collar offences may be exempted. Businessmen, members of the general public and even Members will be treated equally. Therefore, in my view, the alleged discrimination problem in the community is not as serious as people think.

Deputy President, to conclude, I hope that we can slightly relax our threshold and take a deep breath first at this stage instead of hastening to put a halt to all suggestions. Otherwise, I will consider our threshold to be excessively high (*The buzzer sounded*) ... and unreasonable as well.

**DEPUTY PRESIDENT** (in Cantonese): Mr TSE, your speaking time is up. Does any other Member wish to speak?

**MR KWONG CHUN-YU** (in Cantonese): I am grateful to Mr Alvin YEUNG for moving this motion. I seldom agree with the remarks made by Mr Paul TSE ... not that we want to be fearful, but if the arrangements under the Fugitive Offenders Ordinance ("the Ordinance") were indeed perfect, why should the nine items of offence that raised serious concerns among the business sector be removed? If we really trust the Mainland's judicial system, why not just surrender the fugitive offenders to the Mainland? The reason is that many people are worried about the existing arrangements. What are their concerns? Members must understand that the Taiwan case is, of course, heartrending, and I believe every Hong Kong resident would like to see a one-off surrender in respect of the case to bring the criminal to justice and make him pay.

However, Deputy President, the topic for today's discussion is the Ordinance (Cap. 503). Section 2 of Part 1 of the Ordinance sets out clearly: "... the Government and the government of a place outside Hong Kong (other than

the Central People's Government or the government of any other part of the People's Republic of China)". What has been stopping Hong Kong from surrendering fugitive offenders to the Mainland, Taiwan or Macao? This provision was formulated in 1997 along with relevant laws, having regarded to the implementation of "one country, two systems" and the differences in the legal system and the rule of law in Hong Kong and the Mainland. This is not a loophole as described by John LEE. Our concern is that once the back door is opened, whether in the future ...

Can we trust that the Mainland's court system can clear the name of the innocent? According to the global Rule of Law Index published by World Justice Project, a non-profit making organization—the figure has already been cited by colleagues—Hong Kong ranked 16<sup>th</sup> out of 113 countries and regions around the world, while China ranked 75<sup>th</sup>. Can we truly trust that the Hong Kong Government can ensure an open and fair trial with legal representation for a Hong Kong resident surrendered to the Mainland judiciary? We cannot but ask these questions. However, right now, we are only discussing how to rationalize and accept the amendments to the Ordinance. Dr Junius HO said that shampoo and conditioner should go hand in glove. I wish to tell Dr HO that nobody is interested in how he washes his hair. The question we should ask is: Is this conditioner genuine? Is it poisonous? Would this series of arrangements be a road of no return? Dr HO's words are always thought-provoking. We really have to consider the issue seriously. The situation will turn sour if it is a two-in-one shampoo—the devil is always in the details that we are not aware of.

Today, we discuss the motion on "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders between Mainland China and Hong Kong" because the arrangement is hastily made. The Government has removed nine items of offences, in the hope of allaying concerns among the business sector. However, even if the business sector has become less worried now, the worries of Hong Kong people have not been allayed. We simply hope that what happened in Taiwan ... Taiwan has stated clearly that it did not accept the surrender of fugitive offenders by Hong Kong on the premise of "one China". Taiwan doubted that the Hong Kong Government's reluctance to hold prior discussion has given people an impression that it has ulterior motives. If the Government truly wants to serve justice for the deceased, the easiest and most direct approach is to reach a one-off extradition agreement expeditiously, so that the suspect can be surrendered to Taiwan for trial and justice can be done. The Government should not, as in the present case, relax

the arrangements for the surrender of fugitive offenders to such an extent, thereby arousing the concerns of Hong Kong people about whether they can feel reassured under the Mainland's judicial system, or in the event of such incident, whether the suspect can receive a fair, open and impartial trial in the Mainland.

Deputy President, this is really saddening. We certainly hope that one day, every country and place would have a sound judiciary system. However, as Mr Paul TSE has said just now, this might take a process. That said, as Members of the Legislative Council of Hong Kong, we should ask during the process how the Government should respond to different scenarios after the establishment of the surrender arrangement. You might say we can cross the bridge when we come to it, but since such scenarios might happen, the Government has to address squarely the concerns of the people of Hong Kong about the arrangement. At the end of the day, I believe no one would object to a one-off extradition. However, in saying that the amendment is to plug loopholes and safeguard social security, I am sorry, I think these are excuses used by the Security Bureau to advance a hidden agenda.

This is a very rational discussion. If Members try to look at the issue calmly, will more fear be aroused if we, having insufficient trust, push through the amendment? While we do not intend to play the "fear card", it is our responsibility to state what can possibly happen for public discussion. Since Mr YEUNG has moved the motion, we should at least step up the preparation work and allow society to hold more discussions on whether the amendment to the Ordinance is really feasible. Are our concerns really based on fear or on incidents that might possibly happen? In 1998, former Secretary for Justice Ms Elsie LEUNG said at a meeting of the Legislative Council Panel on Administration of Justice and Legal Services that Hong Kong could negotiate mutual assistance arrangements with the Mainland judicial departments, and the responsible Policy Bureau (namely, the Security Bureau) should step up its efforts in handling the relevant work. The legal systems in the Hong Kong SAR and in the Mainland are different, and the situation is worrying. Is China, Taiwan (*The buzzer sounded*) ... or Hong Kong well prepared?

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

**MR JEREMY TAM** (in Cantonese): Deputy President, there is a saying among businessmen that: "No one will engage in loss-making businesses, but people will engage in businesses that might lead to decapitation". The meaning is that no one wants to lose money in doing business, but as long as there are profits, many people are ready to take risk or even engage in business that involves illegal offences. The Fugitive Offenders Ordinance ("the Ordinance") covers 46 items of offences, many of which involve businesses which might lead to decapitation as mentioned above and people might be put behind bars.

(THE PRESIDENT resumed the Chair)

Strangely enough, just now many Members have taught us how to love our country and love the Party, but at the same time they were railing against the laws and regulations in Mainland. How can laws and regulations of our Motherland have problems? When President HU Jintao attended the military parade in 2004 to celebrate the 50<sup>th</sup> anniversary of the founding of our country, the slogan "Governing the Country According to Law" was written on many display boards. It was pathetic that 50 years after the founding of our country, the authorities still had to promulgate governing the country according to law. It is fundamental to govern a country according to law and there is no need to sound it out.

What have the pro-establishment Members said in their speeches? Mr Jeffrey LAM said that one should not look at the Mainland laws through tinted glasses, and Mr Tommy CHEUNG said that there might be problems with the different legal systems adopted in different regions and there might even be conflicts among them. Shouldn't they say that no one should trample on the laws of our country as Chinese laws do not have any problem, and the 46 items of offences covered by the Ordinance do not have any problem? Just now, Dr Junius HO was right in saying that as long as one was law-abiding and upright, he had nothing to be afraid of. Why are members of the business sector so frightened? Why should they be afraid of inadvertently falling into legal traps or stepping into a grey area when doing business in the Mainland? While there are grey areas in doing business, is it true that there are no grey areas in respect of other offences in the Mainland? I am not aware that they have such a yardstick. They are just contradicting themselves.



The pro-establishment and royalist Members will not say that all laws of Hong Kong are excellent and certain laws should not be abided by. But how dare they trample on the laws of our great Motherland? They are well aware that the legal system of the Mainland cannot be trusted; otherwise, it is not necessary to implement "one country, two systems" in Hong Kong and it would be fine with "one country, one system".

Some say that Carrie LAM and the courts of Hong Kong can play a gatekeeping role, but are they really capable of safeguarding our rights? When the Chinese Government asks Hong Kong to surrender a certain fugitive offender, can Hong Kong turn down the request? As for countries that have signed the surrender of fugitive offender agreements with Hong Kong, such as Australia or Germany, when they make a surrender request, Hong Kong needs not consider other factors but merely makes a decision based on the merits of the case. However, when the Mainland asks Hong Kong to surrender a certain fugitive offender, does Carrie LAM have the guts to say no? I have only seen cases of surrender of fugitive offences but have not seen any case of refusal to surrender.

I think people may recall a piece of news disclosed in a report of the United States Department of State last year. In 2017, the United States, which has signed a surrender agreement with Hong Kong, asked Hong Kong to surrender a fugitive offender but the request was turned down. Instead, Carrie LAM subsequently handed the offender over to the Mainland. Since there was no surrender agreement between Hong Kong and the Mainland, she released that person in Hong Kong, but no sooner had he been released than he was detained by the Mainland Government. The only possible way to do so was to release the person at the border and subsequently he was arrested by the Mainland public security officers. This way of handling is no different from taking a person to the edge of a crater and release him, but then make him fall into the crater and be burned alive. Carrie LAM has truly done such things.

Should the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") be passed, will Carrie LAM have the guts to refuse the request of the Chinese Government for the surrender of a certain person? Even before the passage of the Bill, Carrie LAM has already employed other means to push people into a crater. The Government has yet to make public the identity of that person, what had actually happened and on what grounds he was surrendered to the Mainland. As such, how can we trust the Government?

The saying that one should be law-abiding and upright is of course right. Who would deliberately go to the Mainland to commit crimes? However, Hong Kong businessmen are frightened because they have had the experience and they know what it is like to do business in the Mainland. They have no intention to go to the Mainland to cheat money or break the law, but after a business transaction, someone may accuse them of cooking the books and demand them to pay a certain amount of money, otherwise they would be arrested and their assets confiscated. By then, they cannot get out of trouble by returning to Hong Kong because they can be extradited to the Mainland for committing offences listed in the Bill. Do not think that the situation will be fine after removing the nine items of offences. One can easily be convicted of offences such as obtaining a property or a pecuniary advantage by deception, conspiracy to defraud and smuggling. Everyone has his Achilles heel and he may be surrendered to the Mainland for committing various offences.

Practitioners of the financial industry have to watch out. Many people think that the democrats are worried that they would be surrendered to the Mainland on grounds of their political views, but we are not worried about this. But practitioners of the financial industry are not protected (*The buzzer sounded*) ...

**PRESIDENT** (in Cantonese): Mr TAM, please stop speaking. Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Alvin YEUNG, you may now speak on the amendments. The time limit is five minutes.

**MR ALVIN YEUNG** (in Cantonese): President, I rise to speak in support of the amendments proposed by Ms Claudia MO and Mr James TO. In responding to the original motion and amendments, Secretary John LEE emphasized that Hong Kong should plug the loophole that makes Hong Kong a haven for fugitive offenders, and that the amendment is not only applicable to Mainland China, but also all around the world, for extradition requests can be raised by any country and jurisdiction. He also said time and again that the Taiwan homicide case

reminds us of the need to amend the legislation. However, if we pause and think, we would realize that—as suggested by Ms MO and Mr TO—all it takes to extradite the suspect in question to Taiwan is to enter into such an agreement with Taiwan.

Many Members have raised questions as to what should be done, and why the Ordinance should not be amended. Come to think about this. First, no such amendment has ever made to our system over the past two decades; second, if the Secretary cannot produce any factual evidence to convince us that Hong Kong has truly become a haven for fugitive offenders, why should we amend the legislation for a single case? I would like to put this question to the Secretary once again, and I am eager to hear his response: why can't we go by ...

**PRESIDENT** (in Cantonese): Mr Alvin YEUNG, you should speak on the amendment.

**MR ALVIN YEUNG** (in Cantonese): President, I am making further remarks on this point.

**PRESIDENT** (in Cantonese): You should not be making further remarks on this point and should speak on the two amendments.

**MR ALVIN YEUNG** (in Cantonese): President, I am speaking on the two amendments.

I hope that the Secretary will demonstrate his wisdom to convince the people of Hong Kong why the Government cannot deal with the case through the Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council and the Taiwan-Hong Kong Economic and Cultural Co-operation Council ...

**PRESIDENT** (in Cantonese): Mr Alvin YEUNG, I would like to remind you once again that, during this five-minute speaking time, you should be speaking on the two amendments instead of further elaborating on other points.

**MR ALVIN YEUNG** (in Cantonese): ... thank you, President, for reminding me once again. This is precisely the reason why I hope that every Member present will support the two amendments proposed by Mr James TO and Ms Claudia MO respectively.

I so submit.

**SECRETARY FOR SECURITY** (in Cantonese): President, Members have given their views, and I would like to make the following response.

Since we proposed the amendments to the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance, we have received over 4 500 representations, 3 000 of which are supportive of the proposal. I have heard many Members speak in support of our proposal and, of course, there are also objections and opposing views.

Over the past few weeks, colleagues from the Department of Justice and I have been invited by different sectors and individuals to introduce and explain the provisions, as well as the content of the offences. Some were worried that political purposes were involved, while others were unfamiliar with the laws of places outside Hong Kong, the principle of dual criminality, the administrative details and the scope of offences, etc.

To begin with, I wish to reiterate that the Government's proposal aims at plugging the loopholes in Hong Kong's mechanism for mutual criminal judicial assistance and the surrender of fugitive offenders, so that Hong Kong can, when necessary, apply the same standard and the principal of mutual respect to work with any jurisdiction with which Hong Kong has no long-term arrangements to handle serious criminal cases on a case-based approach, when it is deemed necessary by both sides. The human rights protection and procedural protection under the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance will be fully maintained.

In a number of jurisdictions such as the United Kingdom and Canada, case-based surrender arrangements have been put in place for many years. Case-based surrender is a supplementary measure before long-term cooperation arrangements come into effect, and it will be adopted only when an appropriate long-term arrangement has not been reached. In fact, it often takes many years

to negotiate a long-term agreement. Citing Hong Kong's experience, the shortest period is three years, and there are cases where it took a longer period of time. However, serious crimes may happen any time, and the relevant authorities must react seriously and promptly.

In the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill") submitted to the Council, we made a clear differentiation between long-term agreements and case-based surrender. The laws and mechanism related to long-term agreements will be fully retained. The Bill also proposes that case-based surrender arrangements will be applicable only to 37 out of the 46 items of offences. We will also raise the threshold for surrender arrangements to cover offences punishable with imprisonment for more than three years and triable on indictment in Hong Kong. We believe that after the case-based surrender arrangement has been operated for some time, the public will have a better understanding of the relevant law and mechanism.

The nine items of offences in the Fugitive Offenders Ordinance not covered in case-based surrender arrangements are:

- Item number 10 Offences relating to bankruptcy
- Item number 11 Offences against the law relating to companies
- Item number 12 Offences relating to securities and futures trading
- Item number 14 Offences relating to intellectual property, copyrights, patents or trademarks
- Item number 21 Offences relating to environmental pollution or public health
- Item number 27 Offences relating to control of exportation or importation of goods or the transfer of funds
- Item number 35 Offences involving the unlawful use of computers
- Item number 36 Offences relating to fiscal matters, taxes or duties
- Item number 40 Offences relating to false trade descriptions

After taking into account the following considerations, the Security Bureau decided not to include the above mentioned items of offences:

- As the items of offences to be covered under long-term agreements require mutual agreement, not all the 46 items of offences are

covered under the 20 long-term agreements that Hong Kong has entered into. For example, our arrangement with Finland covers 21 items of offences, and it is 27 with Canada; 30 with the Netherlands; 31 with Australia; 46 with Germany. The above mentioned nine items of offences are also not included in all long-term surrender agreements for fugitive offenders that Hong Kong has entered into;

- A lot of opinions are stemmed from the lack of understanding of the practical application of the principle of dual criminality; and
- There is a lack of understanding of the details, legal proceedings and protection of surrender arrangements and the application of the provisions.

I must reiterate that the Government's proposal is made in a prudent manner after taking into consideration a series of factors and the views of different individuals and representatives.

We believe that problems related to lack of knowledge and understanding will be resolved after the case-based surrender arrangements have been in operation for a period of time.

I have also given serious consideration to the suggestions made by the two lawyers' associations on amending the Criminal Jurisdiction Ordinance (Cap. 461). In my view, the suggestions only focus on extending the jurisdiction of our courts over cases of homicide, and other serious offences (such as arson, robbery and use of explosives) cannot be included and suspects of these offences cannot be surrendered. Furthermore, even if homicide offences are included under the Criminal Jurisdiction Ordinance, there remains the question of non-retrospectivity of the relevant legislative amendments, which means the Taiwan homicide case cannot be covered.

In response to Members' criticisms about the Mainland's judicial system, I must point out that the Bill is not made for one specific jurisdiction, but for all jurisdictions with which Hong Kong has no long-term arrangements. Moreover, under our existing system, the requesting party is required to guarantee that the relevant person will be entitled to human rights and legal protection provided by our existing laws. This is in line with the practice in other countries.

Some Members have voiced doubts over the liaison and communication between Hong Kong and Taiwan. I must point out that after the arrest of the suspect in March last year, the Police have all along intended to prosecute the suspect in Hong Kong for murder under the laws of Hong Kong. In August last year, according to the investigation result and legal opinions, the Police did not have sufficient evidence to lodge the murder charge in Hong Kong, and there is no law in Hong Kong that provides for mutual legal assistance and surrender arrangements between Hong Kong and Taiwan.

Colleagues from the Department of Justice and the Security Bureau only spent six months to examine foreign practices and concluded that it was feasible to adopt the case-based surrender arrangements which have been in practice in countries such as the United Kingdom and Canada. This is why we introduced the Bill. Upon satisfaction that there is a way to handle the request of Taiwan, we have communicated with Taiwan to hold discussion expeditiously. We hope to put in place the surrender arrangements as soon as possible upon the passage of the Bill in the Council.

In response to concerns about surrender for political purposes, I must emphasize that assurance is already provided in the existing laws. Allow me to cite the relevant provisions. Under section 5(1)(a) of the Fugitive Offenders Ordinance, it is stipulated that if the offence is of a political character, no fugitive offender shall be surrendered irrespective of how that offence is described in the prescribed arrangements concerned. Furthermore, it is stipulated under section 5(1)(c) that a person shall not be surrendered if the request for the surrender concerned, though purporting to be made on account of a relevant offence, is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions. Section 5(1)(d) further provides that a person shall not be surrendered if he might, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions. It can therefore be seen that the law provides adequate safeguards for human rights.

I have stressed time and again that the Government's proposal tackles two issues, namely: (i) the Taiwan homicide case; (ii) plugging the loopholes in Hong Kong's overall cooperation mechanism in criminal and juridical assistance matters. There is a time factor to be considered in regard to the surrender of the suspect of the Taiwan homicide case, which must be addressed expeditiously. We hope to adopt a pragmatic and mutually respectful manner to reach an

arrangement with Taiwan in relation to the case as well as human rights and legal protection. The passage of the Bill will provide a legal basis to enable case-based cooperation with Taiwan for the homicide case.

President, Mr YEUNG's motion to withdraw the Bill reflects a misunderstanding of the objective of the Bill. The objective of the Bill is to establish a case-based surrender system, applicable to any jurisdiction with which Hong Kong has no long-term arrangements. In calling this arrangement a surrender arrangement between Mainland China and Hong Kong, it is an attempt to divert attention and turn a blind eye to the loopholes that allow serious offenders to escape legal responsibility due to the lack of relevant laws or effective mechanisms in Hong Kong. The Taiwan homicide case has proved the possibility of similarly serious crimes (such as robbery, rape and use of explosives) being committed in places with which Hong Kong has no long-term agreements. I call upon Members to vote against Mr YEUNG's motion as well as the amendments of Ms Claudia MO and Mr James TO.

Thank you, President.

**PRESIDENT** (in Cantonese): I now call upon Ms Claudia MO to move an amendment.

**MS CLAUDIA MO** (in Cantonese): President, I move my amendment.

**The amendment moved by Ms Claudia MO (See the marked-up version at Annex 1)**

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Ms Claudia MO's amendment 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 James TO, Mr LEUNG Yiu-chung, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr SHIU Ka-chun and Mr KWONG Chun-yu voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU and Mr Tony TSE voted against the amendment.

Dr Pierre CHAN 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 CHU Hoi-dick, Mr LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin voted for the amendment.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Dr Junius HO, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan, Mr Vincent CHENG and Ms CHAN Hoi-yan voted against the amendment.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 6 were in favour of the amendment, 21 against it and 1 abstained; while among the Members returned by geographical constituencies through direct elections, 32 were present, 16 were in favour of the amendment and 16 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

**MS STARRY LEE** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Requesting the Government to shelve the formulation of arrangements for the surrender of fugitive offenders between Mainland China and Hong Kong" or the amendment 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 concerned or the amendment 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 James TO, please move your amendment.

**MR JAMES TO** (in Cantonese): President, I move my amendment.

**The amendment moved by Mr James TO (See the marked-up version at Annex 2)**

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr James TO's amendment 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 James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO 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 James TO, Mr LEUNG Yiu-chung, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr SHIU Ka-chun, Dr Pierre CHAN and Mr KWONG Chun-yu voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU and Mr Tony TSE voted against the amendment.

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 CHU Hoi-dick, Mr LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin voted for the amendment.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Dr Junius HO, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan, Mr Vincent CHENG and Ms CHAN Hoi-yan voted against the amendment.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 7 were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections, 32 were present, 16 were in favour of the amendment and 16 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Alvin YEUNG, you still have 2 minutes 44 seconds to reply. Then, the debate will come to a close.

**MR ALVIN YEUNG** (in Cantonese): President, as the saying goes, "you cannot wake a man pretending to be asleep." Therefore, no matter how we in the democratic camp have shouted ourselves hoarse today to make our voices heard, I believe some Members still will not wake up. Needless to say, it is regrettable that a number of pro-establishment Members with a legal background are still attempting to use the court's role of a gatekeeper as an excuse to cover up the loophole in the amendments to the Ordinance.

Let me stress again that the court is judicially independent. There are, of course, many things that the courts in Hong Kong can accomplish; but when the courts are prohibited by law to take certain actions, and when prima facie evidence is the standard of proof, very often there is not much the court can do with regard to the "gatekeeping role" as claimed by pro-establishment Members. Of course, I do not think we can ever convince those in the pro-establishment camp who strongly support the Motherland; colleagues from the business sector, however, are really remarkable. On the one hand, they uphold the banner that "we should trust the Motherland, we should continue to love the Motherland, and we should trust the Motherland's system"; yet on the other hand, they do not trust the Motherland's laws regarding certain provisions and certain items of offences.

I am really shocked by such logic and schizophrenic attitude. I believe even the "die-hard" pro-establishment colleagues would detest such deeds, yet, being in the same camp, they of course cannot attack one another.

President, I must stress once again, for those who have shouted at the top of their lungs in support of the amendments to the Ordinance, claiming that they do not want Hong Kong to become a haven for fugitive offenders, I urge them to think about this seriously: will the removal of the nine items of offences going to turn Hong Kong into a haven for fugitive offenders of these nine items of offences? If the amendments to the Ordinance were reasonable and logical, Mr Charles HO, a member of the Standing Committee of the Chinese People's Political Consultative Conference would not have said yesterday that he hoped Hong Kong would ... I worry that after the Ordinance is amended, the spring breeze will turn into harsh, cold winds.

I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Alvin YEUNG 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 Alvin YEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Alvin YEUNG 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 James TO, Mr LEUNG Yiu-chung, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr SHIU Ka-chun, Dr Pierre CHAN and Mr KWONG Chun-yu voted for the motion.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU and Mr Tony TSE voted against the motion.

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 CHU Hoi-dick, Mr LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin voted for the motion.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Dr Junius HO, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan, Mr Vincent CHENG and Ms CHAN Hoi-yan voted against the motion.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 7 were in favour of the motion and 21 against it; while among the Members returned by geographical constituencies through direct elections, 32 were present, 16 were in favour of the motion and 16 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 9:00 am tomorrow.

*Suspended accordingly at 7:19 pm.*



## Annex 1

**The marked-up version of the amendment moved by Ms Claudia MO  
(Translation)**

~~That, as Mainland China has not yet implemented~~ *the incident where a Hong Kong person absconded back to Hong Kong after being suspected of committing homicide in Taiwan in 2018 has triggered grave concern among various sectors of the community about the arrangements for the surrender of fugitive offenders; as human rights protection on the Mainland China has been unsatisfactory all along, and the Mainland China has not practised* judicial independence and fair trial, in order to safeguard Hong Kong's internationally recognized reputation for rule of law under 'one country, two systems', ~~and~~ to protect the human rights of Hong Kong people and individuals travelling to and from Hong Kong, *and to maintain the confidence of the international and local business sectors in Hong Kong as a free and independent economy*, this Council requests the Government to shelve the formulation of any extradition arrangement permitting Hong Kong to surrender fugitive offenders to Mainland China; *yet, the Government must endeavour and take the initiative to discuss with the Taiwan authorities on the formulation of reciprocal extradition arrangements that are mutually acceptable to the Governments of the two places.*

Note: Ms Claudia MO's amendment is marked in *bold and italic type* or with deletion line.

## Annex 2

**The marked-up version of the amendment moved by Mr James TO  
(Translation)**

That, ~~as an incident took place in Taiwan in 2018 where a Hong Kong person absconded back to Hong Kong after being suspected of killing another Hong Kong person; subsequently, the Taiwan authorities proposed many times to hold discussions with the Government of the Hong Kong Special Administrative Region ('the SAR Government') on the arrangements for extraditing that suspect, but there is still no response; the SAR Government now intends to amend the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance to extend the application of the Ordinances concerned to include Mainland China, Taiwan, Macao, etc., yet, as huge differences exist in the rule of law of Mainland China and Hong Kong, and Mainland China has not yet implemented judicial independence and fair trial, in order to safeguard Hong Kong's internationally recognized reputation for rule of law under 'one country, two systems', and to protect the human rights and freedom of Hong Kong people and individuals travelling to and from Hong Kong, this Council requests the Government~~ ***the SAR Government*** to shelve the formulation of any extradition arrangement permitting Hong Kong to surrender fugitive offenders to Mainland China, ***and expeditiously discuss with the Taiwan authorities on implementing extradition arrangements of suspects between Hong Kong and Taiwan, so as to enable Hong Kong people to seek justice as soon as possible.***

Note: Mr James TO's amendment is marked in ***bold and italic type*** or with deletion line.