

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 6 January 2010**

**The Council met at Eleven o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, S.B.S., S.B.ST.J., J.P.

THE HONOURABLE LEE CHEUK-YAN

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.M., G.B.S., J.P.

THE HONOURABLE FRED LI WAH-MING, S.B.S., J.P.

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, G.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE TIMOTHY FOK TSUN-TING, G.B.S., J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

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

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE CHEUNG HOK-MING, G.B.S., J.P.

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

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

THE HONOURABLE TANYA CHAN

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

**MEMBERS ABSENT:**

DR THE HONOURABLE LEUNG KA-LAU

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

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE HENRY TANG YING-YEN, G.B.M., G.B.S., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.  
THE FINANCIAL SECRETARY

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.  
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE TSANG TAK-SING, J.P.  
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.  
SECRETARY FOR LABOUR AND WELFARE

PROF THE HONOURABLE K C CHAN, S.B.S., J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, J.P.  
SECRETARY FOR DEVELOPMENT

DR KITTY POON KIT, J.P.  
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE MRS RITA LAU NG WAI-LAN, J.P.  
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Patents Ordinance (Amendment of Schedule 1) Order 2009 .....	252/2009
Registered Designs Ordinance (Amendment of Schedule) Regulation 2009 .....	253/2009
Trade Marks Ordinance (Amendment of Schedule 1) Regulation 2009 .....	254/2009
Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) (Amendment) Regulation 2009 .....	255/2009
Hawker (Permitted Places) Declaration 2009 .....	256/2009
Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2009 (Commencement) Notice .....	260/2009
Prisons (Amendment) (No. 2) Order 2009 .....	261/2009
Drug Addiction Treatment Centre (Hei Ling Chau Addiction Treatment Centre) (Amendment) Order 2009 .....	262/2009
Drug Addiction Treatment Centre (Nei Kwu Correctional Institution) Order .....	263/2009
Tax Reserve Certificates (Rate of Interest) (No. 6) Notice 2009 .....	264/2009
Domestic Violence (Amendment) Ordinance 2009 (Commencement) Notice .....	265/2009

## Other Papers

Report No. 2/09-10 of the House Committee on Consideration of  
Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Inland Revenue (Amendment) (No. 3)  
Bill 2009

## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions. First question.

### Installation of Air Quality Monitoring Stations

1. **MR CHAN HAK-KAN** (in Cantonese): *President, at present, the Environmental Protection Department (EPD) makes use of the data collected by three roadside and 11 general air quality monitoring stations (AQMSs) to compile the Air Pollution Index (API) and publish the relevant summary for reference of the public. There have been comments that the AQMSs fail to comprehensively reflect the air pollution situation in Hong Kong as their number is inadequate. In this connection, will the Government inform this Council:*

- (a) *whether or not the Government will, before deciding if additional AQMSs will be installed, consult green groups and people in the districts; if so, of the details of consultation; if not, the reasons for that, and whether or not it will consider setting up such a consultation mechanism;*
- (b) *given that roadside AQMSs are set up only in Central, Causeway Bay and Mong Kok at present, whether or not the Government will reconsider installing roadside AQMSs in other busy districts; if so, of the details of consideration, including the districts and locations at which the additional roadside AQMSs are to be installed, as well as the installation timetable and the methods of collecting data; if not, the reasons for that; and*

- (c) *whether or not it will consider the provision of at least one general AQMS in each of the 18 districts in Hong Kong, so as to enable members of the public to have a better grasp of the air pollution situation in various districts; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, the current air quality monitoring network (the monitoring network) in Hong Kong comprises 14 fixed AQMSs, including 11 general and three roadside AQMSs. The main objective of setting up the monitoring network is to collect data for assessing the impact of air pollution on the public, formulating air quality management strategy and evaluating its effectiveness. The EPD also publishes hourly the API based on the real-time data collected by the monitoring network for the public's reference.

As a small and densely populated city, Hong Kong's economic activities are mainly commercial and financial. Air pollutants in urban areas and new towns mainly come from vehicle emissions. Given the same source of pollution, the levels of air pollution in different districts are mainly determined by their respective types and density of development. In districts with similar types and density of development, the levels of air pollution are more or less the same. The current monitoring network covers the major areas from east to west and from south to north of the territory. In terms of land uses, it also covers different types and density of development, such as residential areas, mixed residential/commercial areas, mixed residential/commercial/industrial areas, rural areas and busy urban roadside areas. Therefore, the current monitoring network can effectively reflect the overall air pollution situation in Hong Kong, serve as a reliable basis for us to draw up an air quality management strategy and measures, as well as providing the public with representative data on air quality.

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

- (a) To collect representative data on air quality, we need to consider holistically a number of factors in designing the distribution of AQMSs within the monitoring network. They include the spatial distribution of the monitoring network, coverage of different types of development areas (for example, urban areas, new towns and rural areas), distribution of local population, traffic flow, distribution of



pollution sources, representativeness in terms of the local air quality, topography and meteorology.

Moreover, in deciding the locations, design and operation of individual AQMSs, the EPD makes reference to the United States Environmental Protection Agency's guidelines to ensure the collection of representative data by the AQMSs. Not only do the design and operation of the monitoring network in Hong Kong meet the international standards, but it is also certified by the Hong Kong Laboratory Accreditation Scheme.

We have set up AQMSs to monitor the local air quality since the 1980s. In setting up the AQMSs in the early days, we mainly considered the above technical factors and the District Councils (DCs) were not consulted on the relevant issues. However, given the public's rising awareness of environmental protection over the past decade or so, in planning the installation of roadside AQMSs in recent years, the EPD has consulted the relevant DCs and listened to the views of the local community on the locations, design and operation of the AQMSs, so as to avoid the AQMSs hindering the nearby traffic and pedestrian flow or creating negative visual impact. For instance, when the EPD planned in 1996 to set up a roadside AQMS in the Central and Western District to assess the impact of vehicle emissions on pedestrians, we took into account a number of factors in selecting the site, including the need to set up the roadside AQMS at a location with heavy vehicular and pedestrian traffic and reflect the phenomenon of "canyon-type" streets in built-up areas in Hong Kong. In addition, the air flow near the AQMS must be free from interference by objects such as trees, plants and flyovers in the vicinity. At the same time, the requirements of sampling standards, ease of operation, staff safety, possible impact of the AQMS on the nearby pedestrian flow and vista, as well as foreseeable redevelopment plans for nearby buildings were also amongst the host of relevant factors that had to be considered. At the initial stage of site selection, the EPD carried out site inspections at 60 locations in the district. After an in-depth study, three suitable locations were identified for consultation with the Environmental and Works Committee of the Central and Western District Council before the present site at the junction of Des Voeux Road Central and Chater

Road in Central was selected for setting up the AQMS, which came into operation in 1998.

- (b) All of the three existing roadside AQMSs in Hong Kong are located in built-up urban areas with heavy vehicular and pedestrian traffic to monitor roadside air quality, in particular, the impact of vehicle emissions on pedestrians, and provide real-time roadside API. The three roadside AQMSs in Causeway Bay, Central and Mong Kok cover the most common types of land uses with a relatively high density in urban areas, including commercial, commercial-cum-residential and financial areas. Therefore, the data from these roadside AQMSs are representative of the roadside air quality in typical places with heavy vehicular and pedestrian traffic in the urban areas in Hong Kong. Consequently, we consider it unnecessary to increase the number of roadside AQMSs.
- (c) Formed by 11 general AQMSs, the current monitoring network covers the major areas from east to west and from south to north of the territory. In terms of land uses, it also covers different types of development, such as urban areas, new towns and rural areas. Its data are representative of the air quality in various districts in Hong Kong. For instance, Tsuen Wan, Kwai Chung, Sham Shui Po and Kwun Tong have similar overall development density. The four AQMSs in these districts recorded a mean API ranging from 43 to 45 in 2009. This indicates that the overall air quality in these districts is similar and the readings recorded by these AQMSs are able to reflect the air quality in such urban areas as the Kowloon Peninsula and Tsuen Wan. As for the remaining seven AQMSs, the data from the AQMSs in the Central and Western District and the Eastern District can reflect the situation in the urban areas on Hong Kong Island; the data from the AQMSs in Tai Po, Sha Tin, Yuen Long and Tung Chung can reflect the air quality in new towns in the New Territories and even Lantau Island; and the data from the AQMS in Tap Mun can reflect the air quality in rural areas. In short, the data from the current monitoring network can serve as a reliable basis for us to draw up an air quality management strategy and measures while providing the public with representative data on air quality. We consider it unnecessary to set up an AQMS in each of the 18 districts at present.

**MR CHAN HAK-KAN** (in Cantonese): *I wish to follow up the issue of site identification for AQMSs because the selection of a correct site can accurately reflect the air quality in a particular district. Having looked up some information, I noticed the absence of roadside AQMSs in districts with busy roads, such as Tsim Sha Tsui, which also sees a heavy pedestrian and vehicular flow. As for those general AQMSs, I have also checked some information, which reveals that a majority of them are set up on top of government buildings. As the Secretary is also aware, government buildings are usually located in remote areas where not too many people will visit and the air in those areas is certainly of a good quality. The reason for the Government to set up general AQMSs in those areas is seemingly to facilitate its installation and management of the same and this runs completely counter to the present objective of installing general AQMSs, that is, to reflect the air quality. What does the Secretary wish to say in response?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, as I mentioned just now, the factor for consideration in the selection of sites is mainly the intention to identify representative locations within the spatial coverage of the territory, with a view to assessing the air quality. The guidelines used in the United States have been adopted in the identification of sites for, and the design of, AQMSs and the readings recorded by an AQMS are usually representative of the air quality in a large community within a radius of 4 km. Regarding Mr CHAN's question about whether or not consideration will be given to setting up an AQMS in each of the 18 districts, in fact, demarcation on the basis of administrative districts is not a factor for consideration when it comes to identifying sites for AQMSs. We mainly take into account the morphology of the community, land uses and the ability of AQMSs to monitor pollution sources (for example, the emissions of various modes of transport and vessels or regional emissions). Consequently, in spite of the absence of AQMSs in some districts, members of the public can obtain the relevant data from the AQMSs located in neighbouring districts.

**MR ABRAHAM SHEK** (in Cantonese): *According to the Secretary's explanation, the three roadside AQMSs are already representative. However, given that air knows no boundary, will she explain how the readings recorded by the three roadside AQMSs can be representative of the air quality in the 18 districts? Is it due to financial reasons that the authorities has not installed additional roadside AQMSs?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): As I highlighted just now, our main objective is to collect some representative data. Despite the absence of AQMSs in some districts, the public can obtain the relevant data from the AQMSs in neighbouring districts for reference. If a resident living in the North District wishes to know the air quality in his local district, he may make reference to the data from the AQMS in the Tai Po District and that in the Yuen Long District, depending on which of the two AQMSs is located in closer proximity to his place of residence. A member of the public living in Ma On Shan may consider referring to the data from the AQMSs in Tai Po and Sha Tin. Residents in Tseung Kwan O may consider consulting the readings for Sha Tin while those living in the South District may make reference to the readings for the Central and Western District and the Eastern District. I wish to emphasize that the main objective of installing AQMSs is to collect representative data and hence, demarcation on the basis of administrative districts is not a factor for consideration.

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

**MR ABRAHAM SHEK** (in Cantonese): *I wish to ask this question: In the case of residents in Tung Chung, which district's AQMS should they use?*

**PRESIDENT** (in Cantonese): Mr SHEK, you may only repeat the part of your earlier supplementary question that has not been answered.

**MR ABRAHAM SHEK** (in Cantonese): *May I ask the Secretary to offer an explanation on the issue of representativeness? For example, which AQMS's readings can be representative of the air quality in Tung Chung?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): There is an AQMS in Tung Chung, the function of which is comparable to that of the one in Tap Mun. The main intention is to examine through the two AQMSs the impact of regional air pollution on the air quality in Hong Kong. Consequently, residents in Tung Chung would probably have rather specific figures for reference.

**MR LAU KONG-WAH** (in Cantonese): *The Secretary emphasized time and again just now that demarcation on the basis of administrative districts was not a factor for consideration in setting up AQMSs. As reflected by the Secretary in part (c) of the main reply, the authorities took an academic mindset in working out the design of AQMSs, which, however, has been adopted for a decade or so. Today, the Hong Kong public have a strong sense of belonging to the districts in which they live, namely, the 18 administrative districts. Likewise, the Hong Kong Observatory also announces the regional temperature of the 18 districts at present. Consequently, in my view, demarcation on the basis of urban and rural areas is no match for that based on the 18 districts. Given that the design concerned has been adopted for some 10 years and members of the public are accustomed to demarcation on the basis of the 18 administrative districts, may I ask the Secretary to reconsider facilitating members of the public to have an idea about the air quality in the districts in which they live, as in the case of according them the right to information on temperature, instead of making them refer to the readings for other districts?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): As I said just now, at the initial stage of designing and building general and roadside AQMSs, we had given thoughts to their technological design and the technical issues involved. In setting up roadside AQMSs over the recent years, in fact, we have also conducted consultation with relevant DCs. If a roadside AQMS to be installed by the authorities will have bearing on the pedestrian flow, vista and local residents of a district, we will have to conduct consultation in that district. Sometimes, the Government had even considered 60 sites before selecting four out of them (Appendix 1), to be followed by the relevant DC's discussion and deliberation. For the time being, there is no need for us to set up additional AQMSs. That said, if a series of matters of public concern are involved in the course of construction, we will factor in those matters.

**PROF PATRICK LAU** (in Cantonese): *As the Secretary mentioned in part (b) of the main reply, Hong Kong is a city lined up with high rise buildings and heavy vehicular traffic. In fact, we should not look at our city from a two-dimensional angle but should instead do so in a stereoscopic vision. Why can AQMSs not be set up in places at higher altitudes? I read from the press that the air in places at higher altitudes is of a better quality because such places are under the impact of wind. In monitoring the air quality, should the authorities take the city as a whole and examine the relevant matters from a stereoscopic perspective instead*

*of merely examining the roadside air quality? If the authorities conduct monitoring work in this fashion, the size of equipment can be significantly reduced while the current practice can be dispensed with. May I ask the Secretary whether or not the authorities can give thoughts to this, so that we can have knowledge about the extent of air pollution in this city from a stereoscopic angle?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): We heard two different viewpoints just now. Earlier, Mr CHAN queried me about the reasons for installing AQMSs in places at high altitudes and now, then another Honourable Member has just expressed his hope that our AQMSs be set up in places at higher altitudes. I wish to explain that all roadside AQMSs installed at a height of 3.5 m are basically intended for assessing the quality of air that pedestrians inhale while walking on the roadside. The objective of setting up general AQMSs is to assess the concentration of five pollutants in the atmosphere. For these reasons, relatively speaking, general AQMSs are set up in places at higher altitudes ranging from 2 m to 15 m in general, so as to facilitate assessment of the overall air quality in Hong Kong. Concerning the design in this regard, reference has actually been made to the practice adopted by the United States and corresponding adjustments have also been made in the design relating to the altitude.

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

**PROF PATRICK LAU** (in Cantonese): *She has not answered my supplementary question. Although I have no comments on the point about the altitudes at which roadside AQMSs are installed, I have highlighted that Hong Kong is a three-dimensional city in which places are situated at high or low altitudes. Why are AQMSs not set up in places at various altitudes, thereby enabling us to have a general understanding of the air quality in Hong Kong?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): What I said earlier is about the average altitude at which the general AQMSs are located. You will notice, when looking individually at each AQMS, that these AQMSs are indeed able to generate a stereoscopic picture of the whole of Hong Kong for

inclusion in our scope of consideration. Let me cite some examples. The AQMS in the Central and Western District is set up at an altitude of 16 m, which is approximately equivalent to the height of five floors. The AQMSs in the Eastern District, Sha Tin and Tap Mun are installed at altitudes of 15 m, 25 m and 11 m respectively. As we may notice, corresponding adjustments have been made to the AQMSs in response to the changes in the environment of Hong Kong.

**DR SAMSON TAM** (in Cantonese): *As a number of Honourable Members have highlighted, a great many members of the public wish to know the API for their local districts. Earlier, Mr Abraham SHEK also asked the Secretary whether or not financial reasons have deterred the Government from undertaking this work. May I ask the Secretary about the cost of building an AQMS? How much expenses are incurred annually on maintenance?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): The cost of constructing a general AQMS is \$1.5 million while it costs \$1.5 million to acquire the equipment in each general AQMS. This makes a total of some \$3 million. The annual operating expenses approximately amount to around \$1 million.

**PRESIDENT** (in Cantonese): We have spent more than 20 minutes on this question. Second question.

### **Abolition of Functional Constituencies of Legislative Council**

2. **MS AUDREY EU** (in Cantonese): *President, Article 68 of the Basic Law provides that all Members of the Legislative Council will ultimately be elected by universal suffrage. The Bar Association of Hong Kong, The Law Society of Hong Kong and 19 members of the Legal Subsector of the Election Committee have recently pointed out that the Legislative Council seats for Functional Constituencies (FCs) do not conform with the universal and equal principle and such a mode of election should be abolished completely. Yet, the Government has proposed, in its Consultation Document on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012 (Consultation Document) released on 18 November last year, addition of Legislative Council*

*seats for the District Council (DC) FC. In this connection, will the Government inform this Council:*

- (a) whether it has studied the criteria and methods for abolishing the FC seats of the Legislative Council either progressively or at one go; if so, of the details; if not, the reasons for that;*
- (b) given that the Government has indicated in the Consultation Document that regarding the electorate base of the FCs in the methods for forming the Legislative Council in 2012, the Government (I quote) "is inclined not to adopt the method of replacing 'corporate votes' with 'director's/executive's/association's/individual votes'. This is because the process would be too complicated and involve the interests of many different sectors and individuals", how the Government ensures that the problem of FC seats can be resolved in 2020, so as to achieve the target of implementing universal suffrage for the Legislative Council in that year; and*
- (c) given that some political parties have proposed the designation of one Member from each of the five Geographical Constituencies (GCs) of the Legislative Council to resign and the adoption of "implementation of genuine universal suffrage and abolition of FCs" as the subject for a de facto referendum, whether the Government will undertake to abolish all FC seats of the Legislative Council not later than 2020, so as to avoid this de facto referendum; if not, of the reasons for that?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, my reply to Ms Audrey EU's question is set out below:

- (a) Through the discussions of the Commission on Strategic Development (CSD) in 2006, the HKSAR Government conducted studies on the universal suffrage models for the Legislative Council and the transitional arrangements leading to universal suffrage. The Government also summarized the relevant discussions and studies in the Green Paper on Constitutional Development (Green Paper) published in July 2007.



We made it clear in the Green Paper that, in considering the options for implementing universal suffrage for the Chief Executive and the Legislative Council, we must consider, in accordance with the relevant provisions and principles of the Basic Law, whether the relevant options could comply with:

- (i) the basic policies of the State regarding Hong Kong;
- (ii) the four principles on constitutional development, namely, meeting the interests of different sectors of society, facilitating the development of the capitalist economy, complying with the principle of gradual and orderly progress, and being appropriate to the actual situation in Hong Kong; and
- (iii) the principles of universal and equal suffrage.

In considering the universal suffrage model for the Legislative Council, we also have to take into account the constitutional and political reality that 30 out of the 60 Legislative Council seats are returned by FCs. As any amendment to the electoral method for the Legislative Council requires the endorsement of a two-thirds majority of all the Members of the Legislative Council, in practice, this means that the support of Members returned by the FCs as well as those returned by the GCs through direct elections will be required.

Regarding the universal suffrage model for the Legislative Council, particularly how the existing FCs should be dealt with, the outcome of the public consultation on the Green Paper indicates that there are diverse views within the community:

- (i) there are views that all FC seats should be abolished and replaced by district-based seats returned by universal suffrage, that is, the "one person, one vote" model;
- (ii) there are views that the FC seats should be retained, but the electoral model should be changed, for example, by allowing the FCs to nominate candidates for election by all voters of Hong Kong, that is, the "one person, two votes" model

whereby each voter can cast one vote in the GC election, and the other in the FC election; and

- (iii) there are also views that transitional arrangements could first be put in place, for example, to abolish the FC seats in phases. However, there are also views that this would lead to disputes as to which FCs should be abolished first, which would not be easy to resolve.
- (b) The HKSAR Government is inclined not to adopt the method of replacing "corporate votes" with "director's/executive's/association's/individual votes" because different political parties and Members, as well as different organizations both inside and outside the Legislative Council have diverse views on how the electorate base of the FCs should be changed. It will be extremely difficult for the community to reach consensus before the Legislative Council election is held in 2012.

Regarding the universal suffrage model for the Legislative Council in 2020, however, the community will have sufficient time to discuss how the FCs should be dealt with and forge consensus.

- (c) Regarding how the FCs should be dealt with in the long term, the HKSAR Government understands that there are many different views among various sectors of the community, including that in the Legislative Council, some political parties propose that the FCs be abolished, but at the same time, there are other political parties and groupings which propose that the FCs be retained. This issue will continue to be a subject of controversy both inside and outside the Legislative Council and cannot be resolved within a short period of time.

It is the position of the HKSAR Government that we should, at this stage, endeavour to democratize the Legislative Council election in 2012. In this connection, we propose that, in the 70-seat strong Legislative Council, consideration may be given to allocating the new FC seats to elected DC members, so as to increase the number of the Legislative Council seats to be returned by GCs through direct or indirect elections to about 60%.

As to how the FCs should be dealt with in future, the community should continue the discussion on how the Legislative Council Elections in 2012 and 2016 should be democratized step by step, so as to attain universal suffrage that can comply with the principles of universality and equality in 2020.

**MS AUDREY EU** (in Cantonese): *President, the Secretary simply has not answered part (c) of my main question, which asked would the Government manage to abolish all the FC seats of the Legislative Council not later than 2020, so that it may be able to save the \$150 million to be spent on the de facto referendum. But the Government has not answered this part of the question.*

*President, in the last paragraph of part (c) of his reply, he said that "as to how the FCs should be dealt with in future, the community should continue the discussion on how the Legislative Council Elections in 2012 and 2016 should be democratized step by step, so as to attain universal suffrage that can comply with the principles of universality and equality in 2020". President, I wish to put to him a supplementary question regarding this point because he said we could discuss how to attain universal suffrage that could comply with the principles of universality and equality in 2020. He pointed out a political reality in part (a) of his reply that any amendment requires the endorsement of a two-thirds majority of all the Members of the Legislative Council. At present, half of the Members of this Council are returned from the FCs. These Members with vested interests will not support the abolition of their seats no matter how and they claimed that they have contributed greatly to this Council. May I ask the Secretary if people with vested interests never give up their vested interests, while we will never be able to secure a two-thirds majority, does it mean that we will never or have no way to abolish the FCs?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): *President, I believe after the Standing Committee of the National People's Congress (NPCSC) have finished examining the public consultation on the Green Paper conducted by the Chief Executive in 2007 and different views have been finalized, we can proceed to elect the Chief Executive in 2017 and form the legislature in 2020 by universal suffrage. The Government, political parties, the independent Members as well as organizations of different political parties and groupings are all obliged to implement universal suffrage for the*

community of Hong Kong. However, from now to the next three terms of the Legislative Council in 2012, 2016 and 2020, the issues of how to inject new democratic elements, attain the principles of universality and equality and form the legislature by universal suffrage in 2020 are indeed topics we need to extensively discuss and forge consensus in the next 11 years.

**MR ABRAHAM SHEK** (in Cantonese): *President, may I ask the Secretary how he will explain the principles of universality and equality and the spirit of balanced participation stipulated in the Basic Law?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, regarding the spirit of balanced participation, as I have also mentioned in the main reply, we must meet the interests of different sectors of society. We now have two sets of election methods. The Chief Executive Election Committee is composed of members coming from four major sectors, including the industrial and commercial sectors, the professions, the social services sectors and the political sector. And the composition of the Legislative Council is composed of seats half returned from geographical direct elections and another half returned from the FC elections representing 28 different sectors. This allows views in the community be fully reflected, and the views of different sectors are also fully reflected through Council debates on different policies, budgets and bills.

The present constitutional arrangement includes these two electoral systems. From now until the 2017 Chief Executive Election and the 2020 Legislative Council Election by universal suffrage, we must fully get hold of all relevant information, such as the information I mentioned in the main reply concerning the long-term policies of the Basic Law, provisions which comply with the Basic Law and the principles of universality and equality. As we have said, insofar as the Legislative Council Election is concerned, the present geographical direct elections comply with the principles of universality and equality, while the 30 seats returned from the FC elections do not. As to how to comply with the principles of universality and equality in the next 11 years, we must seek common ground while accommodating differences through communication and discussion.

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

**MR ABRAHAM SHEK** (in Cantonese): *President, he has not answered my question. I asked him to explain from the angle of the Basic Law, how balanced participation ties in with the principles of universality and equality, and whether the principles of universality and equality will surpass the spirit stipulated in Basic Law such that all levels of society will be represented?*

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, what I can add is, the decision made by the NPCSC concerning the timetable for attaining universal suffrage states that universal suffrage is to be implemented in accordance with the Basic Law. The Basic Law itself is the constitutional origin which makes it possible for Hong Kong to implement universal suffrage because Article 45 of the Basic Law provides that we shall ultimately elect the Chief Executive by universal suffrage and Article 68 provides that we shall ultimately elect all Members of the Legislative Council by universal suffrage. Concerning the principles of universality and equality, we have extensively collected views of different stakeholders through the public consultation on the Green Paper in 2007 and have such views published.

**DR MARGARET NG** (in Cantonese): *President, unless the Government plans to take the stance of retaining the FCs forever and holds that this has no conflict with universal suffrage, it ultimately has to face and address the issue of how to abolish all the FC seats. The Government should play a leading role in this. What does the HKSAR Government plan to do to take forward the abolition of the FCs step by step? Or does it wish to resort to the power of the people executed through the "resignation en mass of Members returned from five GCs as a de facto referendum", such that the name of FC will be tarnished, all the FC Members (including me) will become abominable and the credibility of the legislature gone? Does the Government think that this is the right course to take? To avoid such cases, should the Government or should it not play a leading role?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the Government has already played a leading role. During the period between 2005 and 2006, we have engaged the public in an extensive discussion in the CSD on the timetable for attaining universal suffrage, the roadmap and the modes. Secondly, in the latter half of 2007, that is, within six months after the third-term Government took office, we have initiated a public consultation on the Green Paper and submitted the report to the NPCSC so as to secure the timetable for implementing universal suffrage. These are efforts we have made to play the leading role. Thirdly, we have now provided the direction for conducting the two elections in 2012, which we think Members can consider. We hope that Members will support the injection of new democratic elements into the composition of the legislature, thereby making it possible for the 2012 Legislative Council to have nearly 60% of the seats to be returned by geographical direct elections and indirect elections.

Regarding how to deal with the issue of the FCs in the long run, as I have stated in the main reply, at present views in the community are still diverse. Some are of the view that the "one person, one vote" model can be implemented in 2020, while others hold that the "one person, two votes" model can be implemented in 2020. Regarding this issue, it is indeed necessary for us to discuss to collect different views and to seek common ground while accommodating differences.

**PRESIDENT** (in Cantonese): Has your supplementary question not been answered?

**DR MARGARET NG** (in Cantonese): *President, I know that he will not answer my question directly. The leading role that I asked refers to the leading role the Government should play in taking forward the abolition of the FCs. The money that we have spent, when compared to what the Government has spent, is much more inferior. Would the Secretary provide us with an answer as to what actions the Government has taken to play the leading role in abolishing all the FCs?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I have in fact already stated the actions taken. As I said just now, be it the effort made in securing the timetable for attaining universal

suffrage, in taking forward the overall democratic development, in injecting new democratic elements in 2010, or in increasing the number of seats of the 70-seat strong Legislative Council returned by geographical direct and indirect elections to nearly 60%, such are the efforts we made to play the leading role in abolishing the FCs.

As for the resignation and by-election that Dr Margaret NG has mentioned, the HKSAR Government will act in accordance with the law and arrange for a by-election, we will only regard such an election as a by-election, not a referendum.

**MS EMILY LAU** (in Cantonese): *President, the Secretary repeatedly mentioned in the main reply the Legislative Council Election to be conducted by universal suffrage in 2020. President, as you may have noticed, the former Secretary for Justice (the incumbent Deputy Director of the Committee for the Basic Law) Ms Elsie LEUNG, in a political reform forum on Monday, "let the cat out of the bag" regarding the so-called solemn decision of the authorities, that is, the solemn decision made by the NPCSC in 2007 which allows Hong Kong to implement universal suffrage for the 2017 Chief Executive Election and the 2020 Legislative Council Election. Ms Elsie LEUNG said that the NPCSC did not actually make a decision on implementing universal suffrage; it only stated the timetable which it "regarded as feasible". Why should it be "regarded as"? She said originally there were three steps, but then the NPCSC turned them into five steps, and she added that she was not sure if we could ever reach the fifth step then.*

*Hence, President, my supplementary question is whether the authorities have been cheating the people by saying that this is a solemn decision of the NPCSC as "the cat has been let out of the bag" by Ms Elsie LEUNG that we may not even have bogus universal suffrage for the 2020 and 2017 elections?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I believe Ms Emily LAU is referring to a certain newspaper report yesterday to which I have already responded. Let me reiterate here to Members that the decision made by the NPCSC in 2007 regarding the universal suffrage timetable is that we could implement universal suffrage for electing the Chief Executive in 2017 and then for electing all the Legislative Council Members in 2020. This is a solemn and explicit decision with constitutional effect.

Secondly, all we need to do in future is to follow the five steps of the Basic Law to forge consensus in society of Hong Kong on how to elect the Chief Executive by universal suffrage, and in accordance with these five steps, forge consensus again before 2020 on how to form the Legislative Council by universal suffrage. With the consensus forged in society of Hong Kong, coupled with the universal suffrage timetable set by the NPCSC in 2007, the two elections by universal suffrage will be effected in Hong Kong naturally.

**MS EMILY LAU** (in Cantonese): *President, my supplementary question is whether Ms Elsie LEUNG has exposed the fact that the HKSAR Government is lying. The Secretary has to answer clearly because she is the Deputy Director of the Committee for the Basic Law. Why did he not answer the question?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I have already provided the answer. I am of the view that the newspaper report yesterday has failed to interpret correctly the decision of the NPCSC made in 2007 about the timetable for implementing universal suffrage. Universal suffrage is anticipatory and it will come naturally if the conditions are mature.

**MR CHEUNG MAN-KWONG** (in Cantonese): *President, regarding the views of the Hong Kong people which call for the abolition of the FCs, may I ask whether the Chief Executive can or is willing to start, after the end of the consultation period, a new round — in other words, another five steps — of the political reform, so as to reflect the views of the Hong Kong people to the Central Authorities to abolish the FCs and lobby for the abolition of all the FCs in 2020?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, according to the timetable for implementing universal suffrage laid down in 2007, the third-term Government is obliged, as it is so authorized, to properly handle the Chief Executive and Legislative Council Elections in 2012.

As for the option of electing the Chief Executive by universal suffrage in 2017, it should be handled by the next Chief Executive (that is, the fourth-term Chief Executive) and the fourth-term HKSAR Government. The Chief Executive elected by universal suffrage in 2017 will be widely represented and



supported by the public. For him to lead the Hong Kong community, and tying in with the Legislative Council to be formed in 2016 to address how to attain universal suffrage for the legislature in 2020, will be the most appropriate and practical course to take.

**MR CHEUNG MAN-KWONG** (in Cantonese): *President, my supplement question is whether the incumbent Chief Executive is willing and able to start another round of the five steps. In other words, in spite of the fact that the one responsible for this may be the future Chief Executive, is the incumbent Chief Executive able and willing to start these five steps and to convey the views of Hong Kong people in opposing the FCs to the Central Authorities? Only this is the focus of my question.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, we have made clear in the Consultation Paper that although we are still collecting public views on the methods of electing the Chief Executive and forming the Legislative Council in 2012, we understand that different political parties and groupings and different organizations in Hong Kong have wished to express their views on the methods of implementing universal suffrage. After collecting these views, we will summarize and collate them for the reference of the HKSAR Governments formed in 2012 and 2017 which will then finalize the option for implementing universal suffrage.

**PRESIDENT** (in Cantonese): This Council has spent more than 22 minutes on this question. Third question.

### **Abnormal Movements of Share Prices of Newly-listed Companies**

3. **MISS TANYA CHAN** (in Cantonese): *President, recently, the share price of a company listed by way of introduction was abnormally volatile on the first trading day, resulting in quite a number of investors suffering losses. In this connection, will the Government inform this Council whether it knows:*

- (a) *if the Administration, the Securities and Futures Commission (SFC) and The Hong Kong Exchanges and Clearing Limited (HKEx) have received complaints from small investors regarding the aforesaid*

*incident; if they have, of the number of such complaints, whether the SFC and the HKEx have commenced investigation regarding these complaints or taken the initiative to investigate the incident, and the latest progress of such investigations; if investigation has not been conducted, of the reasons for that;*

- (b) given that there have been comments that the company arranged for stock split only after it had submitted the listing application, and as the process of listing by way of introduction does not require the company to undergo the public offering procedures, it is relatively difficult for small investors to have access to the information of the company, whether the SFC and the HKEx will consider reviewing the existing mechanism for listing by way of introduction to tighten the restrictions on companies undertaking major actions after submission of listing applications and raise the requirements on disclosure of information; if they will, of the details; if not, the reasons for that; and*
- (c) given that members of the industry have criticized that the share price of the company in the Pre-opening Session on the first trading day had already been marked to an unreasonably high level, which reflected that the share prices of securities with relatively small capitalization or low liquidity are more vulnerable to manipulation in that Session, whether the SFC and the HKEx will consider reviewing the arrangements for the Pre-opening Session, including the restrictions on the securities permitted for transaction during the Session; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, my reply to the question is as follows:

- (a) As of end of December 2009, the number of complaints/enquiries relating to the incident of the first trading day of Asian Citrus received by the Administration, the SFC and the HKEx are 32, 297 and 429 respectively. Among the complaints/enquiries received by the HKEx, there may be double counting of telephone calls because identities of some callers could not be verified. The HKEx also received, on 18 December 2009, submissions from representations

from two groups, namely, the Hong Kong Institute of Investors and the Alliance of Investors Affected by the Asian Citrus Incident regarding the incident.

The SFC has been following up the incident with the HKEx and has received reports from HKEx. The HKEx had submitted earlier a detailed paper to the Legislative Council Panel on Financial Affairs on issues relating to the listing of Asian Citrus. And the HKEx and the SFC attended a special meeting of the Panel on 21 December 2009 to discuss the incident. The SFC is making enquiries and collecting further information.

- (b) The HKEx announced on 4 December 2009 of its decision to require companies listed by way of introduction and also listed on an overseas market to issue an announcement to provide investors with the last closing price of their shares on any other markets on or before the first day of trading on the HKEx. It will consider on a case by case basis whether this announcement should include other information relevant to a particular case. The SFC will liaise closely with the HKEx as it develops its practices and procedures.
- (c) The SFC has advised us that the HKEx has continued its efforts to ensure that there is both an adequate supply of shares in the Hong Kong market and a good spread of sellers in order to mitigate the risk of unusual share price volatility due to settlement gap between the Hong Kong and the overseas market where the company's shares are also traded.

In particular, the HKEx is exploring the feasibility of allowing for more efficient arbitrage between the Hong Kong market and overseas market by reducing settlement gaps. In addition, the HKEx is considering whether it is feasible to require the sponsor and listed company to appoint a market maker to arbitrage between the Hong Kong and the overseas markets and the SFC is liaising with the HKEx closely on this issue.

The HKEx will continue to review applications for listing by introduction and will consider them on a case by case basis. As part of the listing approval process, the new applicant and its sponsor must satisfy the HKEx that there are adequate precautionary

measures in place to ensure that the shares can be traded on an orderly, informed and fair basis on and from the first day of listing on the HKEx. The SFC will liaise closely with the HKEx as it develops its practices and procedures.

**MISS TANYA CHAN** (in Cantonese): *President, my question is actually about settlement gaps mentioned in part (c) of the main reply. As far as I understand, the common usage of T+2 is being understood as adding two days to the transaction day, but part (c) of my main question is clearly asking about the Pre-opening Session before the first trading day, or the so-called Opening Auction Period. But after reading part (c) of the main reply, I do not see any direct answer at all. President, I wonder if you will regard this question that I am asking now as a supplementary question.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, part (c) of the main reply has actually indicated a series of measures. The reduction of settlement gaps between the Hong Kong market and overseas markets, as mentioned in the reply, will generally improve the arbitrage activities in the market. Furthermore, I also mentioned that consideration is being made to adopt the market maker system as a means to improve the overall operation of the market. I believe this will be helpful to the market as a whole, be it during the Opening Trading Period or other trading periods.

**PRESIDENT** (in Cantonese): Has your supplementary question not been answered?

**MISS TANYA CHAN** (in Cantonese): *The Secretary has actually given a general reply only. But since my supplementary question directly asked about the Opening Auction Period or his views on it, so I hope the Secretary can give a more positive or focused reply.*

**PRESIDENT** (in Cantonese): Secretary, the Member has asked about share price manipulation during the Opening Auction Period.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I think with regard to the reasons why the listing of these companies by way of introduction has resulted in share price volatility, the concern of the market focuses on the circulation or otherwise of these companies shares in the market. Given that these companies are listed by way of introduction, there is no need for them to undergo public offering procedures, so is the market well-informed of their prices? This is why we should not particularly focus on the Opening Period or subsequent periods. Volatility is bound to arise at the Opening Period because the market has just started; it is the company's first trading day in Hong Kong and the company itself is listed by way of introduction, and it is imaginable that when it is listed in Hong Kong, its value should be higher than that in its home market. Thus, arbitrage will take place under such circumstances to reflect its market value in Hong Kong. How can we ensure that volatility arises in an orderly manner? The way is by providing more information in the market, such as enhancing the flow of information and increasing the circulation of shares, and we can also put in place certain mechanisms, including a settlement mechanism that we have talked about and a market maker system that we may take into consideration. All these can reduce the volatility of shares in the Opening Period.

**MR CHIM PUI-CHUNG** (in Cantonese): *President, initially we understand that the SFC will follow up the incident for the Government. The question in point now is the Government's stance. In this incident, who or which relevant organization had actually committed technical mistakes? As for the Government's policy, to what extent has it learned a lesson from this incident? What counter-measures will it take initially?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I thank the Member for his question. Insofar as this incident is concerned, I mentioned earlier that the HKEx, the SFC and the Government have all received complaints, and the complaints were followed up immediately. For the time being, the SFC is in the process of making enquiries and collecting information.

**MS STARRY LEE** (in Cantonese): *President, Asian Citrus was listed on 26 November at the opening price of \$51.25 on that day, more than seven times higher than the closing price at the AIM market the day before. However, we all*

*know that its price immediately plummeted and in less than 30 minutes, the price plunged by 63% to \$19, and trading was even forced to suspend at 11.57 am when the price stood at \$19.94 only, down by 61% lower than the opening price. Although the HKEx said that this was an unfortunate incident, more than 300 investors had suffered losses totalling over \$20 million within such a short time. After extensive complaints made by the investors affected, the HKEx was forced to suspend approving applications for listing by introduction. The Asian Citrus incident has caused misgivings in the market about listing by way of introduction. There were even voices alleging that shares were manipulated by big investors because of insufficient circulation in the Opening Period.*

*Days ago, the HKEx decided to suspend approving applications for listing by introduction. Until when will the regulatory authority suspend the processing of applications? During the suspension period, what ways will the HKEx actually take to conduct a review? Part (c) of the main reply mentioned that consideration is being made to require the sponsor and listed company to appoint a market maker to arbitrage between the Hong Kong and the overseas markets. When will such consideration be completed for the results to be announced to the public? Most importantly, what steps will be taken to reduce the occasions for shares of companies to be listed by way of introduction, as some people may deliberately manipulate share price in the case of insufficient circulation?*

**PRESIDENT** (in Cantonese): Ms LEE, you have asked several questions.

**MS STARRY LEE** (in Cantonese): *Let me see how the Secretary is going to answer.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I thank the Member for her questions. I wish to clarify that according to my understanding, the HKEx has not suspended entirely approving arrangements for listing by introduction. They have not suspended it entirely. As far as I understand, the HKEx has explained that while considering the arrangements for listing by introduction, they will continue to scrutinize such applications and application for listing will be approved on a case by case basis. In the process of scrutinizing the listing, the new applicant and its sponsor must

satisfy the HKEx that they have adequate precautionary measures in place to ensure that the shares can be traded in the market in a fair and orderly manner with effective flow of information on and from the first day of listing. So, the HKEx actually has not suspended the processing for this way of listing. The other mechanisms to be considered as I mentioned earlier, such as reducing the settlement gaps between the Hong Kong market and the overseas markets and adopting the market maker system, are, I think, under their active consideration and studies.

**MR JAMES TO** (in Cantonese): *President, I am asking this supplementary question on the assumption that the Secretary has read the HKEx' report and the paper submitted to the Legislative Council.*

*President, assuming the Secretary has read the paper, and particularly, paragraph 17 that mentioned the words and figures displayed in the text section of the Automatic Order Matching and Execution System/Third Generation (AMS/3), which read, and I quote, "as at 30/6/09 NTAV:RMB37.3" (end of quote). In other words, its net tangible asset value as at 30 June 2009 was 37.3. But on 2 November, the HKEx was actually aware of the 10 for 1 stock split. Certainly, the HKEx is now saying that given the limitation of the text section in providing information, all that could be displayed was that the NTAV as at 30 June was RMB37.3. The HKEx was already aware of the 10 for 1 stock split on 2 November and yet, it still allowed the general shareholders and members of the public to believe that such data was an important reference in the information extensively used for over-the-counter transactions. Does the Secretary think that in this case there was negligence or omission on the part of the HKEx, or that the HKEx has to be accountable to a definite degree, or would the Secretary say on behalf of the Government that they do not have to be accountable at all?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I have read that paper and the explanation provided by the HKEx. On the basis of their explanation, my understanding is that displaying such texts in the AMS/3 has been part of the conventional procedures in the market. As there is no information on the previous listing of some stocks which are listed by way of introduction, it has been customary to display the information on their asset value when such information is available. Therefore, as mentioned by the Member, the paper explained that on that day (23 November),

the NTAV as at 30 June was displayed, and this is also a conventional practice of the HKEx. As regards the overall circumstances of this incident as mentioned by the Member, all I can say is that the SFC is in the process of making enquiries and collecting information, in order to acquire an understanding of what had happened in the entire incident.

**PRESIDENT** (in Cantonese): Has your supplementary question not been answered?

**MR JAMES TO** (in Cantonese): *In my supplementary question I pointed out that only part of the important information was provided, but there was no space for other information that should be read together to be displayed. Today, the Secretary is representing the Government, and I would like to ask him: Does he consider that the HKEx should be or should not be accountable? The SFC is not to investigate such matters. It investigates other market misconduct and does not investigate whether or not the HKEx should be accountable.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, many of the complaints received by the SFC are related to this area. The SFC is making enquiries and collecting information.

**MR CHAN KAM-LAM** (in Cantonese): *President, we have received a lot of complaints. To small investors, the teletext is a key channel to engage in daily stock transactions or obtain information for reference. The Secretary said earlier that information on NTAV was displayed on that day. In fact, we all know that taking it from the angle of small investors, basically such information cannot reflect how much the share price should be, or how much is the price in London. Therefore, will the Secretary study in conjunction with the HKEx the feasibility of imposing the requirement that data to be displayed in future must be worthy of reference and accurate? Given that not much information is available in the market upon the listing of these stocks, and unlike shares issued through the general IPO procedures, small shareholders cannot access the information and papers of the company for reference, I hope that the Secretary and the HKEx can study measures for improvement in this respect.*



**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I thank the Member for his opinions. The HKEx actually made a public announcement on 4 December in the wake of this incident, explaining that there would be difficulties for companies listed by introduction in Hong Kong to display all the information on the trading screen of the AMS/3. It is impossible for all the information to be uploaded, and the HKEx does not encourage investors to make reference to one figure alone for making investments. Having said that, in order to further facilitate investors in their access to information, the HKEx has required those companies listed by introduction in Hong Kong and with their shares being traded in other markets to issue an announcement prior to their listing to provide the closing price of their shares on other markets for reference of investors.

**PRESIDENT** (in Cantonese): We have spent over 20 minutes on this question. Fourth Question.

#### **Domestic Free Television Programme Service Licences**

4. **MS EMILY LAU** (in Cantonese): *President, it has recently been reported by the media that the Government welcomes any company to apply to the authority concerned for a domestic free television programme service licence (free TV licence), and a local pay TV company intends to submit an application. The results of an opinion poll conducted by the Democratic Party in August 2009 indicate that 76.3% of members of the public agree to the addition of one free TV station so as to introduce more competition. However, under the Broadcasting Ordinance (BO), pay TV companies are disqualified from holding free TV licences because they already hold television programme services licences. In this connection, will the executive authorities inform this Council:*

- (a) *whether public dissatisfaction with the performance of the existing free TV stations is the reason for the Government welcoming applications from other companies for a free TV licence;*
- (b) *whether it is the Government's stance to support the addition of free TV stations; and*

- (c) *whether it will propose to amend the BO in order to facilitate the development of free TV programme services and enhance competition, so as to raise the quality of programmes?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I wish to briefly explain the application procedures for free TV licence before replying to the question from the Honourable Member. Under the existing BO, after considering recommendations made by the Broadcasting Authority (BA), the Chief Executive in Council may grant free TV licence. Each application will be considered on its own merit.

According to the BA's guidance note on free TV licence application, the applicant should provide detailed information including the financial status of the corporation, the investment and management plan of the proposed broadcasting service, the proposed technology to be adopted, the variety, quantity and quality of programmes to be offered, time required for service roll-out, and so on. Based on the information received on the above, the BA will make assessment on the application, including whether the proposed broadcasting service is technically feasible, complies with the relevant statutory requirements and licence conditions, and can bring benefit to the local broadcasting industry and the economy as a whole. The BA will assess the applications in accordance with the BO and established procedures, and will make recommendations thereon to the Chief Executive in Council.

Turning to the issues raised by Ms Emily LAU, my integrated responses are as follows:

It has long been the Government's policy to promote the sustainable development of the local broadcasting industry and encourage investment and competition as well as the adoption of innovative technologies by the industry, thereby enhancing TV programming choices and quality, and strengthening Hong Kong's position as a regional broadcasting hub under a business-friendly environment. Subject to geographical and/or transmission constraint, we welcome application under the existing licensing and regulatory regime from any party which is interested in operating domestic free TV service in Hong Kong.

The provisions under the BO are comprehensive and forward-looking. We adopt a market-driven approach, which is also technology neutral and without a pre-set limit on the number of licences to be issued. In the light of the extensive coverage of TV broadcasting, the BO stipulates restrictions on cross-media ownership to avoid media concentration and editorial uniformity. Moreover, the BA has promulgated relevant codes of practice to ensure that the TV services provided by licensees meet the widely acceptable standards and public expectations, and that fair competition amongst the licensees in the same market is maintained.

With continuing advancements in technology, telecommunications and broadcasting are converging. To facilitate efficient, effective and co-ordinated regulation, the Government has decided to establish a unified regulator, the Communications Authority (CA), by merging the BA and the Office of the Telecommunications Authority (OFTA), and will introduce a bill into the Legislative Council. We propose to firstly establish the CA and then proceed to make amendment to the relevant legislation, covering the BO, subsequently.

**MS EMILY LAU** (in Cantonese): *May I ask the Secretary if the authority concerned welcomes new companies to join in the competition because it feels that members of the public are not pleased with the poor performance of the existing free TV stations and the poor quality of programmes offered by them? According to the results of a survey conducted by the Democratic Party, as mentioned by me just now, over 80% of the interviewees opine that the market is dominated by one free TV station, and they greatly support new companies to join in the competition.*

*Interim licence reviews on the two free TV stations have been completed recently and relevant reports will probably be submitted this month or next, with proposals to be put forth to the Executive Council. Can the Secretary inform this Council if the authority concerned has also noticed that many members of the public are greatly dissatisfied with the programmes offered by the free TV stations? Will the Secretary submit proposals to the authority concerned on how warnings should be issued to them, for the introduction of new companies to compete, in a bid to improve the quality of TV programmes?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Assessments of the quality of programmes are actually very subjective feelings or points of view. It is also very difficult for an objective set of standards to be formulated. However, we have also always kept in view the programmes offered by the two free TV stations and responses from the audience. While conducting the interim licensing reviews on the two free TV licensees, the BA has actually undertaken a quite extensive opinion survey, involving nearly 3 000 interviewees. As regards the quality of free TV programmes, the survey finds that less than 7% of the audience express dissatisfaction, and more than 60% of the audience express satisfaction with the quality of the programmes offered by the two free TV stations. The BA will make reference to these findings, and the views on the results of the interim reviews will also be eventually submitted to the Executive Council for consideration.

As I pointed out in the main reply earlier, there is no pre-set ceiling on the number of licences to be issued under the BO. It is simply due to two factors, namely geographical and transmission constraints, or spectrum constraint, that have restricted operation of free TV programme service to only two free TV corporations so far. However, we accept totally the provision of a wider choice to audience by other means, or through collaboration. This is also our policy objective. Now, we are moving in this direction to promote the development of the broadcasting industry.

**MS CYD HO** (in Cantonese): *The Secretary pointed out in the second last paragraph the extensive coverage of TV broadcasting. This is indeed very true because broadcasting signals can now be received by audience beyond the border. This explains the occurrence of the phenomenon that TV stations have been targeting their advertisements and publicity at consumers beyond the border and, as a result, the content and taste of their programmes have to cater to the taste of this group of audience. This phenomenon has even influenced news and current affairs commentary programmes and such has become a trend. Has the Secretary given consideration to this new phenomenon and evaluated the content of the programmes offered by these TV stations to examine if the programmes still meet the aspirations of the general public in Hong Kong society? If the reply is affirmative, what means has been employed in making consideration and assessments?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I am grateful to Ms Cyd HO for her supplementary question. Thanks to technological development, it is indeed true that the media is currently not subject to any boundary or geographical constraints, and audience can choose to view the entertainment or information programmes freely. We have set out very specific licensing terms and conditions on the two local free TV licences requiring the two TV stations to offer a fixed quantity of TV programmes to local audience, including programmes on current affairs and news, programmes for young people and the elderly, and programmes broadcast in public interest, amongst them programmes produced by the Radio Television Hong Kong (RTHK) and announcements of public interest. There are restrictions on the number of hours allocated to all these programmes. The BA will also monitor compliance of these programmes with licensing terms and conditions through the Television and Entertainment Licensing Authority. As regards the quality of these programmes, opinions will also be sought through an audience survey unit for the regular reference of the BA. Therefore, generally speaking, I believe the two TV stations have all met the licensing requirements.

**MS CYD HO** (in Cantonese): *President, the Secretary has actually not answered the first part of my supplementary question. I asked her if the content of TV programmes has been assessed in the light of the new phenomenon, and whether the programmes still meet the aspirations of Hong Kong people, whether any assessments have been made by the authority concerned itself, and whether this new element has been factored in?*

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): The licensing terms and conditions have been constantly monitored by us, and the relevant programmes are found to be in compliance with the licensing terms and conditions.

**MR PAUL TSE** (in Cantonese): *The Secretary pointed out in the main reply that "it has long been the Government's policy to promote the sustainable development of the local broadcasting industry and encourage investment and*

*competition as well as the adoption of innovative technologies by the industry, thereby enhancing TV programming choices and quality". I am afraid this policy of the Government has completely failed. I believe everyone can tell without the need for holding referendums that the TV broadcasting industry in Hong Kong has not only continued to regress, it has also failed to encourage competition in the trade. Furthermore, it has not provided the people with TV programmes of quality and choices.*

*President, if we are really talking about a market-driven approach, as stated in the Secretary's main reply, basically we have to open up the market. We will understand by simply looking at the newspaper industry, which is subject to no restriction at all. People can join in the competition so long as they are interested in making investments. Furthermore, the market for hand-held mobile phones was once dominated by one company. The situation was changed immediately upon the liberalization of the market. President, it is pointed out in the main reply that the BO has no pre-set limit on the number of licences to be issued. This is even more ridiculous. We were certainly not talking about setting a limit on the number of licences to be issued by the BO. We were talking about the Government's policy instead. May I ask the Secretary how seriously do we wish to develop the creative industry? How seriously do we want to provide the public with programming choices and quality? Should the situation remain unchanged, I would like to request the authority concerned not to use the same officialese to answer our questions. Instead, it should properly review what can be done to provide the public with a genuine choice.*

**PRESIDENT** (in Cantonese): Mr TSE, what is your supplementary question?

**MR PAUL TSE** (in Cantonese): *Will the Government seriously consider genuinely opening up the broadcasting industry in Hong Kong to allow the public a wider choice under a fairer environment?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, many policies of the SAR Government are manifested and implemented in accordance with legislation. Therefore, we will surely act in accordance with the law in promoting our broadcasting industry. The market is

currently fully liberalized. We have also time and again made it clear that the Government's stance is that we welcome institutions interested in operating such broadcasting services to submit their applications.

**MR LEE WING-TAT** (in Cantonese): *President, as we all know, airwave is actually one of the important public assets, sometimes even more expensive than land. As everybody knows, nominally there are two free TV stations in Hong Kong at present, but competition is simply non-existent between them. This explains why I agree with Paul that the Government has actually failed to promote an environment for competitions.*

*To start with, I have to thank the Government for answering the main question, pointing out that there is no ceiling on the number of licences to be issued. So, more licences can be issued. However, can the Government impart a message to the public that, in principle, licences should be issued to new TV stations to join the free TV broadcasting industry, unless new applicants have insurmountable difficulties, because we consider that this will help improve the quality of programmes and enhance competition?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I have indicated in the main reply very clearly and precisely, as well as explaining the Government's policy, that it is truly because of the airwave transmission constraint that at present we can only accommodate two free TV stations which adopt terrestrial broadcasting. However, with the introduction of digital TV technology, the number of existing free TV broadcasting channels has been increased from four to 11. Moreover, we have round-the-clock news broadcasting and high-definition TV channels. Therefore, with the solving of technical problems, our current legislation and licensing mechanism are ready to accommodate some new competitors.

However, in the operation of TV service, we think that stability and predictability are indispensable. Therefore, we consider that the licensing period of 12 years is reasonable. We have also introduced a mechanism whereby interim reviews are to be conducted, because through interim reviews and accepting public opinions, appropriate improvements can be made in issuing licences. Furthermore, the BA has also listened to public views seriously and made proposals.

**MR LEE WING-TAT** (in Cantonese): *My supplementary question is very simple. What I mean is: If there is no technical difficulty involved, under this prerequisite, is it one of the Government's key stances that new licences will be granted?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I have made it very clear that this is our stance.

**MS EMILY LAU** (in Cantonese): *President, regarding the issue of competition between free TV stations, the Asia Television Limited (ATV) told us at a meeting of the relevant Legislative Council panel that it felt there was no fair competition, and we therefore encouraged the ATV to lodge a complaint. President, as far as I understand it, the complaint has been lodged. May I ask the Secretary up to what stage has the complaint been handled and will it be dealt with in the interim review? Has any problems been really identified? How will the authority concerned deal with the current environment which is devoid of fair competitions?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the ATV has actually lodged a complaint with the BA, which is now being dealt with by the BA. I believe the BA will, when necessary, investigate this complaint in accordance with the provisions of the BO which are relevant to fair competition and will make an ultimate decision.

**MR PAUL TSE** (in Cantonese): *President, there are two approaches of addressing this issue, one being prohibitive or restrictive and the other persuasive. If the Government really wants to seriously promote the broadcasting industry, I am afraid it is no longer appropriate to adopt the prohibitive approach once more, because we can see extremely great quantities of online TV programmes and online broadcasting nowadays. As these programmes are not regulated, they will, more often than not, bring more damage to society in terms of quality, choice of words and contents. We might as well offer more choices and enable regulated licences to be obtained at a cheaper price and in an easier manner. With a greater variety of options,*



*members of the public will have more choices. Only through this can the issue be addressed through a persuasive approach.*

*I hope the Secretary can consider making more efforts on this front. Insofar as review is concerned, the Secretary should stop using such a regulatory approach for the sake of the interests of certain consortia or certain so-called established policies, as the TV businesses of our neighbouring regions, such as Taiwan and the Mainland, are all extremely open. I do not understand why there are no such choices in Hong Kong, though it is such an advanced city. I hope the Secretary can perhaps give us a reply once again as to whether the Government will seriously consider this issue. With the imminent commencement of the review, will the authority concerned really open up the broadcasting industry and stop making excuses?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the Government surely supports the broadcasting policy of opening up airwaves to serve the public. However, as I have mentioned in the main reply as well as in the supplementary answers just now, a licensing mechanism must be put in place to allow us to consider each application in a fair manner. The making of an application, which is definitely a commercial act, should be decided by the market. Precisely, the Government's policy is to encourage fair competition. Therefore, actual promotion efforts cannot rely solely on the Government's decision on the number of licences to be issued, and commercial decisions can only be made subject actually to the business viability of the market and business models.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, I heard the Secretary saying that commercial principles must be adhered to, and this is also fair. May I ask the Secretary how can the principle of equity be manifested if the issuance of licences is to be determined arbitrarily by the Chief Executive? This is point number one. I would also like be enlightened by her on what ground did she say that this had to be commercial in nature. If I submit an application tomorrow not as a commercial company, can I? The Secretary must inform all people in Hong Kong whether the persons applying for licences must be engaged in commercial business. I also have my civic rights. Is it the case that only businessmen have civic rights? She must answer this supplementary question because she is representing the Government.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, relevant legislation is in place in the area of broadcasting services. Hong Kong is being governed by the rule of law. We must act according to legislative provisions in all areas, and our policies are also manifested in legislation. In enacting this piece of legislation, the most important core essence is to ensure that there is a level playing field for the provision of such services, so that service providers can compete fairly. Just now, I was talking about introducing the BO into the commercial broadcasting service. However, we also have other channels, including the Internet, which is an extremely free and liberal platform allowing different services to pursue online development. We can also, without resorting to airwaves, provide paid TV service with the help of optic fibre or other Internet standards, or provide some services through satellite. Therefore, Hong Kong's broadcasting service is an extremely diversified, or quite competitive market, so to speak. Hence, I think that the relevant legislation is compatible with the Government's policy.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, she has not answered my supplementary question at all. My first question is: How can the principle of equity be manifested if the issuance of licences is to be determined arbitrarily by the Chief Executive? My second question is: What will happen if someone who is not engaged in commercial business applies for a licence? The Secretary said that decisions would be made according to the business model of the market. I reckon that she has left my supplementary question completely unanswered. Her remarks were totally irrelevant.*

**PRESIDENT** (in Cantonese): You have already repeated your supplementary question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *But she has really not given me a reply.*

**PRESIDENT** (in Cantonese): You have already repeated your question. Let me see if the Secretary has anything to add. Secretary, please reply.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I have nothing to add.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Is it alright for her to act in this manner?*

*President, you are really ..... will you please ask her again and request her to make a reply again, because the Government's lawyers did not reply to me in this manner when I consulted them in court. She was merely making a statement, Buddy. Can she call it off like this?*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please be seated. The question time of this Council is different from the court in your understanding. The Secretary thinks that she has already replied to your question. If you are dissatisfied with her reply, you may take follow-up action through other channels.

This council has spent more than 22 minutes on this question. Fifth question.

### **Industrial Accidents Which Happened During Inclement Weather**

5. **MR IP WAI-MING** (in Cantonese): *President, in recent years, fatal industrial accidents happened one after another in Hong Kong, and some of them involved employees working in inclement weather. In this connection, will the Government inform this Council:*

- (a) *of the number of industrial accidents, in each of the past three years, which involved employees working when typhoon or rainstorm warning signals were in force, the resultant casualties and causes of the accidents, as well as the number of employers who were convicted because their fault caused such accidents and the penalties imposed on them;*

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

- (b) *whether it will amend the relevant legislation to prohibit employees from performing certain or all high-risk duties (for example, working on outdoor scaffoldings and performing cleaning work, as well as carrying out maintenance, alteration and extension works on external walls of buildings) under typhoon or rainstorm warnings; if so, of the details; if not, the reasons for that; and*
- (c) *given that the Code of Practice in times of Typhoons and Rainstorms of the Labour Department stipulates that when Typhoon Warning Signal No. 8 or above is in force, employers should only request essential staff to stay on duty when there is an absolute need, and non-essential staff should not be required to report for duty or should be released from work in stages, and yet I have learnt that many employers still request employees to report for or stay on duty (for example, waiters, security guards and shop salespersons, and so on) when Typhoon Warning Signal No. 8 is in force, whether the Government will amend the relevant legislation to prohibit employees from reporting for or staying on duty when Typhoon Signal No. 8 or above is in force, so as to safeguard their safety; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, my reply to Mr IP Wai-ming's main question is as follows:

- (a) According to the records of the Labour Department (LD), there was no fatal industrial accident caused by inclement weather such as typhoon or rainstorm in the past three years (2007 to 2009). Furthermore, since statistics of occupational injuries are classified by the cause of accidents, for example, fall of person from height, injured while lifting or carrying, or drowning, and so on (that is, "Type of Accident"), rather than by working condition such as working under typhoon, the LD does not have information on the occupational injuries of workers owing to work in inclement weather.
- (b) The Government attaches great importance to ensuring the safety of employees at work. The existing occupational safety and health

(OSH) legislation has already put in place a system to safeguard the safety and health of employees at work.

Although the OSH legislation does not specifically prohibit outdoor work under adverse weather conditions, including typhoon or rainstorm warnings, the general duties provisions in the Occupational Safety and Health Ordinance (OSHO), Cap. 509, and the Factories and Industrial Undertakings Ordinance, Cap. 59, impose a duty on employers to ensure the safety and health of their employees at work by providing them with a safe workplace, safe plants and safe systems of work.

Accordingly, regardless of the type of work activities involved, if employees have to work in inclement weather, employers should ensure the proper control of risks which may arise from such weather condition and reduce such risks to the lowest extent as is reasonably practicable. Employers who fail to comply with the said provisions are liable to a maximum fine of \$500,000 and imprisonment for six months.

In addition to the general duties provisions, employers should also comply with the provisions of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations and the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation where such outdoor work involves the use of crane or suspended working platform. Under these Regulations, the appliance shall not be used under weather conditions likely to endanger its stability. Moreover, the appliance shall be re-tested by a competent examiner after exposure to weather conditions likely to have affected its stability. Employers who fail to comply with the said provisions are liable to a maximum fine of \$200,000 and imprisonment for 12 months.

In the case of scaffold, contractors shall arrange for re-inspection by a competent person after the exposure of the scaffold to weather conditions likely to have affected its strength or stability or to have displaced its part to ensure that it is in safe working order. Contractors who fail to comply with such provision are liable to a maximum fine of \$200,000

In view of the risks associated with working under adverse weather conditions, LD officers will remind employers and contractors of the need to observe the aforementioned provisions and adopt appropriate safety measures when inspecting workplaces and attending site safety meetings during the rainy and typhoon seasons. Such measures include the assessment of the risks of working in inclement weather, formulation of safe systems of work, contingency plans and arrangements of work in times of inclement weather. Where outdoor work in inclement weather cannot be avoided, employers shall ensure that the employees concerned fully understand the relevant safe system of work and are provided with the necessary instructions and supervision to carry out such outdoor work. The LD will, depending on the circumstances of individual cases, issue warnings or even take out prosecution against employers or contractors found in breach of the relevant safety legislation.

As to promotion and publicity, the LD has published the "Guide on Safety at Work in times of Inclement Weather" and the "Code of Practice in times of Typhoons and Rainstorms" (the Code of Practice) to provide practical guidance for reference by employers and employees. The Code of Practice stipulates that employers should, in consultation with employees, draw up work arrangements and contingency measures during typhoons and rainstorms in advance. It also outlines the obligations of employers and employees under the OSHO.

The LD also reminds employees, through such means as radio drama and press release, to be mindful of the safety measures that should be taken in inclement weather. Talks and promotional activities targeting specific sectors such as the construction and container-handling industries have also been organized.

- (c) As stated above, the existing OSH legislation has already imposed a duty on employers to safeguard the safety and health of their employees at work. Since the nature and requirements of different jobs in different organizations, trades and industries are diverse, and some essential services like public transport, public utilities, medical services, hotels and security have to maintain normal operation even under adverse weather conditions, it is difficult to mandate specific work arrangements through legislative means. In fact, immediate

suspension of certain services when tropical cyclone signal No. 8 is hoisted may both create inconvenience to the public and result in problems for certain trades relying on such services for their operations. For these reasons, it would not be practicable to introduce legislation to prohibit employees from reporting for or staying on duty when signal No. 8 or above is hoisted.

The LD has published the Code of Practice to advise employers to draw up in advance work arrangements and contingency measures during typhoons and rainstorms in consultation with employees. If employers require their employees to report for duty when signal No. 8 or above is hoisted, they should be aware of their obligation under the OSHO to maintain a safe workplace for their employees. They should also ensure that the risks at work are properly controlled.

The LD will regularly review the Code of Practice in light of experience. Before the typhoon season this year, the LD will also continue to step up publicity to encourage employers to work with employees to draw up work arrangements in times of typhoons and rainstorms.

**MR IP WAI-MING** (in Cantonese): *I am a bit disappointed at the Secretary's main reply. We did not mention implementing any measure across the board, but the Secretary simply said that it would be rather difficult to enact a sweeping piece of legislation.*

*I wonder if the Secretary will still remember a case we dealt with more than a decade ago in which a supermarket cashier was killed by a landside when waiting for a vehicle under typhoon signal No. 8 on his way to work. According to newspaper clippings collected by my colleague, a scaffolding worker, who worked when a typhoon signal was hoisted, fell from height and died. In the middle of last year, two workers on a suspended working platform almost fell from height due to strong wind while working on the external wall of a building in North Point. The accident was also broadcast on television. Fortunately, the two workers on the suspended working platform were eventually rescued. As the typhoon season is approaching .....*

**DEPUTY PRESIDENT** (in Cantonese): Please ask your supplementary question, Mr IP.

**MR IP WAI-MING** (in Cantonese): *Yes. As the typhoon season is approaching, has the Government considered introducing legislation prohibiting non-essential workers from working under typhoons and rainstorms? We said non-essential workers rather than any measure across the board. In my main question, I asked the Government whether the number of industrial accidents, which involved employees working when typhoon or rainstorm warning signals were in force, could be provided but to no avail. I think the Government practically attaches no importance to this issue. So are the workers' lives less valuable?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I thank Mr IP for his follow-up question. In fact, we are similarly concerned about this issue. As I have explained clearly in my main reply, basically employers have the general responsibility to provide a safe and healthy working environment to employees. Therefore, employers have been reminded that employees should not be required to report for duty in inclement weather unless necessary. Some trades, such as service industries, must maintain operation, as I have explained in my main reply. We have conducted an in-depth study on the feasibility of imposing regulation by legislation but found that there are certain difficulties.

As we all know, adverse weather conditions will also vary under different circumstances. I would prefer flexibility when dealing with different industries and job types and consider that prior consultation between employers and employees is most important. Thus, in the main reply, I have also mentioned that some leaflets or even samples have been published, giving clear advice to employers that they should be aware of their obligation if they require their employees to report for duty. For instance, employers should be liable to compensation to employees if an accident occurs to them on their way to and from work when the typhoon warning signal No. 8, or black or red rainstorm signal is hoisted. This period, that is, four hours before and after the signal has been hoisted, is very important. Everybody should be clear about this as it was laid down by the Labour Advisory Board after careful consideration in 1993 or



1994. The employers must be aware that it is their responsibility to ensure the employees' safety when they are travelling to and from work, and this remains our objective.

**DR LAM TAI-FAI** (in Cantonese): *Deputy President, I am sure that most employers will not require their employees to report for duty when typhoon warning signal No. 8 or black rainstorm signal is hoisted by the Hong Kong Observatory because life is most important and safety comes first. However, according to the existing legislation and convention, employees are still entitled to wages even though they are not required to work during the period when typhoon warning signal No. 8 or black rainstorm signal is hoisted. Undoubtedly, it is tantamount to paid leave. But employers will suffer because they still have to pay wages when they have no business and therefore no income. So, I would like to ask the Government a question: Will the Government be compassionate towards the difficulties of small and medium enterprises by allowing the wages paid during the typhoon period to be tax deductible so that the loss due to natural disaster can be shared by all?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I will relay this suggestion to colleagues in the Finance Branch.

**MR CHAN KIN-POR** (in Cantonese): *As we all know, it is expected that climate will become increasingly extreme because the whole world is subject to the impact of climate change. In other words, places in the hot region will become hotter, places in the cold region will become colder while typhoons will become stronger in regions frequently hit by typhoons, thus leading to more serious casualties and loss of property. May I ask the Government whether it will review the measures of assuring employees' safety in the light of the trend of extreme climate change?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, very often, high-risk industries such as container-handling industries or outdoor workers will be informed of the latest weather conditions through the Hong Kong Observatory's weather reports or special weather reports. If

Members have noticed, broadcasting is frequently made by the Government which paid attention to the wind speed everyday because our work often rely on such information. In this regard, we will continue to work through such a channel. However, the most crucial factor is the conditions of the scene which may change from time to time and employers are obliged to assess the risks. As for high-risk industries which may involve outdoor work, our legislation has basically provided that employers are obliged to provide a safe working environment, relevant equipment and devices, and ensure that the systems are safe. Employers in breach of the provisions may be prosecuted if there is sufficient evidence and liable to a maximum fine of \$500,000 and imprisonment for six months.

**MR WONG SING-CHI** (in Cantonese): *Deputy President, in my opinion, the Secretary's reply sounds relatively apathetic as he has simply reiterated the requirements laid down. Simply put, he mentioned in the third paragraph of part (b) of the main reply that employers would be liable to a maximum fine of \$500,000 under certain circumstances. However, as the workers may have died or sustained injuries, it is meaningless even though the employer is given a fine of several hundred thousand dollars. Now the problem is that, in my opinion, the Government has failed to address this issue. Neither has the Secretary provided the number requested by Mr IP Wai-ming. May I ask the Secretary whether "working environment" will be included as a factor leading to casualties for assessment purpose? How can legislation or other measures be introduced if no assessment has been made at all? This illustrates that the Government has failed to address the issue. I hope the Government will consider adding a new column to include figures specifying the number of workers who have sustained injuries or been in danger due to working environment, storms or other adverse weather conditions. Will this be considered in the future?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thank you, Mr WONG. We are absolutely not apathetic. We are in fact very concerned about workers' welfare and safety. Work safety is most important, and one such accident is too many. Regarding the figures mentioned by Mr WONG just now, it is due to Form ..... now it is known as Form 2 for reporting injuries sustained at work, in which the situations mentioned by Mr WONG are not specified and only reasons leading to such accidents as fall of person from height, drowning or

stumbling are set out. However, we are most willing to consider his suggestion and see whether it is possible to add a new column in Form 2. But this may be difficult because we will be kept in the dark unless it is filled out by employers. That said, I am prepared to consider Members' concerns and see whether we can obtain such information.

**DR PAN PEY-CHYOU** (in Cantonese): *I am really very disappointed at the Secretary's reply and in my opinion, the LD seems to have failed to carry out its monitoring duty. In the main reply, the Secretary has also mentioned that employers should comply with certain regulations, such as those concerning the safety of lifting appliances, scaffolds in safe conditions only are allowed to be used, and so on. However, has the LD really pressed charges against offenders? We seldom hear news reports on the LD having done so. Has the LD collected such data? I believe this is very important because the workers' safety can be protected only by effective enforcement of the law. Is the law enforced in earnest?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Dr PAN, thank you for your concern. We attach great importance to inspections and precautions. There is no question about it. Just now, you asked whether or not we have pressed charges. At present, prosecution against employers is usually initiated by invoking the general duty provision under section 6 of the OSHO and section 6A of the Factories and Industrial Undertakings Ordinance. In the past three years alone, we have successfully initiated prosecution in 415 cases, the maximum fine meted out being \$80,000. This proves that we have made efforts. In addition, our Occupational Safety Officers will conduct spot checks from time to time. During the typhoon season, we will hold seminars in advance with contractors, employers and operators in the so-called high-risk industries. We will continue to make efforts at three levels: first, law enforcement, and enactment of legislation is also very important; and second, publicity, education and promotion which are included in our multi-pronged approach. I would like to stress that occupational safety and health is a common responsibility which should be borne not only by the LD but also employers and employees, who are also obliged to ensure their own safety.

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

**DR PAN PEY-CHYOU** (in Cantonese): *The question is about inclement weather rather than general occupational safety and health .....*

**DEPUTY PRESIDENT** (in Cantonese): What part of your supplementary question just now has not been answered by the Secretary?

**DR PAN PEY-CHYOU** (in Cantonese): *My supplementary question just now is about whether charges have been pressed, but the Secretary replied that prosecution was initiated in accordance with the OSHO. I wish to know the number of prosecutions in relation to today's question, that is, in relation to inclement weather rather than general prosecution in relation to occupational safety and health.*

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

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, as I stated clearly just now, we do not have the number of industrial accidents occurred under adverse weather conditions because we do not have such a category. But prosecution is initiated in accordance with the general provisions of the law. Should similar incidents occur, prosecution will certainly be initiated by invoking the general provisions of the law. Over the past three years, that is, the past three years which is Mr IP's concern in his question, there were 415 convicted cases or 415 convicted summonses and the maximum fine is \$80,000.

**MR WONG KWOK-HING** (in Cantonese): *Deputy President, in part (a) of the main reply, the Secretary said, and I quote, "According to the records of the LD, there was no fatal industrial accident caused by inclement weather such as typhoon or rainstorm in the past three years (2007 to 2009)." Deputy President, it is reported by a famous newspaper in Hong Kong on 5 August that "another*

*scaffolding worker fell from height under typhoon signal", as highlighted by its headline. This accident happened on 4 August. On the day before 3 August, another accident had happened during a typhoon. Deputy President, representatives of the Construction Industry Employees General Union (CIEGU) and I expressed our condolences in person to one of the surviving families of the deceased. Today, I would like to ask the Government a question on behalf of the CIEGU and the deceased's families: Why did the Government, in part (a) of the main reply, say that there was no fatal industrial accident caused by inclement weather such as typhoon or rainstorm in the past three years, as mentioned by the Secretary? What is the cause of the death of the worker who fell from the scaffold? Why has the Government not compiled statistics on this? Is this due to the LD's dereliction of duty? Or is it because the LD has turned a blind eye or deaf ear to this? Did the reply deliberately mislead the Legislative Council? There was no casualty caused by inclement weather such as typhoon or rainstorm in the past three years. Such a reply is puzzling. I hope the Government can answer my question.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I thank Mr WONG for his question. Regarding the case you mentioned just now, we have made detailed enquiries about it and I clearly got all the analytical data before answering the main question. The accident happened on the scaffold on the external wall of a building in a housing estate on Hong Kong Island on 3 August 2009. According to the final conclusion of our examination, it was due to improper application of a fall arresting device rather than inclement weather. Basically, it is a systemic problem that precisely points to the fact that it may not necessarily be due to weather conditions. On the contrary, it is due to the improper installation of the fall arresting device. We will learn a lesson from the case and see how to enhance the front line ..... particularly in respect of regulation and strike home the message to the contractors.

**MR WONG KWOK-HING** (in Cantonese): *Deputy President, the Secretary has not answered my question. Just now I stated it clearly that the accident happened on 4 August. I also stated clearly that another scaffolding worker had fallen from height and died under typhoon signal. Instead of answering my question, he just mentioned the incident on 3 August.*

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

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, we have in fact conducted an investigation into the two accidents that happened on the 3rd and 4th of that month. Unfortunately, both are due to the malfunctioning of the fall arresting devices rather than weather conditions. We hope that the problem can be dealt with at source.

**DEPUTY PRESIDENT** (in Cantonese): We have spent more than 22 minutes on this question. Last oral question.

### **Implementation of Infrastructure Projects**

6. **DR RAYMOND HO** (in Cantonese): *Deputy President, since the delivery of the policy address in October 2007 which put forward the implementation of 10 major infrastructure projects, professionals and construction workers have repeatedly relayed to me that the tens of thousands of jobs which they have been expecting to be created by such projects have yet to appear. At present, many of such projects are still at the planning and technical study stages. Regarding the implementation of infrastructure projects, will the Government inform this Council:*

- (a) *of the latest progress of the aforesaid 10 infrastructure projects, as well as the expected commencement dates for the works;*
- (b) *whether it has any plan to co-ordinate the commencement dates for the works of the aforesaid 10 infrastructure projects, so as to ensure that the industries concerned will have sufficient and stable employment opportunities on a long-term basis, and avoid the situation of labour shortage; and*
- (c) *what infrastructure projects will be launched after the completion of the aforesaid 10 projects?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, in the Chief Executive's first policy address for the current term, the 10 major infrastructure projects (10 major projects) was put forward to form the development blueprint to facilitate the long-term development and maintain the competitive edge of Hong Kong. Since the announcement of the blueprint, all policy bureaux and works departments have pressed ahead with the planning of these projects. As I am sure Dr Raymond HO and other Honourable Members will understand, when the Government implements infrastructure projects, especially large-scale projects, we have to go through the necessary statutory procedures and undertake public consultation. The majority of statutory procedures and public consultation will have to be completed before works commencement. The fact that some of the 10 major projects have not entered the construction phase does not, therefore, mean that the progress falls behind their original schedule. Over the last two years, we have, in fact, made every effort to fast track the pre-construction preparatory work. In order to implement various projects as planned, we have streamlined the workflow and have strengthened strategic co-ordination to resolve timely the cross-bureau/department strategic issues that may affect the progress of these projects. In addition, we have conducted public engagement exercises at an early stage.

My reply to Dr Raymond HO's question is as follows:

- (a) Please refer to the Annex for the latest progress of the 10 major projects, of which Kai Tak Development and Hong Kong-Zhuhai-Macao Bridge have entered the construction stage. On Kai Tak Development, two works contracts at a total cost of \$1.1 billion commenced in mid-2009. Site formation works for the new cruise terminal also commenced in November 2009, with the first berth scheduled to come on stream in 2013. Construction works for the Hong Kong-Zhuhai-Macao Main Bridge have commenced in phases since end 2009 with completion scheduled for 2015 to 2016.
- (b) As regards part (b) of the question, I have to point out that the SAR Government appreciates the importance to implement public works projects in an evenly and orderly manner. In undertaking planning

of the 10 major projects, we have been implementing many important infrastructure projects for green and sustainable development of Hong Kong. Since the planning works for major projects may take time, we are pressing ahead with the implementation of medium and small sized projects in parallel, in order to provide job opportunities in the construction sector.

In addition, we monitor closely the construction industry's delivery capacity to avoid bunching of projects that may result in a short supply of construction workers or cost fluctuations. We have adopted a multi-pronged approach to achieve this purpose which includes the following measures:

- (i) Ensuring the capital works expenditure is maintained at a reasonable but affordable level in the medium term from a macro public finance management perspective;
- (ii) Implementing major projects by stages, for example, given the scale and complexity of the Kai Tak Development, as well as to help create sustainable employment for the construction industry, we have grouped the projects, in order of priority, into three packages for completion in 2013, 2016 and 2021 respectively; and
- (iii) Requiring the Controlling Officers (that is, Works Directors) to manage effectively the approved projects and to continue with pre-construction planning of proposed projects. This will enable the timely implementation of the proposed projects, with due consideration given to the delivery capacity of the construction industry and the sustainable development of the industry.

To meet the needs of future infrastructure developments, it is necessary to ensure a sufficient supply of local construction workers. The authorities and the Construction Industry Council (CIC) have taken a series of measures to strengthen manpower training for the industry. To attract young people to join the industry, the CIC and



the Labour Department jointly launched the Construction Industry Youth Training Scheme. With the vision of employment before training, the Scheme offers wages to trainees, which gradually increase as the trainees attain higher skill level. The longer-term job security for the trainees should help attract more young people to the construction industry. In addition, the Construction Industry Council Training Academy (the Academy) set up a training centre in Tin Shui Wai which was commissioned in September 2009 to accept trainees, in order to draw in fresh recruits for the industry, in particular new arrivals and ethnic minorities. Moreover, to train up relevant technicians, the CIC in collaboration with building contractors provides on-site training at work sites. We will continue to liaise closely with the CIC and the industry to ensure sufficient manpower supply in the construction sector to meet the demand of upcoming projects.

- (c) While the 10 major projects are strategic major infrastructural development projects, there are other capital works projects in the Government's Capital Works Programme. Moreover, while some 10 major projects have entered the construction stage, some are indeed scheduled for implementation in a longer horizon to cope with the housing needs and other requirements brought about by the population growth in the next decade. Therefore, the 10 major projects will continue to provide employment opportunities for the construction industry in the foreseeable future. In parallel with the implementation of 10 major projects, we will continue to press ahead with infrastructure projects for green and sustainable development. For instance, we will tackle from 2010 onwards systematically the problem of landslide hazards from natural hillsides to provide a sustainable slope safety environment for the community. We are also carrying out territory-wide replacement and rehabilitation works of water mains to reduce the risk of pipe bursts. We will continue to take forward the capital projects to provide the necessary government facilities, including cultural, recreational, medical and education facilities. In addition, we will expand and enhance existing government buildings to meet the environmental and energy efficiency standards in the new age.

Latest Progress of 10 Major Infrastructure Projects  
(As at 5 January 2010)

<i>Project</i>		<i>Progress</i>
1	South Island Line (East)	- The statutory process of consultation and resolving objections for the South Island Line (East) commenced after the project was gazetted in July 2009 under the Railways Ordinance (Cap. 519). The MTR Corporation Limited is working on the detailed design and planning for the project as well as an environmental assessment under the Environmental Impact Assessment Ordinance.
2	Shatin to Central Link (SCL)	- The planning and design of SCL proceeds in tandem with public consultation. The authorities are studying different local communities' demands on the alignment and project scope. The Administration will press ahead with the planning and design of the project to ensure its early implementation.
3	Tuen Mun-Chek Lap Kok Link and Tuen Mun Western Bypass	- The Tuen Mun-Chek Lap Kok Link project was gazetted in August 2009 under the Roads (Works, Use and Compensation) Ordinance, taking forward the statutory consultation and objection handling process. The statutory environmental impact assessment process has been completed, and the Environmental Protection Department (EPD), in consultation with the Advisory Council on the Environment (ACE), granted the environmental permit for the project. The authorities plan to commence the advance reclamation works of the link road in the third quarter of 2010. The authorities are striving to ensure that the project will be completed in tandem with the Hong Kong-Zhuhai-Macao Bridge main bridge.  - Detailed study on the alignment of the Tuen Mun Western Bypass is underway. The Government will monitor and assess the traffic growth in the Northwest New Territories, and will commence and complete the project in a timely manner to address demand.
4	Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL)	- After years of public discussions and detailed planning, the Executive Council approved the railway scheme and the special <i>ex gratia</i> rehousing package in October 2009. The authorities have explained to the public details of railways scheme, reasons for changes in construction cost, and the long-term economic benefit brought to Hong Kong. The funding application is being scrutinized by the Finance Committee of the Legislative Council. The authorities intend to implement the project immediately after funding approval is obtained such that the XRL will be commissioned in 2015, as scheduled.

	<i>Project</i>	<i>Progress</i>
5	Hong Kong-Zhuhai-Macao Bridge (HZMB)	<ul style="list-style-type: none"> <li>- The Finance Committee has approved the funding of around \$9 billion as HKSAR Government's contribution to the construction cost of the HZMB main bridge. The feasibility study report of the main bridge has been approved by the State Council and the construction works formally commenced in December 2009.</li> <li>- There is good progress in respect of the design of the related projects in Hong Kong, that is, the Hong Kong Boundary Crossing Facilities (HKBCF) and the Hong Kong Link Road (HKLR).</li> <li>- The Finance Committee has also approved the funding of \$620 million to meet the cost of detailed design of the HZMB HKBCF. The HKBCF and HKLR projects were gazetted between June and August 2009 under the Roads (Works, Use and Compensation) Ordinance, taking forward the statutory consultation and objection handling process. The statutory environmental impact assessment process has been completed, and the EPD, in consultation with the ACE, granted the environmental permit for the project.</li> <li>- Detailed design of the reclamation works of the HKBCF is underway and the detailed ground investigation works also commenced in November 2009. The authorities plan to commence the construction works for the HKBCF in the third quarter of 2010. To facilitate detailed design of future HKBCF buildings, the authorities launched an International Design Ideas Competition in December 2009.</li> <li>- The authorities will strive to ensure that the works of the HKBCF and HKLR will complete in tandem with the main bridge.</li> </ul>
6	Hong Kong-Shenzhen Airport Cooperation ("Hong Kong-Shenzhen Western Express Line", formerly known as "Hong Kong-Shenzhen Airport Rail Link")	<ul style="list-style-type: none"> <li>- The preliminary study, jointly commissioned by the Hong Kong and Shenzhen governments, concludes that the Hong Kong-Shenzhen Western Express Line project is technically feasible. Hong Kong and Shenzhen signed the Cooperation Arrangement on Advancing Hong Kong-Shenzhen Western Express Line in August 2009 and agreed to further study the feasibility of taking forward the project.</li> <li>- The Hong Kong and Shenzhen governments will continue to work closely on related detailed studies based on the preliminary study report to keep in line with the development plans of the two airports and western Hong Kong and Shenzhen (such as the future development in Qianhai, Shenzhen).</li> </ul>

<i>Project</i>		<i>Progress</i>
7	Hong Kong-Shenzhen Joint Development of the Lok Ma Chau Loop	<ul style="list-style-type: none"> <li>- The Hong Kong and Shenzhen governments established the Hong Kong-Shenzhen Joint Task Force on Boundary District Development (the Task Force) to take forward the planning and development of Lok Ma Chau Loop and other boundary district areas. The Task Force considered that the Lok Ma Chau Loop should be developed in line with the principle of sustainable development to build up an area for fostering cross-boundary talent and exchange of knowledge and technology. The Study Consultant will formulate the preliminary outline development plan for Lok Ma Chau Loop on the basis of the above vision. It is scheduled that the public in Hong Kong and Shenzhen will be consulted in the first half of 2010.</li> <li>- The planning and engineering study on the development of Lok Ma Chau Loop commenced in June 2009 for completion in end 2011. Advance works are expected to commence in end 2012. Some main buildings and associated facilities of the tertiary institutions can commence operation in 2020.</li> </ul>
8	West Kowloon Cultural District (WKCD)	<ul style="list-style-type: none"> <li>- The West Kowloon Cultural District Authority (the Authority) is pressing ahead with the preparation of the Development Plan of the WKCD, recruitment of senior executives, and other strategic tasks to bring the operation of the Authority into full swing. For the preparation of the Development Plan, the Authority launched the 3-month Stage 1 Public Engagement exercise on 8 October 2009.</li> <li>- Detailed design of various facilities is expected to commence in end 2011. Phase 1 of the Core Arts and Cultural Facilities is expected to start commissioning in phases from 2015 onwards.</li> </ul>
9	Kai Tak Development	<ul style="list-style-type: none"> <li>- The Kai Tak Development will proceed in three phases, which are scheduled for completion in 2013, 2016 and 2021.</li> <li>- The first phase development covers the first berth at the new cruise terminal, public housing and associated infrastructure facilities. Construction works for two road and infrastructure projects costing \$1.1 billion commenced in mid-2009 for completion in 2013. Site formation works for the cruise terminal started in November 2009. The Government is actively carrying out tender evaluation for the cruise terminal building with a view to seeking funding approval from the Legislative Council in the second quarter of 2010. The first berth is expected to commence operation in mid-2013.</li> <li>- The remaining projects in the second and third phases are on progress as scheduled.</li> </ul>

<i>Project</i>		<i>Progress</i>
10	New Development Areas	<ul style="list-style-type: none"> <li>- The North East New Territories New Development Areas Planning and Engineering Study (NENT NDAs Study) commenced in June 2008. The stage 2 public engagement exercise was launched in November 2009 to consult the public on the Preliminary Outline Development Plans for the New Development Areas (NDAs). The Study is scheduled for completion in 2011 and the first population intake of the NENT NDAs is planned for 2019.</li> <li>- Study on the Hung Shui Kiu NDA is still under preparation. The Administration will review the Study's time frame in the light of the findings of the NENT NDAs Study and progress of further investigations on the Hong Kong-Shenzhen Western Express Line.</li> </ul>

**DR RAYMOND HO** (in Cantonese): *Deputy President, there are more than 300 000 workers in the construction industry including workers, technicians and professionals. The unemployment rate of Hong Kong now stands at 4.9%, but that of the construction industry is 7.6%. We all hope that projects of different nature and scale, ranging from small to large ones, could be launched. The Government also seems to agree that the volume of construction works should be kept at an orderly and stable level so as to assure the adequate supply of employment opportunities. In the meantime, according to a detailed survey conducted by a trade union on 15 000 workers, more than 30% of the workers are facing underemployment or even unemployment. This situation is very unsatisfactory.*

*Why are so many projects not launched or delayed now? It is because many people have resorted to different ways and means, and even some very violent actions, to prevent the commencement of works projects. What is the Government's plan to deal with this situation? Should some other projects meet the same fate in future, how can the Government ensure that their implementation will not be delayed for a protracted period?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, the Development Bureau has always been very concerned about the employment situation of the construction industry and the unemployment figures cited by Dr HO just now are accurate. But if we analyse these figures carefully, we will see

that the employment figures of the construction industry are different from the overall unemployment figures. Even when Hong Kong was in full employment, that is, when the overall unemployment rate was around 3% to 3.2%, the unemployment rate of the construction industry still stood at more than 5%. Hence, we can see that the employment situation of the construction industry is quite special. I think the continuous improvement in the employment situation of the construction industry in the past seven months bears testimony to the efforts made by the SAR Government in this respect. The unemployment rate of the construction industry has continued to improve from the high level of 12.7% to the latest quarterly figure of 7.6%. Improvement is particularly noticeable in the decoration and maintenance sub-sectors and the unemployment rate has dropped from the high level of 21.6% to 7.7% now.

As such, the message I got most from friends of the construction industry lately is that they want me not to roll out the infrastructure projects too quickly as they hope that jobs can be created in an orderly manner to maintain sustained employment in the industry. While this serves as some background information, let me come back to Dr HO's question about how smooth commencement of infrastructure projects as originally scheduled can be ensured. I am convinced that we must do our preparatory work to the best we can. And such preparatory work of course includes feasibility studies on the technical aspects of the projects. Insofar as society is concerned, it is all the more necessary now to conduct as early as possible public engagement exercises and extensive consultation so that the general public as well as Members of the Legislative Council can fully understand the importance of these infrastructure projects and the resistance for their actual implementation can be minimized.

**MR ABRAHAM SHEK** (in Cantonese): *Deputy President, I am very glad to hear the Secretary's detailed reply to Dr HO's question and hence, I am not worried about not seeing enough employment opportunities. Although the unemployment rate is still high, the situation will be alleviated as many works projects will commence when infrastructure projects are launched. My worry is that the Government may not have enough complementary measures in terms of manpower training, and so on, during the peak of the project implementation stage. What would the Government do then? Would it consider the orderly importation of workers?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, the Development Bureau's current assessment of the situation is in fact quite similar to Mr SHEK's. Considering the amount of contracts we are going to award as well as the multi-billion dollar new infrastructure projects pending the Legislative Council's approval in the current Legislative Session, we are more inclined to worry about the supply of manpower in the construction industry in the future. In this connection, the supply of technical and management staff as well as workers would be tight. As such, the focus of our work now as well as in the next two years must be the training of local workers. Our aim must be to attract local people, in particular young people, to join the construction industry. Hence, we will present a detailed proposal to this Council via the Panel on Development on how to increase the manpower supply of the construction industry. This is a daunting task because the construction industry, compared with other industries, is generally less attractive to young people as this is after all a more laborious trade. For this reason, we have included other elements in addition to training in our series of measures to be implemented including the improvement of work safety, the environment of construction sites and the culture of the industry. I think in the past two years, the construction industry has given us an impression of having a more united and caring culture. With Members' indulgence, here I would like to thank Mr SHEK in particular, for he has helped set up a construction charity fund within a very short period of time.

**PROF PATRICK LAU** (in Cantonese): *Deputy President, thanks to the Secretary for her detailed reply and in particular, for listing the critical dates and progress of each of the 10 major projects in the Annex. I think the fact is that Hong Kong people and the Legislative Council very much support the 10 major projects as they can spur Hong Kong's development and progress. However, I wish to put a question to the Secretary because collaboration with the private sector is critical to the implementation of the 10 major projects in order for Hong Kong to be transformed into an advanced city. In this respect, may I ask the Secretary what is the Government's policy on private sector involvement in the implementation of the 10 major projects?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, we have always maintained that the mode of public-private partnership (PPP) should

be adopted for the delivery of works projects where appropriate. Of course, there are many forms of PPP. In some cases, the private sector is responsible for financing, constructing and operating the relevant infrastructure. In other cases, the Government will simply grant the operating franchise to the private sector. A case in point is the cruise terminal project that is underway. For this project, our original plan was to adopt the method of financing by the private sector. But as the outcome failed to meet our desired results, we have now decided that for the purpose of expediting the provision of berths, the cruise terminal will be funded by the Government with the operating franchise granted to the private sector. This is one of the modes we can adopt.

In this respect, we have to carefully assess the urgency and the so-called commercial opportunity of each project. Without commercial viability, it will be very difficult to attract private sector participation in the construction of the 10 major projects. But coming back to Prof LAU's concern about us not pressing ahead with the delivery of the Government's infrastructure projects, let me respond to Prof LAU's concern from a macro point of view. Members may recall that I have mentioned a number of times here that the contribution of construction output to Hong Kong's economy is generated not by the public sector alone. Private sector developments also accounted for more than 50% of the overall construction output. I am glad to report to Members here that according to the statistics for the past few months, work generated by private sector development projects has started to pick up. On top of that, with the commissioning of the Development Opportunities Office under my Bureau, a lot of work has been done to facilitate private sector development projects. When the Office submits its first report to the Council later in March, a full account on the situation of private sector developments will be provided to Members for information.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Deputy President, the Secretary states in part (b) of the main reply that, "I have to point out that the SAR Government appreciates the importance to implement public works projects in an evenly and orderly manner." This is a very clear stance.*

*May I ask the Secretary the following question. Out of the 10 major projects in your list, the fourth item, that is, the XRL, alone accounts for more*



*than \$60 billion and in addition, more than \$10 billion will have to be spent on improving the traffic conditions of West Kowloon; and notwithstanding the comments made by many Members that they are grateful for the Government's spending to create some job opportunities, may I ask the Secretary whether it is value-for-money to do so in terms of the opportunity costs involved? If an \$80 billion plus railway project is to be used for job creation, how many jobs will be created then? If we compare the XRL with the other nine major projects, can one XRL offset the other nine projects? Considering that the money to be spent on one XRL is enough to finance the other nine projects, does she, as the Secretary, concur with such a fallacy? In other words, the Government is spending on a white elephant project to hire workers, is it viable in the long term? This is a question about policy. Although the Secretary for Development is not Mr Matthew CHEUNG, the Secretary for Labour and Welfare, she still has the responsibility to answer this question. May I ask her whether this is a right course of action? More than \$80 billion will be spent to create a very limited number of jobs. Moreover, the project is subject to the World Trade Organization (WTO) agreement on procurement which means that many job vacancies would be filled by foreign workers employed by foreign companies including technical workers and professionals. Does she think it is the right course of action? Will the actual situation turn out to be what I have described?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, of course, in the implementation of infrastructure projects, the creation of employment is an important objective but this could not be the sole objective. Otherwise, the projects would yield no benefit and we cannot implement such projects blindly. Coming back to Mr LEUNG's question about a certain infrastructure project, I honestly believe that the Government cannot decide single-handedly the cost-effectiveness of an infrastructure project as well as the rationale for supporting its commencement. The actual implementation of the project would have to be decided after extensive discussion by the public and it would ultimately require the approval of the Legislative Council. Nonetheless, the evenly and orderly implementation of public works projects I mentioned in the main reply reflects the worry felt by the trade over the years as regards the year-on-year fluctuations in government investment on public works projects.

In fact, we witnessed a similar situation in the past. When the construction industry was on a decline in 2007, the annual government investment on public works projects only amounted to \$20 billion and this made the trade very worried.

So, from the macro point of view, both the Government's organization and management do not want to see extreme fluctuations in the overall construction output. But certainly, as I have just said, the individual items to be included in the annual and mid-term public works programmes would have to be decided and implemented after extensive study, research and public discussion as well as scrutiny by the Legislative Council.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Deputy President, the Secretary has not answered my supplementary question.*

**DEPUTY PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered?

**MR LEUNG KWOK-HUNG** (in Cantonese): *It is the question about opportunity cost and cost-effectiveness. I have heard many Members say that the Government is now building the XRL .....*

**DEPUTY PRESIDENT** (in Cantonese): You need only point out the part not answered by the Secretary.

**MR LEUNG KWOK-HUNG** (in Cantonese): *She has just not answered some parts of my question because .....*

**DEPUTY PRESIDENT** (in Cantonese): Then I will call upon the Secretary to answer.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Because she may not understand my question, I have to do some explaining. In the table, she has listed the 10 major projects to be implemented in an orderly and even manner. We can in fact calculate the ratio between capital investment and job creation for these projects. For example, if we compare the HZMB which costs \$9 billion with the XRL which costs \$66.8 billion, how many jobs can each of them create and how sustainable can these jobs be? All these can in fact be calculated. Hence, I think Legislative Council Members are just talking nonsense. The Secretary, please reply right now what is the opportunity cost of the nine major projects compared with that of an individual major project, in terms of job creation.*

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

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I am very sure that we have accounted for the number of jobs to be created by individual capital works projects in each funding application we submitted to the Legislative Council for approval. Nonetheless, it is not a realistic consideration to require that each job to be created under individual capital works projects carries the same value. As I have said in my reply to Mr LEUNG's question just now, the projects must bring other economic and social benefits in addition to job creation before the Government can secure the support of the Legislative Council for their implementation.

**MR IP WAI-MING** (in Cantonese): *Deputy President, I notice that in part (c) of the main reply, the Secretary has mentioned that the 10 major projects are strategic major infrastructural development projects. Apart from the 10 major projects, there are many other capital projects that can create a large number of jobs for the construction industry, including the provision of public housing and various cultural, recreational, medical and education facilities, as well as the extension of existing government buildings. However, I have to put this question to the Secretary because on the one hand, the Government wants to create employment, but on the other, we can see that the Government is creating unemployment. We are now handling a case concerning the Buildings Department (BD). The BD has some 600 contract staff who are responsible for*

*the inspection of unauthorized building works (UBWs) and there are some 400 000 UBWs in Hong Kong. I do not know why the Secretary dismissed these 600-plus contract staff at this juncture (that is, when all the UBWs have yet to be removed). Does the Secretary consider that the demolition or removal of UBWs cannot compare with other works projects and because of this, more than 600 contract staff in the BD have become unemployed .....*

**DEPUTY PRESIDENT** (in Cantonese): Mr IP, we are talking about the 10 major projects.

**MR IP WAI-MING** (in Cantonese): *Deputy President, I am simply discussing the matter in relation to part (c) of the reply in which the Secretary has cited other works projects in addition to the 10 major projects. As such, may I ask whether unemployment is created because the removal of UBWs is not on her agenda?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, I have to thank both Mr IP and Dr PANG who really care about the staff of the BD indeed. First, I have to clarify that we have not dismissed the hundreds of staff mentioned by Mr IP. The truth is their contracts have expired and we do not renew their contracts because the relevant work has now been completed. The work they performed was part of a new programme introduced by the SAR Government many years ago (I think it was almost 10 years ago) to target potentially dangerous UBWs in the territory. Although the programme has been completed ahead of schedule, we let the non-civil service colleagues serve out their contracts beyond renewal. This shows that our work programme is updated constantly. We cannot justify the continuation of old and completed projects simply for the sake of job preservation. The most important message is that we will continue to create new employment opportunities. For example, now that we have completed the programme targeting UBWs with several hundreds colleagues having finished their work, we have launched a new \$2 billion programme called "Operation Building Bright" which also targets the buildings in Hong Kong. The new programme will create more than 20 000 job

openings. Even when this programme is completed, we will have other new programmes to be launched. Hence, what we are talking about is a matter of labour mobility rather than staff dismissal.

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

**MR IP WAI-MING** (in Cantonese): *Deputy President, regarding the 400 000-plus UBWs I mentioned earlier, is the Secretary not going to deal with them anymore on her policy agenda?*

**DEPUTY PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered? Is that part of the supplementary question you raised just now?

**MR IP WAI-MING** (in Cantonese): *Yes, that is what I asked the Secretary just now.*

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

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, I want to supplement by saying that the problem of UBWs in Hong Kong can never be resolved for good. If I try to resolve this problem once and for all, I think Members will receive many complaints about such actions being a great nuisance to the public. Hence, as far as our work programme is concerned, I can say that we have more or less completed an effective and focused programme to deal with UBWs posing immediate danger and considered not acceptable to the public. But we have no plans to conduct a large-scale programme, as Mr IP hopes, to remove all the remaining UBWs in Hong Kong that do not pose immediate danger.

**DEPUTY PRESIDENT** (in Cantonese): We have spent more than 24 minutes on this question. Oral questions end here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Five-yearly Review of Criteria for Assessing Financial Eligibility of Legal Aid Applicants**

7. **DR PRISCILLA LEUNG** (in Chinese): *President, at present, the Government conducts a review of the criteria for assessing the financial eligibility of legal aid applicants every five years. The Home Affairs Bureau indicated at the meeting of the Panel on Administration of Justice and Legal Services of this Council on 30 March 2009 that it was unable to report its recommendations from the latest review and it has still not reported the relevant recommendations to this Council to date. Moreover, during the debate at the meeting of this Council in February 2009 on the Member's motion on "Relaxing the eligibility criteria for legal aid", the Government stated that it would not extend legal aid service to the Mainland. In this connection, will the Government inform this Council:*

- (a) of the latest progress of the aforesaid review; when the review results will be announced;*
- (b) whether it will reconsider the proposal to extend the scope of legal aid service to cover litigation cases on the Mainland involving Hong Kong people, as well as discuss the matter with the relevant Mainland authorities; if it will, of the details; if not, the reasons for that; and*
- (c) whether it will study setting up other mechanisms to provide legal aid service to Hong Kong people against whom criminal charges have been laid on the Mainland?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, the Administration's response to Dr Priscilla LEUNG's question is as follows:

- (a) On part one of the question, the Home Affairs Bureau and the Legal Aid Department are in the process of formulating proposals for the five-yearly review of the criteria of assessing the financial eligibility of legal aid applicants. We will consult the Legal Aid Services Council and the Legislative Council Panel on Administration of Justice and Legal Services by mid-2010.
- (b) On parts two and three of the question, the legal aid system is an integral part of Hong Kong's justice system. The coverage of legal aid is limited to proceedings in Hong Kong Courts but not litigation outside Hong Kong's jurisdiction. The HKSAR Government will not extend the scope of legal aid to the Mainland.
- (c) The HKSAR Government endeavours to assist Hong Kong residents when they are in distress overseas. Depending on the nature of the case, the Mainland Offices of the HKSAR Government will provide appropriate assistance to Hong Kong residents who are in distress in the Mainland. For example, in respect of Hong Kong residents involved in criminal litigations or proceedings, the Beijing Office or the Guangdong Economic and Trade Office of the HKSAR Government will, usually through relatives and friends, inquire about the situation and explain the relevant criminal procedures in the Mainland. Subject officers will also remind the assistance seekers to consider engaging lawyers in the Mainland to act as their legal representatives, and if necessary, provide information on the lawyers' associations in the Mainland. Besides, at the request of the concerned parties, the relevant Mainland Offices will also assist them in conveying their views and requests to the relevant authorities in the Mainland as appropriate.

### **Organization of Exhibitions and Programmes by Hong Kong Museum of Art**

8. **MRS SOPHIE LEUNG** (in Chinese): *President, given that the exhibition entitled "Louis Vuitton: A Passion for Creation" which was jointly organized by the Leisure and Cultural Services Department, Louis Vuitton and the Fondation Louis Vuitton pour la Création (the Fondation) and held at the Hong Kong Museum of Art (the Museum) between May and August 2009 had aroused the*

*concerns of the local arts scene and the public, will the Government inform this Council:*

- (a) given that the Museum's vision includes raising the level of artistic appreciation of members of the public and broadening cultural horizons, how the Museum's procedure for exhibition planning ensures that such a vision can be realized;*
- (b) of the total expenditure for the aforesaid exhibition, as well as the respective amounts of the expenditure borne by the Government and the Fondation; whether it has formulated any guidelines on public expenditure (such as the maximum percentage of subsidies in the total expenditure) regarding the exhibition projects jointly organized by the Museum and commercial organizations; and*
- (c) given that the current members of the Museum's preparatory committee for exhibitions and programmes (including the Chief Curator, Curators from the various professional departments, Senior Managers and Senior Technical Officers) are all staff of the Museum, whether the authorities have considered adopting the views of the professionals in the relevant sectors during the process of selecting the exhibitions and programmes to be organized?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President,

- (a) The Museum is required to follow a set of established procedures in presenting and organizing exhibitions. Firstly, proposals of exhibitions from internal studies on specific art themes/collections and also other different channels, including recommendations from other museums or cultural institutions, will be presented to the Museum curatorial staff and submitted to the Programme Committee of the Museum for consideration taking into account factors such as artistic, historical and educational value, authenticity of the exhibits and relevance to the Museum's programming strategy. The exhibition "Louis Vuitton: A Passion for Creation" was proposed jointly by the Consulate General of France in Hong Kong & Macau and the Fondation for the consideration of the Museum. In the past, the Museum had organized similar international art exhibitions with



different institutions such as "Too French" (1991) with the Cartier Foundation, "Miro — Spirit of the Orient" (1995) with the Public Municipal Foundation of Pilar and Joan Miro in Mallorca, Spain and "Otium Ludens — Leisure and Play: Ancient Relics of the Roman Empire" (2008) with the group comprising Champion Technology, A Better Tomorrow, the Chinese World Cultural Heritage Foundation and the World Cultural Relics Protection Foundation.

To build up audienceship and raise the artistic appreciation level of the general public, the Museum provided a variety of educational and associated programmes including guided tours, audio guide services, education corner, workshops, student creative programmes and fringe shows to facilitate the audience to appreciate this exhibition and experience artistic creations from different angles and perspectives so that their understanding of contemporary art could be enhanced. The exhibition successfully attracted new audience and an increased number of young patrons. The total number of visitors reached 120 000 which is record-breaking for local contemporary art exhibitions.

In terms of contents, the exhibition featured the Fondation's collection of important works of world-acclaimed contemporary artists, including those by Richard PRINCE, Jeff KOONS, Jean-Michel BASQUIAT and Christian MARCLAY from the United States; Takashi MURAKAMI from Japan; Gilbert and George from the United Kingdom; Andreas GURSKY from Germany; Pierre HUYGHE from France; and YANG Fudong and CAO Fei from China. The model of the new museum designed by the renowned architect Frank GEHRY for the Fondation was also featured. The exhibition not only revealed the latest trends of visual art, but also showcased a collection of rare contemporary art masterpieces, thus providing the Hong Kong audience with a valuable opportunity to appreciate the works of these world-class masters in contemporary art. The presentation of the exhibition fully ties in with the Museum's mission "to enhance public knowledge and appreciation of art" and "to bring to Hong Kong a multi-cultural vision of the arts and culture of the world". In addition, the exhibition was thought-provoking and inspired lively discussion on contemporary art among the general public and the art community. Their

different responses were positive to the development of contemporary art in Hong Kong.

- (b) There is no standard division of financial responsibilities in jointly-presented exhibitions between the Museum and other institutions. The share of financial responsibilities for each exhibition differs, depending on the result of negotiations among relevant parties. Nevertheless, the Museum will make reference to international practices and compare the expenditures incurred for previous exhibitions of similar scales for budgeting purpose. Both the Museum and the Fondation shared the responsibilities (for example, logistic arrangements) and financial expenses of this exhibition. The total estimated cost for this exhibition was over HK\$20 million. The Museum was responsible for provision of venue facilities and customer services, education and promotion services and programmes, local publicity programmes, and so on, the expenditure of which amounted to HK\$5.9 million. The Fondation, on the other hand, shouldered all other costs including free loan of exhibits (at an estimated value of HK\$400 million), exhibition design, expenses of couriers, fabrication of exhibits and related provisions, international air shipment and insurance, regional publicity and commissioning and production of art works for the section "Hong Kong Seven", and so on.
- (c) The Programme Committee of the Museum is established according to professional requirements and in consultation with relevant government departments. To assure that the selection process are to be conducted in a fair and professional manner and does not involve any conflict of interest, members of the Committee comprising the officers in charge of different units of the Museum are responsible for vetting proposals of exhibitions and programmes in respect of the proposals' quality, merits and viability. The Museum will also consult its Expert Advisors, who are independent professionals including art connoisseurs, eminent artists and academics, on individual exhibitions. As they are all recognized experts of respective disciplines, their comments are of high reference value.

**Elder Abuse Cases in Residential Care Homes for Elderly**

9. **MR WONG KWOK-KIN** (in Chinese): *President, a spate of cases of residents of residential care homes for the elderly (RCHEs) being abused have occurred in recent years. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received in each of the past three years by the authorities which involved residents of RCHEs being abused; the major types of such complaints; the respective numbers of subvented and private RCHEs as well as those which have participated in the Bought Place Scheme involved in such cases; among such cases, the numbers of those which had been substantiated, and whether the authorities had imposed penalties on such RCHEs; if so, of the details; if not, the reasons for that;*
- (b) *given that elder abuse cases have still occurred from time to time, whether the authorities will review afresh in what aspects the regulatory system for RCHEs are inadequate and adopt improvement measures; and*
- (c) *whether the authorities will request the various types of RCHEs to employ additional staff so as to improve the staff-to-resident ratio, with a view to upgrading the quality of services and reducing the occurrence of elder abuse cases?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President,

- (a) During the period from January 2007 to the end of December 2009, the Social Welfare Department (SWD) received six complaints relating to suspected elder abuse in RCHEs. All six complaints involved suspected cases of staff negligence or inappropriate care, causing injury to residents. Among these complaints, one involved a subvented RCHE, two involved private RCHEs participating in the Enhanced Bought Place Scheme while the remaining three involved private RCHEs.

Upon receipt of the above complaints, the Licensing Office of the Residential Care Homes for the Elderly (LORCHE) of the SWD

immediately arranged inspectors to conduct unannounced investigation at the concerned RCHEs, to inspect on-site the services provided by the RCHEs, review relevant records and interview the staff, residents and relatives concerned. After investigation, three complaints were found substantiated, one was found not substantiated while the other two complaints were found not pursuable because only limited information could be collected and there was a lack of substantive evidence. After concluding the investigations, LORCHE issued advice or warning to the RCHEs concerned.

- (b) The Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) (the Ordinance) and the Residential Care Homes (Elderly Persons) Regulation (Cap. 459A) (the Regulation), which came into full operation in June 1996, provide for the regulation of RCHEs through a licensing system administered by the Director of Social Welfare. The licensing requirements cover aspects such as health, sanitation, staffing, safety, location, premises design, structure, equipment, fire precautions and size of RCHEs.

LORCHE is responsible for enforcing the Ordinance to ensure compliance with the licensing requirements. Every year, LORCHE conducts, on average, seven unannounced inspections of each RCHE. These inspections are very comprehensive, covering aspects such as drug management, personal care services, infection control, handling of accidents, environmental hygiene, meals, staffing, social care, management, building safety and fire safety, and so on. Furthermore, LORCHE's inspectors will also interview elderly residents and their relatives in order to directly collect their feedback on the services provided by the RCHEs. Apart from regular unannounced inspections, LORCHE will immediately inspect the RCHE concerned without prior announcement to conduct targeted investigation upon receipt of a complaint, as mentioned in the reply to part (a) above.

As stipulated in the Regulation, RCHEs are also required to maintain a comprehensive set of service records, including elderly residents' health records, medication records, log book of daily happenings and records of accidents and deaths. LORCHE's inspectors will

examine these records during inspections and will, where appropriate, require the RCHEs to make necessary rectifications. Depending on circumstances, LORCHE will also issue advice or warning to the RCHEs concerned, or even take prosecution action.

Apart from monitoring RCHEs through licensing control, the SWD has been encouraging elderly residents and their family members or carers to provide feedback on services of RCHEs. The public may contact LORCHE or call the SWD's 24-hour hotline if they are not satisfied with the services of RCHEs. Indeed, the six complaints above were lodged with LORCHE by the public or family members of RCHE residents. This reflects the effectiveness of the existing complaint mechanism. The SWD will review the current complaint mechanism from time to time, with a view to further improving the mechanism.

In addition, the Visiting Health Teams of the Department of Health, the Community Geriatric Assessment Teams and the Community Nurses of the Hospital Authority have been referring cases to LORCHE for follow-up actions should they identify any problems in the delivery of care services in RCHEs. Follow-up actions include inspection and supervision of the RCHEs concerned to carry out remedial action, as well as issuance of guidelines on topical issues, with a view to helping the whole RCHE sector enhance its service quality.

- (c) On the issue of manpower ratio, Schedule 1 of the Regulation sets out the minimum staffing requirements of various types of RCHEs under the licensing system. Nonetheless, RCHEs may, having regard to their individual situation and actual circumstances, increase their staffing provision so as to ensure smooth operation and provision of appropriate care to their elderly residents. According to information available to the SWD, a significant number of RCHEs have a manpower ratio higher than the basic staffing requirements set out in the Regulation.

Apart from stipulating the minimum staffing requirements, the SWD has been providing support to RCHEs for enhancing their care capability and quality, including the provision of regular training and

organization of topical seminars for RCHE staff, as well as the issuance of guidelines on major aspects of care in the RCHE setting for their reference. Furthermore, to alleviate the shortage of nurses in the welfare sector, the SWD has been offering, since 2006, a two-year full-time programme to train enrolled nurses for the welfare sector with a view to further enhancing the care quality of RCHEs.

### Public Rental Housing Schemes for Elderly

10. **MR RONNY TONG** (in Chinese): *President, regarding the situation of the elderly applying for public rental housing (PRH) flats under the Single Elderly Persons Priority Scheme and Elderly Persons Priority Scheme, will the Government inform this Council:*

- (a) *of the following data of the aforesaid two Schemes last year, broken down by district;*

<i>Name of the Scheme: _____</i>	<i>District</i>			
	<i>Urban</i>	<i>Extended Urban</i>	<i>New Territories</i>	<i>Islands</i>
<i>Number of eligible applications</i>				
<i>Supply of PRH flats</i>				
<i>Number of applications for which PRH flats were allocated</i>				
<i>Average waiting time of applicants who were allocated PRH flats</i>				
<i>Number of applications which request for in situ allocation of PRH flats</i>				
<i>Number of applications for which PRH flats in situ were allocated</i>				
<i>Average waiting time of applicants who were allocated PRH flats in situ:</i>				
<i>(i) less than two years:</i>				
<i>(ii) two years to less than three years:</i>				
<i>(iii) three years or above:</i>				

- (b) *whether applicants who have declined the offers of PRH flats allocated to them under the above two Schemes are required to wait afresh for allocation of PRH flats, or wait for allocation through other ways; and*
- (c) *given that some elderly organizations have relayed to me that elderly applicants generally have a higher demand for PRH flats in situ than PRH applicants of other age groups, what measures the authorities have in place to shorten the waiting time of elderly applicants for PRH flats in situ?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President,

- (a) To cater for the housing needs of the elderly, the Hong Kong Housing Authority (HA) has introduced a number of elderly priority housing schemes, including the Single Elderly Persons Priority Scheme for elderly singletons and Elderly Persons Priority Scheme for two or more senior citizens who are willing to live together. Elderly singletons are given priority in the allocation of PRH. The present target of the average waiting time is about three years. The HA has set a shorter average waiting time target for eligible single elderly applicants of the Single Elderly Persons Priority Scheme, anticipating that PRH flats can be allocated to them in about two years after submission of application.

Under the aforesaid schemes, elderly applicants may opt for any one of the Waiting List (WL) Districts, including the urban district. However, as with other PRH applicants, they cannot specify a location or PRH estate. As such, the HA does not have information on the number of applications requesting for *in situ* allocation of PRH flats and the average waiting time of the applicants concerned. Besides, the HA has not set any allocation quota or supply level under these two schemes. As at 30 November 2009, the average waiting time for single elderly applicants and non-single elderly applicants were 1.1 and 1.9 years respectively, which are shorter than the respective target waiting time. We do not have a breakdown of the waiting time by district.

Other data on the two schemes are set out below:

Single Elderly Persons Priority Scheme

	<i>District</i>			
	<i>Urban</i>	<i>Extended Urban</i>	<i>New Territories</i>	<i>Islands</i>
Current number of eligible applications (as at 30 November 2009)	3 562	1 099	912	16
Number of applications for which PRH flats were allocated in 2008-2009	1 443	570	933	1

Elderly Persons Priority Scheme

	<i>District</i>			
	<i>Urban</i>	<i>Extended Urban</i>	<i>New Territories</i>	<i>Islands</i>
Current number of eligible applications (as at 30 November 2009)	1 449	437	285	2
Number of applications for which PRH flats were allocated in 2008-2009	726	203	260	1

- (b) As with other eligible applicants on the WL, elderly applicants under the Single Elderly Persons Priority Scheme and Elderly Persons Priority Scheme will be given a total of three offers. An elderly applicant who rejects the first offer will be given a second offer and then a third offer. If he rejects all three offers, he has to re-apply for PRH just like other applicants. Those eligible will be put on the WL to await their turn for allocation of PRH.
- (c) As stated above, elderly households (including elderly one-person applicants and all-elderly households) are presently allowed to choose any one of the four WL Districts in their PRH applications, but they cannot further specify a location or PRH estate. However,



if individual elderly applicants need to be allocated a PRH flat in a specified district or in a PRH estate under exceptional circumstances, their requests may be referred to us on social or medical grounds through the concerned departments (such as the Social Welfare Department) or organizations (such as the Hospital Authority). Their requests will be met as far as possible, subject to the availability of resources.

### Protection of Endangered Species

11. **MR ALBERT HO** (in Chinese): *President, the Hong Kong Government strictly regulates the trade in endangered species through the Protection of Endangered Species of Animals and Plants Ordinance (the Ordinance) (Cap. 586), so as to enforce the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Any regulated species listed by the Conference of the Parties to CITES will be correspondingly brought under the regulatory control of the local legislation. It was reported last month that American scientists applied DNA forensic technology for the first time and uncovered that out of the 62 scalloped hammerhead shark fin samples taken from the Hong Kong market, 13 (that is, 21%) came from sharks in the western Atlantic of the species scalloped hammerhead, an endangered species listed by the International Union for Conservation of Nature (IUCN). Yet, this species of shark has not yet been listed by the Parties to CITES as one subject to restriction on import and export. In this connection, will the Government inform this Council:*

- (a) *apart from following CITES and list certain shark species as species subject to restriction on import and export, whether it will amend the aforesaid Ordinance to list those endangered species listed by IUCN as species subject to restriction on import and export; if so, of the details of the shark species to be so listed; if not, the reasons for that;*
- (b) *given that it has been reported that Hong Kong is one of the largest consumer markets for shark fins in the world, whether it will, apart from amending the relevant legislation, implement other measures to lower the demand for shark fins, so as to reduce the chance of sharks becoming extinct; if so, of the details; and*

- (c) *of the number of people prosecuted in the past three years for breaching the aforesaid Ordinance by illegally importing the endangered species concerned, as well as the penalties imposed on them in general?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, my answers to the three parts of the question are as follows:

- (a) The Hong Kong Special Administrative Region (HKSAR) Government is committed to the protection of endangered species and implementation of the CITES. Through the enforcement of the Ordinance, the trade in endangered species listed in the CITES Appendices is strictly controlled.

As an international conservation network, the works of the IUCN include compiling a list which lists out the conservation status of different species around the world. In considering whether to list certain species in the CITES Appendices, the CITES Conference of the Parties will also draw reference from the list compiled by IUCN.

In March 2010, the CITES Conference of the Parties will consider the listing of other shark species, including the IUCN-listed threatened shark species (including scalloped hammerhead shark). The HKSAR Government will closely follow the international control as required by CITES on the trade in endangered species. Species listed in CITES Appendices at the Conference of the Parties will be put under the control of the Ordinance accordingly.

- (b) Besides legislative amendment, public education also plays an important part in the implementation of CITES in Hong Kong. The Agriculture, Fisheries and Conservation Department (AFCD) has paid considerable publicity and educational efforts to raise public awareness in endangered species protection. The AFCD organizes a series of educational and publicity activities annually, which include dissemination of relevant information through the media and Internet, distribution of leaflets and posters, organization of exhibitions and seminars; and running of the Endangered Species Resources Centre for educational purpose, and so on.

- (c) Illegal import of endangered species contrary to the provisions of the Ordinance is liable to a maximum penalty of a fine of \$5 million and imprisonment for two years. The number of successful prosecutions related to illegal import of endangered species and the penalties involved, from 2007 to end November 2009, are as follows:

	2007	2008	2009 (January to November)
Successful prosecution	73	61	69
Fine	\$100 to \$40,000	\$100 to \$60,000	\$100 to \$60,000
Imprisonment	2 to 4 months	2 to 4 months	2 to 8 months

### **Support for Non-civil Service Contract Staff who Died or Sustained Injuries While at Work and Their Families**

12. **DR PAN PEY-CHYOU** (in Chinese): *President, a staff member who had been employed on non-civil service contract (NCSC) and worked for Radio Television Hong Kong for 21 years earlier died at work due to cerebral hemorrhages but the Government adamantly refused to grant death gratuity to his dependents on grounds that the employee was not a civil servant, and eventually only long service payment and mandatory provident fund (MPF) were granted. I have learnt that the incident has aroused public concern about the support for NCSC staff and their families. In this connection, will the Government inform this Council:*

- (a) *of the current number of NCSC staff employed by the Government, with a breakdown by department and grade;*
- (b) *of the respective numbers of staff continuously employed at present by the Government on NCSC and other forms of contract, with a breakdown by year of continuous service (that is, those below five years, and groups of five years each thereafter to 20 years and above);*
- (c) *of the respective numbers of cases reported to the Commissioner for Labour in the past five years which involved NCSC staff sustaining*

*injuries at work and those in which such employees died at work; and*

- (d) apart from granting long service payments and MPF to the dependents of those NCSC staff who died at work, whether the Government at present provides any substantive support to the dependents or NCSC staff who sustained injuries at work; if so, how such support compares with that provided to civil servants and their dependents?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President, the NCSC Staff Scheme, introduced in 1999, aims at providing Permanent Secretaries and Heads of Departments (HoDs) with a flexible means of employment to respond more promptly to changing operational and service needs of Bureaux/Departments (B/Ds) which may be time-limited, seasonal, or subject to market fluctuations; or which require staff to work less than conditioned hours; or which require tapping the latest expertise in a given area in the market; or where the mode of delivery of the service is under review or likely to be changed.

NCSC staff are employed on a fixed term contract basis with an all-inclusive pay package which does not offer any fringe benefits. HoDs may determine the employment package of their NCSC staff having regard to the job nature, condition of the employment market, as well as their management and operational considerations. The terms and conditions of service for NCSC staff are overall speaking no less favourable than those provided for under the Employment Ordinance (EO) (Cap. 57) and no more favourable than those applicable to civil servants in comparable civil service ranks or with comparable levels of responsibilities where they exist.

Moreover, Government employees, including NCSC staff, are covered by the Employees' Compensation Ordinance (ECO) (Cap. 282). They are thus already protected by the relevant laws, including provisions in relation to paid sick leave for injury on duty and compensation for death caused by accident arising out of and in the course of the employment.

Given the nature of the NCSC Scheme, the Civil Service Bureau only collects general information (such as the number of NCSC staff employed, the monthly salary range and the duration of contracts) twice a year from B/Ds.

With the above brief explanation on the NCSC Staff Scheme, my reply to the specific questions is set out below:

- (a) Having regard to the scope of the NCSC Staff Scheme, the number of NCSC staff employed by B/Ds varies from time to time in the light of changing service and operational requirements. As at 30 June 2009, there were 16 186 full-time<sup>(1)</sup> NCSC staff employed by B/Ds. A breakdown of these full-time NCSC staff by B/Ds is at Annex. There is no classification of NCSC staff by "grades" as such since they are employed outside the civil service establishment. We are therefore unable to provide a breakdown of the number of NCSC staff by grades.
- (b) As at 30 June 2009, the majority (12 091 or about 75%) of the 16 186 full-time NCSC staff had continuous service<sup>(2)</sup> of less than five years. Of the remaining NCSC staff, 3 551 had continuous service of five years or more to less than 10 years, and 554 had 10 years or more. The Civil Service Bureau does not keep information on the breakdown by other years of continuous service as mentioned in part (b) of the question. Neither do we have the information on the years of continuous service of staff employed on other forms of contract.
- (c) The respective numbers of cases reported to the Commissioner for Labour in the past five financial years which involved full-time NCSC staff sustaining injuries at work are as follows:

<i>Financial year</i>	<i>Number of cases involving full-time NCSC staff sustaining injuries at work</i>
2004-2005	343
2005-2006	350
2006-2007	424
2007-2008	344
2008-2009	329

- (1) "Full-time" means the employment is on a "continuous contract" under the definition of the EO. According to the EO, an employee who works continuously for the same employer for four weeks or more, with at least 18 hours in each week, is regarded as working under a continuous contract.
- (2) "Continuous service" includes service in the same NCSC position, as well as service in different NCSC positions in the same department but without a break in service.

In the past five financial years, no NCSC staff died arising out of and in the course of the employment.

- (d) As civil servants and NCSC staff have their distinctive nature of appointment, it is inappropriate to compare the employment terms and conditions of service of civil servants with those of NCSC staff.

As far as the arrangements for staff who sustain injuries or die on duty are concerned, government employees, including NCSC staff, are covered by the ECO, NCSC staff are thus already protected by the relevant laws. Generally speaking, government employees (be they civil servants or NCSC staff) who sustain injuries on duty are entitled to paid sick leave for a maximum period of 24 months. Free medical services by the Government or Hospital Authority will also be provided. If the staff opts for medical treatment by registered Chinese medicine practitioners, he may apply to the Government for reimbursement of the fees subject to the maximum amount as provided for under the ECO.

As for compensation for staff who die as a result of injuries while on duty, the dependants of an NCSC staff are entitled to statutory compensation under the ECO and the staff's accrued MPF benefits. For a civil servant appointed under the new terms on or after 1 June 2000, on top of the statutory compensation under the ECO and his accrued MPF/civil service provident fund benefits, a death payment of 36 months' final salary will be payable to his dependants if he dies arising out of and in the course of the employment.

Annex

Employment of NCSC Staff by B/D  
(Position as at 30 June 2009)

<i>B/D</i>	<i>Number of NCSC Staff</i>
Agriculture, Fisheries and Conservation Department	342
Architectural Services Department	33
Auxiliary Medical Service	1
Buildings Department	738
Census and Statistics Department	202

<i>B/D</i>	<i>Number of NCSC Staff</i>
Chief Executive's Office	5
Chief Secretary and Financial Secretary's Office	325
Civil Aviation Department	12
Civil Engineering and Development Department	113
Civil Service Bureau	2
Commerce and Economic Development Bureau	33
Companies Registry	54
Constitutional and Mainland Affairs Bureau	13
Correctional Services Department	12
Customs and Excise Department	29
Department of Health	1 468
Department of Justice	38
Development Bureau	20
Drainage Services Department	82
Education Bureau	1 150
Electrical and Mechanical Services Department	1 433
Environment Bureau	8
Environmental Protection Department	140
Financial Services and the Treasury Bureau	19
Fire Services Department	27
Food and Environmental Hygiene Department	615
Food and Health Bureau	16
Government Flying Service	13
Government Laboratory	24
Government Logistics Department	59
Government Property Agency	7
Highways Department	68
Home Affairs Bureau	22
Home Affairs Department	417
Hong Kong Observatory	22
Hong Kong Police Force	158
Hongkong Post	2 223
Immigration Department	223
Information Services Department	20
Inland Revenue Department	166
Innovation and Technology Commission	31
Intellectual Property Department	22
Invest Hong Kong	58

<i>B/D</i>	<i>Number of NCSC Staff</i>
Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service	1
Judiciary	143
Labour and Welfare Bureau	25
Labour Department	196
Land Registry	144
Lands Department	226
Legal Aid Department	5
Leisure and Cultural Services Department	2 715
Marine Department	15
Office of the Government Chief Information Officer	14
Office of the Telecommunications Authority	94
Official Receiver's Office	43
Planning Department	23
Radio Television Hong Kong	328
Rating and Valuation Department	76
Registration and Electoral Office	53
Security Bureau	20
Social Welfare Department	418
Student Financial Assistance Agency	637
Television and Entertainment Licensing Authority	40
Trade and Industry Department	83
Transport and Housing Bureau	5
Transport Department	212
Treasury	75
University Grants Committee Secretariat	24
Water Supplies Department	108
Total	16 186

### **Arts Festivals Organized or Sponsored by LCSD**

13. **DR LEUNG KA-LAU** (in Chinese): *President, since 2001, a thematic arts festival has been organized by the Leisure and Cultural Services Department (LCSD) every autumn, while the Hong Kong Arts Festival, funded by LCSD and the Hong Kong Jockey Club Charities Trust, has been held between February and March every year since 1973. In this connection, will the Government inform this Council:*



- (a) of the information on the various programmes in each of the aforesaid arts festivals in the past four years (set out in the table below);

Name of the arts festival:									
Year	Name of programme	Performance venue	Number of performances	Number of seats in the venue	Total attendance	Average occupation rate of the seats	Number of tickets sold		Total value of tickets sold (\$)
							Adult	Student	

- (b) of the expenditure by item and in total of each arts festival held in the past four years (set out in the table below); and

Name of the arts festival:				
Expenditure items	2008-2009	2007-2008	2006-2007	2005-2006
Funding foreign art groups				
Funding local art groups				
Publicity and promotion				
Remunerations				
Others				
Total				

- (c) given that major local art groups, Asian art groups and those of international standing are invited to perform in the Hong Kong Arts Festival every year, whether the Government has planned not to repeat such an arrangement when organizing the thematic arts festival each year, and utilize the resources earmarked for inviting overseas art groups entirely on inviting small and medium sized local art groups to perform instead, so as to alleviate the financial pressure of the latter and provide them with more development opportunities?

**SECRETARY FOR HOME AFFAIRS:** (in Chinese) President,

- (a) Information on the thematic arts festival and the Hong Kong Arts Festival is at Annexes I and II respectively.

- (b) Information on the expenditure of the above two festivals is at Annexes III and IV respectively.
- (c) The Administration is committed to promoting the development of local small and medium-sized arts groups. The Home Affairs Bureau and the Hong Kong Arts Development Council (HKADC) run a number of funds/schemes, including the Arts Development Fund and One-year Grant, Project Grant and Emerging Artist Grant, and so on, under HKADC. These cater to the needs of artists and arts groups of different nature and development stages. In 2008-2009, over \$100 million was spent on these groups/artists.

The LCSD also provides support and performance opportunities for small and medium-sized performing arts groups through various channels, including year-round cultural presentations, arts festivals, free entertainment programmes, audience building schemes at schools and the community, as well as marketing activities at performance venues. In 2008-2009, the LCSD's support to these groups amounted to over \$80 million for more than 3 300 performances and activities.

To widen the international vision of local arts groups, foster cultural exchange and provide the community with a diverse choice of cultural programmes, we also present a wide variety of quality cultural programmes from the Mainland and overseas apart from supporting local arts groups and artists. Our aim is to enhance the public's awareness and appreciation of the arts scene of Hong Kong and other places, and promote Hong Kong's image as a cultural metropolis in Asia.

The autumn thematic arts festival has been well-received by the audience and is gaining increasing recognition in the international arts scene. For a cultural metropolis like Hong Kong, our efforts to support the small and medium-sized arts groups can go hand-in-hand with the provision of world-class and diverse cultural programmes such as the Hong Kong Arts Festival and thematic arts festival to enrich the content of our local cultural programmes, strengthen cultural exchange and experience-sharing among visiting and local groups.

## Annex I

Thematic Arts Festival										
Year	Name of programme	Performance venue	Number of performances	Number of seats in the venue ^	Total attendance (including complimentary tickets)	Average occupation rate of the seats	Number of tickets sold		Total value of tickets sold (\$)	Remarks
							Adult	Student		
2005-2006	Latin Passion Festival									
Visiting Programmes	Flor de Amor	Hong Kong	2	3 966	3 933	99.17%	3 404	232	\$1,085,763	
	Tour by Omara Portuondo (Cuba)	Cultural Centre, Concert Hall								
	Havana-Mania Carnival! by Vocal Sampling (Cuba), Chet Lam and friends	Queen Elizabeth Stadium, Arena	2	3 774	3 568	94.54%	2 862	624	\$644,365	
	A New Vision of the Fandango Traditions on the Caribbean Coasts by Grupo Chuchumbé (Mexico) & Claudia Calderón's Piano Llanero Ensemble (Venezuela & Columbia)	Hong Kong City Hall, Concert Hall	1	1 430	1 106	77.34%	938	118	\$158,058	
	Rosa Passos (Brazil)	Hong Kong Cultural Centre, Concert Hall	1	1 990	1 990	100.00%	1 768	162	\$431,104	
	Jarocho by Jarocho (Mexico)	Hong Kong Cultural Centre, Grand Theatre	3	4 978	4 969	99.82%	4 289	580	\$925,368	
	Carlos Acosta's Tocaroro - A Cuban Tale by Carlos Acosta (Cuba)	Hong Kong Cultural Centre, Grand Theatre	2	3 400	3 400	100.00%	2 889	443	\$759,135	

<i>Thematic Arts Festival</i>										
<i>Year</i>	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue ^</i>	<i>Total attendance (including complimentary tickets)</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold</i>		<i>Total value of tickets sold (\$)</i>	<i>Remarks</i>
							<i>Adult</i>	<i>Student</i>		
	<i>Latin Fantasia - Parade of Samba and Latin Dances</i> by From Rio with Samba and Love (Brazil) and various artists	Shatin Town Hall, Auditorium	2	2 744	2 744	100.00%	2 495	187	\$426,439	
	<i>Tango Una Leyenda (Tango: The Legend)</i> by Tango Por Dos (Argentina)	Kwai Tsing Theatre, Auditorium	4	3 424	3 360	98.13%	3 032	245	\$599,169	
Local Programmes	<i>The Postman</i> by Chung Ying Theatre Company	Hong Kong Cultural Centre, Studio Theatre	6	1 788	1 812*	101.34%	1 451	289	\$237,543	
	<i>Kiss of the Spider Woman</i> by Spring-Time Creative Media & Perry Chiu Experimental Theatre	Hong Kong City Hall, Theatre	5	2 195	1 567	71.39%	1 083	334	\$176,508	
Contributed Programme by Government subvented companies	<i>Latin Passion</i> by Hong Kong Philharmonic Orchestra	Hong Kong Cultural Centre, Concert Hall	2	3 278	2 092	63.82%	1 582	402	\$238,993	
	Total		30	32 967	30 541	92.64%	25 793	3 616	\$5,682,445	

Notes:

# Excluding extension activities such as exhibitions, lectures and master classes (37 activities and 45 761 attendance)

\* Including standing tickets

^ Seats for sale for different programmes at the same venue may vary because of the need to block off some seats due to sight-line problem or technical needs.

Thematic Arts Festival										
Year	Name of programme	Performance venue	Number of performances	Number of seats in the venue ^	Total attendance (including complimentary tickets)	Average occupation rate of the seats	Number of tickets sold		Total value of tickets sold (\$)	Remarks
							Adult	Student		
2006-2007	New Vision Arts Festival									
Visiting Programmes	<i>The Rite of Spring • Near the Terrace</i> by Shen Wei Dance Arts (USA)	Hong Kong Cultural Centre, Grand Theatre	2	2 782	2 126	76.42%	1 475	338	\$352,129	
	<i>city:zen •Exit No Exit</i> by Shobana Jeyasingh Dance Company (UK) & City Contemporary Dance Company	Hong Kong Cultural Centre, Studio Theatre	3	864	649	75.12%	505	90	\$91,968	
	<i>Soirée de Danse Roland Petit</i>	Hong Kong Cultural Centre, Grand Theatre	1	1 718	1 723*	100.29%	1 470	165	\$338,342	
	<i>Geisha</i> by TheatreWorks (Singapore)	Kwai Tsing Theatre, Auditorium	2	1 214	739	60.87%	504	175	\$112,146	
	<i>Mu Guiying</i> by Li Liuyi New Drama	Hong Kong Cultural Centre, Studio Theatre	2	634	539	85.02%	382	97	\$65,168	
	<i>Yoshida Brothers</i> by Yoshida Brothers (Japan)	Shatin Town Hall, Auditorium	2	2 678	2 452	91.56%	1 877	575	\$430,217	
	<i>Eclectic Tales from Mongolia</i> by Li Chin Sung & the Khoomii Sound Machine	Hong Kong City Hall, Concert Hall	1	1 343	1 149	85.55%	930	169	\$188,264	
	<i>insen</i> by alva noto (Germany) + ryuichi sakamoto (Japan)	Hong Kong City Hall, Concert Hall	2	2 796	2 796	100.00%	2 400	310	\$724,833	

<i>Thematic Arts Festival</i>										
<i>Year</i>	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue ^</i>	<i>Total attendance (including complimentary tickets)</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold</i>		<i>Total value of tickets sold (\$)</i>	<i>Remarks</i>
							<i>Adult</i>	<i>Student</i>		
Local Programmes	<i>Faust auf dem Klosett - Epic Toilet Opera</i> by Theatre Ensemble	Kwai Tsing Theatre, Auditorium	6	4 471	3 785	84.66%	2 141	597	\$494,849	Two of the six performances were sponsored programme which the performing group was allowed to keep the ticket income. Hence, the no. of ticket sold for these two performances was not counted.
	<i>i. Cherry</i> by Class 7A Drama Group & Shu Ning Presentation Unit	Hong Kong Cultural Centre, Studio Theatre	5	1 422	1 242	87.34%	949	233	\$179,248	
	<i>Exposed/Still Burning</i> by Theatre Fanatico	Hong Kong Cultural Centre, Studio Theatre	4	938	834	88.91%	594	192	\$113,140	
	<i>Songs from Within</i> by JohnChen Ensemble	Hong Kong City Hall, Theatre	2	842	540	64.13%	359	122	\$62,436	
	<i>The Rite of Spring</i> by Hong Kong Philharmonic Orchestra	Hong Kong Cultural Centre, Concert Hall	2	3 443	2 690	78.13%	2 115	414	\$343,437	
Contributed Programme by Government subvented companies										
	Total		34	25 145	21 264	84.57%	15 701	3 477	\$3,496,177	

Notes:

# Excluding extension activities such as exhibitions, lectures and master classes (53 activities and 49 849 attendance)

\* Including standing tickets

^ Seats for sale for different programmes at the same venue may vary because of the need to block off some seats due to sight-line problem or technical needs.

Thematic Arts Festival										
Year	Name of programme	Performance venue	Number of performances	Number of seats in the venue ^	Total attendance (including complimentary tickets)	Average occupation rate of the seats	Number of tickets sold		Total value of tickets sold (\$)	Remarks
							Adult	Student		
2007-2008	Mediterranean Arts Festival									
Visiting Programmes	<i>The Italian Feast</i> by Balthasar Neumann Choir and Ensemble (Germany)	Hong Kong Cultural Centre, Grand Theatre	3	4 923	3 711	75.38%	2 788	564	\$921,847	
	<i>Cristina Branco</i> (Portugal)	Hong Kong Cultural Centre, Concert Hall	2	3 400	2 217	65.21%	1 875	222	\$476,473	
	<i>Gala Flamenco Concert</i> by Carmen Linares & Miguel Poveda (vocals); Juan Carlos Romero (guitar); Rocío Molina (dance) (Spain)	Hong Kong Cultural Centre, Concert Hall	2	3 208	2 341	72.97%	1 979	242	\$540,632	
	<i>Musical Heritage of the Mediterranean</i> by En Chordais Ensemble (Greece)	Hong Kong City Hall, Concert Hall	1	1 386	1 176	84.85%	957	169	\$197,268	
	<i>Divine Shadows</i> by Dhafer Youssef (Tunisia)	Hong Kong City Hall, Concert Hall	1	938	637	67.91%	467	120	\$111,810	
	<i>Hassan Boussou</i> (Morocco)	Hong Kong City Hall, Theatre	1	461	389	84.38%	292	67	\$59,798	
	<i>Romero Flamenco Guitar Recital</i> by Juan Carlos Romero (Spain)	Hong Kong City Hall High Block Recital Hall	1	111	111	100.00%	82	19	\$12,396	
	<i>Zikrayal, Homage to Oum Khalsoum/In the Trail of the Ghawazee</i> by Leila Haddad (Egypt)	Hong Kong City Hall, Theatre	4	1 846	1 829	99.08%	1 596	139	\$379,363	

Thematic Arts Festival										
Year	Name of programme	Performance venue	Number of performances	Number of seats in the venue ^	Total attendance (including complimentary tickets)	Average occupation rate of the seats	Number of tickets sold		Total value of tickets sold (\$)	Remarks
							Adult	Student		
	<i>Gala Flamence Dance Yesterday, Today and Always</i> by Merche Esmeralda, Belén Maya, Olga Pericet, Manuel Liñan, and Marco Flores (Spain)	Hong Kong Cultural Centre, Grand Theatre	3	5 027	4 578	91.07%	3 851	577	\$1,118,568	
	<i>Arlecchino, Servant of Two Masters</i> by Piccolo Teatro di Milano (Italy)	Shatin Town Hall, Auditorium	3	2 658	2 277	85.67%	1 675	482	\$499,215	
	<i>Aeschylus Prometheus Bound</i> by National Theatre of Greece (Greece)	Hong Kong City Hall, Theatre	3	1 317	1 207	91.65%	884	233	\$333,472	
	<i>The Whirling Dervishes: A Sacred Ritual</i> by Istanbul & Hong Music & Sema Group (Turkey)	Shatin Town Hall, Auditorium & Hong Kong City Hall, Auditorium	2	2 802	2 484	88.65%	2 132	252	\$436,936	
Local Programme	<i>Mediterranean Lyricism</i> by Mark Chan, Stephen Chau & John Lee	Hong Kong City Hall, High Block Recital Hall	1	111	96	86.49%	67	19	\$10,029	
Contributed Programme by Government subvented companies	<i>He Hui Returns</i> by Hong Kong Philharmonic Orchestra	Hong Kong Cultural Centre, Concert Hall	2	3 387	2 346	69.26%	1 894	347	\$358,313	
	Total		29	31 575	25 399	80.44%	20 539	3 452	\$5,456,120	

Notes:

# Excluding extension activities such as exhibitions, lectures and master classes (65 activities and 52 852 attendance)

^ Seats for sale for different programmes at the same venue may vary because of the need to block off some seats due to sight-line problem or technical needs.



Thematic Arts Festival										
Year	Name of programme	Performance venue	Number of performances	Number of seats in the venue ^	Total attendance (including complimentary tickets)	Average occupation rate of the seats	Number of tickets sold		Total value of tickets sold (\$)	Remarks
							Adult	Student		
2008-2009	New Vision Arts Festival									
Visiting Programmes	<i>Renature • Shoot the Moon • Tar and Feathers</i> by Nederlands Dans Theater I	Hong Kong Cultural Centre, Grand Theatre	3	3 152	2 859	90.70%	2 016	434	\$637,602	
	<i>About Khon</i> by Pichet Klunchun (Thailand), Jérôme Bel (France) & Pichet Klunchun Dance Company (Thailand)	Hong Kong Cultural Centre, Studio Theatre	2	582	378	64.95%	271	47	\$45,130	
	<i>Kisaeng Becomes You</i> by Dean Moss (USA) and Kim Yoon-jin (South Korea)	Hong Kong Cultural Centre, Studio Theatre	2	556	337	60.61%	199	78	\$36,718	
	<i>Fantasy of the Red Queen</i> by Liu Sola & Ensemble Modern (Germany)	Kwai Tsing Theatre, Auditorium	2	1 605	903	56.26%	570	153	\$136,002	
	<i>Fragile Beauty</i> by Huong Thanh Nguyễn Lê Septet (Vietnam/France)	Hong Kong City Hall, Concert Hall	1	1 326	449	33.86%	301	98	\$68,681	
	<i>The Tempest</i> by Contemporary Legend Theatre of Taiwan	Kwai Tsing Theatre, Auditorium	2	1 576	1 576	100.00%	1 177	341	\$317,084	
	<i>Liang Hongyu</i> by Li Liuyi New Drama	Hong Kong Cultural Centre, Studio Theatre	2	604	582	96.36%	299	223	\$76,044	

<i>Thematic Arts Festival</i>										
<i>Year</i>	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue ^</i>	<i>Total attendance (including complimentary tickets)</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold</i>		<i>Total value of tickets sold (\$)</i>	<i>Remarks</i>
							<i>Adult</i>	<i>Student</i>		
Local Programmes	<i>God Came to China</i> by Zuni Icosahedron	Hong Kong City Hall, Theatre	5	2 191	1 726	78.78%			\$125,024	This programme was co-commissioned by Zuni Icosahedron and LCSD and the latter only shared 35% of the box office income (that is, \$125,024). Breakdown on the no. of tickets sold was not provided.
	<i>In the Solitude of Cotton Fields</i> by On & On Theatre Workshop and Mobius Strip Theatre of Taiwan	Ngau Chi Wan Civic Centre, Theatre	4	1 150	977	84.96%	616	241	\$108,045	
	<i>The Will to Build</i> by Theatre du Pif	Hong Kong City Hall, Theatre	6	2 270	1 607	70.79%	1 069	358	\$201,942	
	<i>Rock Hard</i> by Yat Po Singers	Hong Kong City Hall, Theatre	2	882	645	73.13%	429	156	\$76,752	
Contributed Programmes by Government subvented companies	<i>Yo-Yo Ma and the HKPO and Exotic birds and sad songs</i> by Hong Kong Philharmonic Orchestra	Hong Kong Cultural Centre, Concert Hall	2	3 696	3 092	83.66%	2 601	291	\$1,209,062	
	<i>Yo-Yo Ma &amp; HKCO</i> by Hong Kong Chinese Orchestra	Hong Kong Cultural Centre, Concert Hall	1	1 951	1 752	89.80%	1 561	131	\$1,266,900	
Total			34	21 541	16 883	78.38%	11 109	2 551	\$4,304,986	

Notes:

# Excluding other extension activities such as exhibitions, lectures and master classes (66 activities and 63 663 attendance)

^ Seats for sale for different programmes at the same venue may vary because of the need to block off some seats due to sight-line problem or technical needs.

## Annex II

<i>2006 Hong Kong Arts Festival</i>									
	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue <sup>(1)</sup></i>	<i>Total attendance</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold <sup>(2)</sup></i>		<i>Total value of tickets sold (\$)</i>
							<i>Adult</i>	<i>Student</i>	
Visiting Programmes	The Artistry of Gender Switching in Beijing Opera	CHCH	2	2 548	1 517	60%	1 460	57	\$367,877
	Birmingham Royal Ballet- <i>Beauty and the Beast</i>	CCGT	5	8 009	8 009	100%	7 129	880	\$2,936,116
	U-Theatre and The Shaolin Temple Wushu Training Centre - <i>A Touch of Zen</i>	CCGT	5	8 315	8 315	100%	8 061	254	\$2,393,309
	Ensemble Wien-Berlin with Mozarteum Quartet Salzburg	CHCH	1	1 224	1 224	100%	875	349	\$221,398
	Shun Hing Group's Gala Evening - City of Birmingham Symphony Chorus	CCCH	1	1 660	1 465	88%	1 407	58	\$491,012
	Cloud Gate Dance Theatre of Taiwan	CCGT	5	7 859	7 859	100%	7 407	452	\$1,833,631
	Semper Opera Dresden and Opera Nuremberg - <i>Don Giovanni</i>	CCGT	4	6 408	6 408	100%	6 155	253	\$3,571,709
	Paquito D'Rivera with the New York Voices - <i>Brazilian Dreams</i>	CCCH	2	2 944	2 850	97%	2 514	336	\$821,260

2006 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
	Elisabeth Leonskaja Piano Recital	CCCH	1	1 398	1 147	82%	938	209	\$258,388
	Eva Yerbabuena Ballet Flamenco - <i>EVA</i>	CCGT	4	6 728	6 606	98%	6 284	322	\$2,292,088
	National Theatre of Britain - <i>The History Boys</i>	APAL	6	6 696	6 696	100%	6 291	405	\$2,343,365
	Ivo Papasov and His Wedding Band	CHCH	2	2 794	1 661	59%	1 031	630	\$258,767
	John Scofield Plays the Music of Ray Charles	CCCH	2	3 944	3 268	83%	2 553	715	\$927,160
	Schaubühne am Lehniner Platz Berlin - <i>Nora</i>	APAL	2	2 060	1 956	95%	1 815	141	\$594,409
	Orchestra of the Age of Enlightenment	CCCH	2	3 728	3 106	83%	2 713	393	\$1,115,274
	Une Nuit d'Amour - Romantic Opera Arias and Duets	CCCH	1	1 410	998	71%	956	42	\$267,426
	Ensemble Wien-Berlin with Stefan Vladar	CHCH	1	1 425	1 187	83%	1 040	147	\$171,612
	Red Priest	CHT	4	1 816	1 705	94%	1 481	224	\$302,292
	Circus Rinaldo La Cucina dell' - <i>Arte</i>	CCST	9	2 403	2 403	100%	1 990	413	\$487,084

2006 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
	Rosas - <i>Rain/Once/Raga for the Rainy Season/A Love Supreme</i>	APAL	4	3 770	3 314	88%	2 477	837	\$754,260
	Saffire - The Australian Guitar Quartet	CHCH	1	1 219	911	75%	840	71	\$160,579
	Michael Tilson Thomas and San Francisco Symphony	CCCH	3	5 832	5 444	93%	5 193	251	\$2,630,826
	Salif Keita	CHCH	2	2 616	2 616	100%	2 480	136	\$657,259
	Stefan Vladar Piano Recital	CHCH	1	1 330	1 152	87%	683	469	\$182,728
	Terence Blanchard Sextet	CCCH	1	1 688	1 666	99%	1 610	56	\$420,328
Local Programmes	<i>The Unexpected Man</i>	APAD	11	3 913	3 913	100%	3 673	240	\$920,338
	The Artistry of Gender Switching in Cantonese Opera	CHCH	2	2 720	2 137	79%	2 095	42	\$483,632
	ExxonMobil Vision - <i>Pong Nan in Concert: The Individualism Experience</i>	CCST	3	834	834	100%	722	112	\$104,674
	<i>Ending the World</i>	CATTLE DEPOT	6	413	402	97%	305	97	\$38,610
	ExxonMobil Vision - <i>Cantonese Opera New Stars</i>	CHT	2	863	859	99%	837	22	\$131,067

2006 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
	ExxonMobil Vision - Lio Kuok Wai Piano Recital	CHT	1	457	457	100%	385	72	\$48,252
	Actors' Family - The Legend of the White Snake	APAL	7	7 210	6 309	88%	5 344	965	\$1,435,350
	Our Songs - Asian Singer - Songwriters	CHT	3	1 137	1 002	88%	636	366	\$146,578
Programme by Government subvented companies	HK Chinese Orchestra - Doming Lam at 80 - a Birthday Concert**	CHCH	1	1 299	1 289	99%	1 275	14	Not available as Arts Groups keep the ticket proceeds.
	Hong Kong Philharmonic Orchestra - Mahler's Resurrection Symphony**	CCCH	1	1 761	1 760	99%	1 581	179	
	Hong Kong Sinfonietta and Mengla Huang**	CHCH	1	1 320	1 320	100%	845	475	
	Total		109	111 751	103 765	93%	93 081	10 684	\$29,768,658

Notes:

(1) Seating capacity of different programmes at the same venue may vary because of the need of some programmes to block off the seats due to sight-line problem or technical needs.

(2) Including complimentary tickets as they were issued at purchasing price to the guests.

\*\* The performing group was responsible for all the programme costs and kept the ticket income.

CCGT = CULTURAL CENTRE GRAND THEATRE

CCST = CULTURAL CENTRE STUDIO THEATRE

CCCH = CULTURAL CENTRE CONCERT HALL

CHCH = HK CITY HALL CONCERT HALL

CHT = HK CITY HALL THEATRE

APAL = ACADEMY FOR PERFORMING ARTS LYRIC THEATRE

APAD = ACADEMY FOR PERFORMING ARTS DRAMA THEATRE

CATTLE DEPOT = CATTLE DEPOT ON & ON THEATRE

2007 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
Visiting Programme	Youssou N'Dour with his Super Etoile de Dakar	CCCH	2	3 390	3 390	100%	3 244	146	\$1,097,933
	The Actors' Gang 1984	APAL	7	5 437	5 437	100%	4 893	544	\$1,668,100
	Amadinda Percussion Group - Around the World In 80 Minutes	CHCH	2	2 850	2 747	96%	2 266	481	\$420,358
	Artemis Quartet	CHCH	1	1 217	1 150	94%	1 052	98	\$181,584
	Camut Band - Life is Rhythm	CHCH	4	5 542	5 542	100%	4 556	986	\$866,162
	Yang Guang in Concert	CHCH	1	1 157	1 024	89%	959	65	\$204,702
	Feria Musica - Le Vertige du Papillon (Butterfly Dreams)	APAL	4	4 589	4 589	100%	4 047	542	\$810,929
	Sylvie Guillem in Akram Khan's Sacred Monsters	CCGT	2	3 352	3 352	100%	3 105	247	\$1,065,920
	Julia Migenes in Concert Alter Ego	CCGT	2	3 364	2 350	70%	2 263	87	\$627,001
	Katona Twins Guitar Duo	CHCH	1	1 217	931	76%	852	79	\$166,196
	Jiangsu Province Kunqu Opera The Peach Blossom Fan (1699)	CCGT	3	4 970	4 970	100%	4 571	399	\$1,198,463

2007 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
	L'Arpeggiata <i>La Tarantella</i>	CHCH	1	1 222	1 222	100%	1 149	73	\$267,016
	The Great Mass Leipzig Ballet with the Gewandhaus Orchestra, and the Chorus and Soloists of the Leipzig Opera	CCGT	3	4 806	4 806	100%	4 564	242	\$3,487,250
	Yohangza Theatre Company - <i>A Midsummer Night's Dream</i>	CHT	4	1 744	1 555	89%	1 266	289	\$277,106
	Yuri Simonov and the Moscow Philharmonic Orchestra	CCCH	3	5 997	5 997	100%	5 711	286	\$2,756,345
	WATERMILL THEATRE and OLD VIC Productions by PROPELLER of <i>The Taming of the Shrew</i> + <i>Twelfth Night</i>	APAL	5	4 162	4 162	100%	3 689	473	\$1,246,253
	Credit Suisse Evening: All-Star Jazz with the SFJAZZ Collective	CCCH	1	1 796	1 796	100%	1 680	116	\$543,709
	Soweto Gospel Choir	CCCH	3	5 385	5 385	100%	5 090	295	\$1,594,575
	Tango Buenos Aires	CCGT	5	8 434	8 434	100%	8 037	397	\$2,662,034
	Chucho Valdés Quartet	CCCH	2	3 376	3 339	99%	3 176	163	\$1,054,104



2007 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
	Standard Chartered Classic Welsh National Opera <i>La bohème</i>	CCGT	4	6 407	6 407	100%	5 905	502	\$3,707,667
Local Programmes	My Life as a Dancer the evolution	KTT	3	2 607	2 607	100%	2 333	274	\$428,192
	Lost Village	CCST	6	1 656	1 623	98%	1 516	107	\$380,890
	Cantonese Opera <i>Stealing the Imperial Horse</i>	CHCH	2	2 696	2 696	100%	2 671	25	\$527,548
	ExxonMobil Vision Chan Fai Young - <i>12 Faces of Woman</i>	CHCH	2	2 772	2 772	100%	2 531	241	\$450,562
	On and On Theatre Workshop - <i>Tian Gong Kai Wu</i>	APAD	6	2 022	1 564	77%	1 321	243	\$283,479
	Shu Ning Presentation Unit - <i>And Then There's You</i>	APAL	5	5 682	5 682	100%	4 774	908	\$1,064,965
	The Hong Kong Children's Choir	CCCH	1	1 648	1 347	82%	1 031	316	\$194,310
	ExxonMobil Vision All Theatre Company <i>YuYu MiMi - A Love Story</i>	FRINGE STUDIO	6	379	379	100%	297	82	\$36,678

<i>2007 Hong Kong Arts Festival</i>									
	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue <sup>(1)</sup></i>	<i>Total attendance</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold <sup>(2)</sup></i>		<i>Total value of tickets sold (\$)</i>
							<i>Adult</i>	<i>Student</i>	
	Asian Super Guitar Project Eugene Pao • Kazumi Watanabe • Jack Lee	CHCH	2	2 794	2 306	83%	2 153	153	\$532,981
	ExxonMobil Vision Zhu Lin & Colleen Lee Cello & Piano Duo	CHCH	1	1 043	1 043	100%	912	131	\$142,563
Programme by Government subvented companies	Hong Kong Chinese Orchestra - <i>Music about China</i> **	CHCH	1	1 302	1 302	100%	958	344	Not available as Arts Groups keep the ticket proceeds.
	Hong Kong Philharmonic Orchestra - <i>Mahler's Symphony No 7</i> **	CCCH	2	3 170	2 977	94%	2 696	281	
	Jun Kung and the Hong Kong Sinfonietta**	CHCH	1	1 244	1 244	100%	963	281	
	Total		98	109 429	106 127	97%	96 231	9 896	\$29,945,575

Notes:

(1) Seating capacity of different programmes at the same venue may vary because of the need of some programmes to block off the seats due to sight-line problem or technical needs.

(2) Including complimentary tickets as they were issued at purchasing price to the guests.

\*\* The performing group was responsible for all the programme costs and kept the ticket income.

CCGT = CULTURAL CENTRE GRAND THEATRE

CCST = CULTURAL CENTRE STUDIO THEATRE

CCCH = CULTURAL CENTRE CONCERT HALL

CHCH = HK CITY HALL CONCERT HALL

CHT = HK CITY HALL THEATRE

APAL = ACADEMY FOR PERFORMING ARTS LYRIC THEATRE

APAD = ACADEMY FOR PERFORMING ARTS DRAMA THEATRE

ACSH = ARTS CENTRE SHOUSON THEATRE

FRINGE STUDIO = FRINGE STUDIO FRINGE CLUB

KTT = KWAI TSING THEATRE AUDITORIUM

<i>2008 Hong Kong Arts Festival</i>									
	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue <sup>(1)</sup></i>	<i>Total attendance</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold <sup>(2)</sup></i>		<i>Total value of tickets sold (\$)</i>
							<i>Adult</i>	<i>Student</i>	
Visiting Programmes	András Schiff Piano Recital	CHCH	1	1 391	1 391	100%	1 345	46	\$302,089
	American Repertory Theatre - <i>Orpheus X</i>	APAL	4	3 657	3 398	93%	2 776	622	\$1,004,129
	Beijing Opera - <i>The Master of Chou: Xiao Changhua</i>	APAL	2	2 013	2 013	100%	1 869	144	\$404,346
	<i>Fragments</i>	CCST	6	1 901	1 901	100%	1 685	216	\$645,589
	Tomatito Sextet	CCCH	1	1 312	1 312	100%	1 247	65	\$326,498
	Eddie Palmieri Afro-Caribbean Jazz Sextet	CCCH	2	3 108	2 915	94%	2 685	230	\$952,586
	Stuttgart Ballet - <i>Swan Lake/Onegin</i>	CCGT	6	9 490	9 490	100%	8 775	715	\$4,235,423
	Trio Mediæval	ST. JOHN	2	892	892	100%	849	43	\$155,440
	Hiroimi's Sonicbloom - <i>Time Control</i>	CHCH	2	2 405	2 405	100%	2 307	98	\$374,372
	Hungarian State Folk Ensemble - <i>Hungarian Concerto</i>	CCGT	3	4 530	4 530	100%	4 051	479	\$856,697
	Joanna Macgregor Piano Recital	CHCH	1	918	918	100%	787	131	\$182,641
	London Philharmonic Choir	CCCH	2	3 297	3 297	100%	3 101	196	\$928,175
	Vladimir Jurowski and the London Philharmonic Orchestra	CCCH	2	3 996	3 996	100%	3 832	164	\$2,024,652

<i>2008 Hong Kong Arts Festival</i>									
	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue <sup>(1)</sup></i>	<i>Total attendance</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold <sup>(2)</sup></i>		<i>Total value of tickets sold (\$)</i>
							<i>Adult</i>	<i>Student</i>	
	Compagnie Marie Chouinard - <i>Ode to Joy L. I. V. E.</i>	APAL	2	2 270	2 159	95%	1 971	188	\$506,160
	<i>The Master Builder</i>	APAL	3	2 380	2 380	100%	2 062	318	\$421,276
	National Theatre of Great Britain - <i>Chatroom + Citizenship</i>	APAL	5	4 189	4 189	100%	3 692	497	\$1,235,249
	New York Philharmonic	CCCH	3	6 003	6 003	100%	5 738	265	\$2,952,743
	Ornette Coleman	CCCH	2	3 590	3 590	100%	3 476	114	\$1,269,230
	Pina Bausch Tanztheater Wuppertal - <i>Vollmond</i>	CCGT	4	5 780	5 780	100%	5 447	333	\$1,910,476
	Teatro Regio di Parma - <i>Verdi's Rigoletto</i>	CCGT	5	8 022	8 022	100%	7 633	389	\$6,704,082
	Piano Trio with András Schiff, Yuuko Shiokawa and Miklós Perényi	CHCH	1	1 267	1 267	100%	1 211	56	\$283,735
Local Programmes	<i>The Shape of Things</i>	CCST	14	4 166	4 166	100%	3 866	300	\$1,159,179
	Danny Yung Experimental Theatre - <i>Tears of Barren Hill</i>	CCST	3	779	779	100%	667	112	\$100,169
	<i>Titus Andronicus</i>	KTT	4	3 184	2 996	94%	2 336	660	\$464,659

2008 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
	Cantonese Opera - <i>The Timeless Works of Guan Hanqing</i>	CHCH	3	3 851	3 851	100%	3 698	153	\$868,868
	Exxonmobil Vision - <i>Sheng it Up</i>	CHT	1	431	431	100%	379	52	\$55,014
	Exxonmobil Vision - <i>Pius Cheung Marimba Recital</i>	CHT	2	915	915	100%	739	176	\$128,437
Programme by Government subvented companies	Yuan Chenye with the Hong Kong Philharmonic Orchestra	CHCH	1	989	890	90%	845	45	\$187,624
	Hong Kong Chinese Orchestra - <i>More about China 2**</i>	CHCH	1	1 325	1 263	95%	1 040	223	Not available as Arts Groups keep the ticket proceeds.
	Hong Kong Repertory Theatre - <i>Family Protection Unit (FPU)**</i>	ACST	2	758	758	100%	631	127	
	Total:		90	88 809	87 897	99%	80 740	7 157	\$30,639,538

Notes:

(1) Seating capacity of different programmes at the same venue may vary because of the need of some programmes to block off the seats due to sight-line problem or technical needs.

(2) Including complimentary tickets as they were issued at purchasing price to the guests.

\*\* The performing group was responsible for all the programme costs and kept the ticket income.

CCGT = CULTURAL CENTRE GRAND THEATRE

CCST = CULTURAL CENTRE STUDIO THEATRE

CCCH = CULTURAL CENTRE CONCERT HALL

CHCH = HK CITY HALL CONCERT HALL

CHT = HK CITY HALL THEATRE

APAL = ACADEMY FOR PERFORMING ARTS LYRIC THEATRE

ACST = ARTS CENTRE SHOUSON THEATRE

KTT = KWAI TSING THEATRE AUDITORIUM

ST. JOHN = ST. JOHN'S CATHEDRAL

2009 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
Visiting Programmes	Asia Pacific Dance Platform	FRINGE	2	180	180	100%	164	16	\$28,600
	Beijing Opera Extravaganza - Aria Concert Shanghai Peking Opera Troupe - <i>The Disinterested Governor Yu Chenglong</i>	CCGT	3	4 868	4 868	100%	4 624	244	\$1,236,349
	Vesturport Theatre of Iceland - <i>Metamorphosis</i>	APAL	4	3 706	3 706	100%	3 334	372	\$1,127,501
	Wang Jian plays Bach @ IFC 55	TWO IFC	3	597	597	100%	553	44	\$243,720
	Bernard Haitink and the Chicago Symphony Orchestra	CCCH	2	4 004	4 004	100%	3 871	133	\$4,372,291
	Chick Corea and John McLaughlin Five Peace Band	CCCH	2	3 585	3 585	100%	3 390	195	\$1,615,441
	Circo Aereo - <i>Un cirque plus juste</i>	TMCA	5	601	601	100%	405	196	\$55,890
	The Chicago Symphony Orchestra Brass	TWTH	1	1 402	976	70%	735	241	\$310,856
	Deutsches Symphonie-Orchester Berlin	CCCH	2	3 620	3 216	89%	2 973	243	\$1,728,004
	English National Ballet - <i>Alice in Wonderland</i>	CCGT	5	7 294	7 294	100%	6 201	1 093	\$2,079,821

2009 Hong Kong Arts Festival									
	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$)
							Adult	Student	
	Estonian Philharmonic Chamber Choir	ST. JOHN, CCCH	2	2 001	1 693	85%	1 460	233	\$516,624
	Juliette Binoche & Akram Khan - <i>In-I</i>	APAL	3	3 162	3 162	100%	2 937	225	\$1,295,594
	Karbido - <i>The Table</i>	CCST	3	1 446	1 446	100%	1 072	374	\$265,412
	Karbido - <i>The Table</i>	TMCA	2	446	446	100%	231	215	\$44,699
	Lisa Ono - Celebrate 50 Yrs of Bossa Nova	CCCH	3	5 945	5 945	100%	5 794	151	\$2,077,329
	Latvian National Opera - <i>Alcina</i>	CCGT	2	3 200	3 139	98%	2 883	256	\$1,937,796
	Latvian National Opera - <i>Lady Macbeth of Mtsensk</i>	CCGT	3	4 800	3 149	66%	2 688	461	\$1,684,035
	The Wooster Group - <i>The Emperor Jones</i>	CCST	5	1 197	1 197	100%	1 041	156	\$321,026
	National Ballet of China - <i>The Peony Pavilion</i>	CCGT	5	7 036	7 036	100%	6 275	761	\$3,135,633
	Northern Sinfonia and Chorus	CCCH	2	2 763	2 095	76%	1 865	230	\$969,020
	Northern Sinfonia Chamber Concert	YLT	1	726	726	100%	578	148	\$120,958
	Omar Sosa Afreecanos Quartet	CCCH	1	1 795	1 795	100%	1 721	74	\$494,454

	Name of programme	Performance venue	Number of performances	Number of seats in the venue <sup>(1)</sup>	Total attendance	Average occupation rate of the seats	Number of tickets sold <sup>(2)</sup>		Total value of tickets sold (\$) <sup>(3)</sup>
							Adult	Student	
	<i>Paper Tiger Theater Studio - Cool</i>	CCST	3	565	565	100%	423	142	\$94,742
	Ton Koopman and the Amsterdam Baroque Orchestra	CHCH	2	2 434	2 125	87%	1 965	160	\$689,229
	<i>Pygmalion</i>	APAL	6	6 675	6 675	100%	6 006	669	\$2,908,418
	Sergio Tiempo Piano Recital	CHCH	1	1 226	1 226	100%	1 152	74	\$260,405
	Shen Yang Lieder Recital	CHCH	1	1 127	851	76%	785	66	\$173,446
	Shanghai Yueju Opera Theatre	CCGT	4	6 295	6 199	98%	5 909	290	\$1,701,414
	Zehetmair Quartet	CHCH	1	1 168	919	79%	835	84	\$183,788
	Company Ea Sola - <i>The White Body</i>	APAL	2	1 410	702	50%	569	133	\$147,396
	Tim Crouch - <i>England/My Arm/An Oak Tree</i>	TANG, CCST	13	1 790	1 659	93%	1 372	287	\$319,692
	Ton Koopman Organ Recital	CCCH	1	1 135	1 135	100%	1 094	41	\$250,063
Local Programmes	<i>Black Swan</i>	ACST	5	1 994	1 981	99%	1 728	253	\$342,717
	<i>Black Swan</i>	YLT	2	1 047	1 047	100%	810	237	\$107,212
	<i>Murder in San José</i>	CHT	7	3 148	3 148	100%	2 941	207	\$550,272
	ExxonMobil Vision - <i>Teresa Suen Harp Recital</i>	CHT	1	457	457	100%	423	34	\$66,277
	ExxonMobil Vision - <i>Primary Shapes: An Eternal Golden Braid</i>	APAD	2	640	640	100%	572	68	\$113,054



<i>2009 Hong Kong Arts Festival</i>									
	<i>Name of programme</i>	<i>Performance venue</i>	<i>Number of performances</i>	<i>Number of seats in the venue <sup>(1)</sup></i>	<i>Total attendance</i>	<i>Average occupation rate of the seats</i>	<i>Number of tickets sold <sup>(2)</sup></i>		<i>Total value of tickets sold (\$)</i>
							<i>Adult</i>	<i>Student</i>	
Programmes by Government subvented companies	Zuni Icosahedron - <i>Book of Ghosts</i> *	APAD	4	1 436	938	65%	794	144	\$178,525
	Hong Kong Ballet - <i>All Bach</i> **	APAL	3	2 435	2 408	99%	2 148	260	Not available as Arts Groups keep the ticket proceeds.
	Hong Kong Chinese Orchestra - <i>Music about China 3 - Guo Wenjing's World of Chinese Music</i>	CHCH	1	1 306	1 081	83%	723	358	
	Hong Kong Sinfonietta & Sergio Tiempo**	CHCH	1	1 402	1 326	95%	846	480	
	Total		121	102 064	95 938	94%	85 890	10 048	\$33,747,703

Notes:

(1) Seating capacity for different programmes at the same venue may vary because of the need of some programmes to block off the seats due to sight-line problem or technical needs.

(2) Including complimentary tickets as they were issued at purchasing price to the guests.

\*\* The performing group was responsible for all the programme costs and kept the ticket income.

\* Co-commissioned production

CCGT = CULTURAL CENTRE GRAND THEATRE

CCST = CULTURAL CENTRE STUDIO THEATRE

CCCH = CULTURAL CENTRE CONCERT HALL

CHCH = HK CITY HALL CONCERT HALL

CHT = HK CITY HALL THEATRE

APAL = ACADEMY FOR PERFORMING ARTS LYRIC THEATRE

APAD = ACADEMY FOR PERFORMING ARTS DRAMA THEATRE

ACST = ARTS CENTRE SHOUSON THEATRE

YLT = YUEN LONG THEATRE AUDITORIUM

TMCA = TUEN MUN TOWN HALL CULTURAL ACTIVITIES HALL

TWTH = TSUEN WAN TOWN HALL AUDITORIUM

ST. JOHN = ST. JOHN'S CATHEDRAL

FRINGE = FRINGE THEATRE FRINGE CLUB

TWO IFC = TWO IFC

TANG = Tang Contemporary Art

## Annex III

<i>Thematic Arts Festival</i> <sup>(1)</sup>				
<i>Expenditure Items</i>	<i>2008-2009 (New Vision Arts Festival)</i>	<i>2007-2008 (Mediterranean Arts Festival)</i>	<i>2006-2007 (New Vision Arts Festival)</i>	<i>2005-2006 (Latin Passion Festival)</i>
Funding Foreign Art Groups <sup>(2)</sup>	\$8,122,987	\$11,238,633 <sup>(4)</sup>	\$5,643,098	\$8,673,877
Funding Local Art Groups <sup>(2)</sup>	\$2,982,913 <sup>(5)</sup>	\$608,822 <sup>(5)</sup>	\$3,345,984	\$1,292,863
Publicity and Promotion <sup>(3)</sup>	\$1,931,248	\$2,052,832	\$1,921,792	\$1,915,255
Remunerations	\$2,095,131	\$1,770,584	\$1,854,562	\$1,781,491
Others	\$607,295	\$693,400	\$357,484	\$309,212
Total	\$15,739,574	\$16,364,271	\$13,122,920	\$13,972,698

## Notes:

- (1) since the "World's Cultures" festival series (that is, Latin Passion Festival in 2005-2006 and Mediterranean Arts Festival in 2007-2008) was introduced in 2005, it has been presented in alternate years with "New Vision Arts Festival". Due to the difference in theme and nature of this festival series, more visiting arts groups were featured in 2005-2006 and 2007-2008 to showcase distinctive programmes representative of different cultures of the world, whereas more local arts groups were featured in the New Vision Arts Festival in 2006-2007 and 2008-2009.
- (2) including direct production costs, printing costs of publicity materials (for example, posters, leaflets, and so on) and house programmes, as well as miscellaneous costs (excluding notional hiring costs and ticketing charges).
- (3) mainly advertising costs.
- (4) the substantial increase in expenditure on visiting arts groups in 2007-2008 was due to the drastic rise in the exchange rate of Euro and the increase in market prices of hotel, airfare and various outsourced services.
- (5) see (1). In addition, except for special commissioned programmes in the New Vision Arts Festival in 2008-2009, the major performing arts groups participated in the festivals by contributing programmes since 2007-2008 and their related expenditure was not accounted for in the festival budgets.

## Annex IV

<i>Hong Kong Arts Festival</i>				
<i>Expenditure Items</i>	<i>2008-2009</i>	<i>2007-2008</i>	<i>2006-2007</i>	<i>2005-2006</i>
Funding Foreign Art Groups	\$44,750,735	\$42,505,437	\$32,287,174	\$31,489,323
Funding Local Art Groups	\$2,663,667 <sup>Note</sup>	\$4,021,173	\$5,555,013	\$4,741,434
Publicity and Promotion	\$14,753,321	\$13,347,247	\$13,560,853	\$13,022,065
Remunerations	\$10,061,184	\$10,545,498	\$12,858,640	\$10,043,833
Others	\$2,473,427	\$1,761,913	\$2,101,233	\$1,539,666
Total	\$74,702,334	\$72,181,268	\$66,362,913	\$60,836,321

Note:

As more small-scale local productions were staged in 2008-2009, the amount spent on local programmes in 2008-2009 was smaller when compared with that in the previous years.

### Medical Services Provided for Mental Patients

14. **MR WONG SING-CHI** (in Chinese): *President, it was reported that a woman who had a manic-depressive disorder seizure and killed her adoptive daughter was convicted last month of manslaughter. In this connection, will the executive authorities inform this Council whether they know:*

- (a) *the number of Consultation Liaison Teams under the Hospital Authority (HA), as well as the respective attendances of the services of in-ward consultation and consultation at the Accident and Emergency (A&E) Departments provided by the teams in each of the past five years;*
- (b) *the respective numbers of patients currently suffering from the various kinds of mental illnesses such as depression, mania and schizophrenia, and so on; if they do not know, of the reasons for that;*
- (c) *the respective average waiting time and the waiting time at the 99th percentile for the various types of psychiatric services at present*

*(including specialist out-patient (SOP) services, community psychiatric nursing services and occupational therapy); what measures are currently in place to shorten the waiting time; whether it will set a target waiting time; if so, of the details; if not, the reasons for that; and*

- (d) if HA has set up a mechanism to assist mental patients who are waiting for psychiatric services so that their clinical conditions can be alleviated or will not deteriorate; if so, of the details; if not, the reasons for that?*

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

- (a) In the past five years, there were over 200 psychiatrists and nearly 2 000 psychiatric nurses providing mental health services in the HA. In 2008-2009, the number of psychiatrists and psychiatric nurses in the HA were 288 and 1 880 respectively

Psychiatric health care staff of the HA provides psychiatric consultation-liaison services in non-psychiatric in-patient wards or A&E departments of various clusters. The services provided include conducting clinical assessment for patients who may have mental health problems and providing appropriate treatment or follow-up recommendations such as referring patients with needs to receive psychiatric SOP or psychiatric in-patient services based on the clinical conditions of the patient. Apart from providing consultation-liaison services to patients by visiting in-patient wards or A&E departments, psychiatric health care staff also provides telephone consultation services to health care staff of other clinical departments. The HA does not have statistics of its psychiatric consultation-liaison services at present.

- (b) In 2008-2009, the psychiatric specialty of the HA provided services to around 41 000 persons diagnosed with schizophrenia and around 40 000 persons diagnosed with emotional disorders (including depression and mania).

(c) and (d)

At present, under the triage system for new appointment at SOP clinics in the HA, psychiatric SOP clinics classify new patients into the following categories on the basis of the urgency of their clinical conditions: priority 1 (urgent), priority 2 (semi-urgent) and routine categories. The targets of the HA are to maintain the median waiting time for cases in the priority 1 and priority 2 categories within two weeks and eight weeks respectively so as to ensure that patients with urgent health care needs are provided with treatment within reasonable time. In 2008-2009, the median waiting time for first appointment of priority 1 and priority 2 cases at psychiatric SOP clinics were around one week and three weeks respectively.

To ensure that cases with urgent medical conditions would not be overlooked during triage at the initial stage, all patients classified as routine cases would be reviewed by a senior doctor of the relevant specialty within seven working days of the triage. If a patient's condition deteriorates while waiting for the appointment, he or she may contact the SOP clinic concerned and request to advance the appointment. If the condition is acute, the patient could seek immediate treatment at A&E departments. Health care staff would arrange for the patient to receive earlier treatment as necessary.

In 2008-2009, the median waiting time and the waiting time at the 99th percentile for the HA's psychiatric SOP service were four weeks and 112 weeks respectively. In the same year, the median waiting time and the waiting time at the 99th percentile for occupational therapy out-patient services were one week and 16 weeks respectively and service users include psychiatric and non-psychiatric patients.

As the conditions of patients at the HA's psychiatric SOP clinics vary, health care staff arranges the date of medical appointment for patients having regard to their conditions and clinical needs. As such, the service provision cannot be assessed simply by looking at the waiting time at the 99th percentile. In fact, 90% of new patients at psychiatric SOP clinics (that is, 90th percentile) are provided with treatment within one year.

To improve the waiting time of non-urgent new cases, the HA has set up in 2009-2010 triage clinics at the psychiatric SOP clinics in five clusters, including Hong Kong East, Kowloon East, Kowloon West, New Territories East and New Territories West. The triage clinics mainly provide services to new psychiatric patients classified as routine cases. To further enhance mental health services, the HA plans to foster closer collaboration between its psychiatric SOP service and primary care service in 2010-2011 to strengthen the assessment and treatment services for persons with common mental disorders so that patients with different conditions can all receive more appropriate treatment services to meet their needs.

Community psychiatric nurses provide follow-up service to individual discharged psychiatric patients and monitor the progress of their treatment and rehabilitation. The range of services provided includes risk management, home visit, telephone follow-up, and so on. Health care staff arranges for individual discharged patients to receive services by community psychiatric nurses having regard to the treatment and rehabilitation needs of the patient. The frequency and duration of the follow-up service depend on the needs and condition of the patient. In general, patients who are referred for follow-up services by community psychiatric nurses do not have to wait for the service.

### **Elective Subjects Taken by Students Under New Senior Secondary Academic Structure**

15. **MR CHEUNG MAN-KWONG** (in Chinese): *President, in order to provide students with a broad and balanced curriculum, the New Senior Secondary (NSS) academic structure involves a major curriculum integration. Under the NSS academic structure, apart from the four compulsory core subjects, namely Chinese Language, English Language, Mathematics and Liberal Studies, the other 20 subjects are electives. Generally, students may choose two to three elective subjects, and together with the core subjects, make up a total of no more than eight subjects. Regarding the elective subjects taken by students studying at Senior Secondary One in the 2009-2010 school year, will the Government inform this Council:*

- (a) *for each of the elective subjects, of the number of schools offering the subject and the total numbers of classes offered, as well as the number and percentage of students taking the subject;*
- (b) *of the top 100 combinations of elective subjects chosen by most students, as well as the numbers of classes and students for each combination; and*
- (c) *given that it has been reported that some secondary schools presently collaborate in offering certain subjects and allow their students to choose such subjects on a cross-school basis, of the number of such secondary schools, the subjects involved and the number of students taking such subjects on a cross-school basis?*

**SECRETARY FOR EDUCATION (in Chinese):** President,

- (a) The Education Bureau conducted the "Survey on New Senior Secondary Subject Information" from October to November 2009, and collected information on the NSS subjects offered at Secondary Four (S4) in the 2009-2010 school year from 453 schools in Hong Kong. As reflected by the initial findings:

All the 20 elective subjects are offered by schools in Hong Kong. On the one hand, over 70% of our secondary schools offer subjects including "Chinese History", "Economics", "Geography", "History", "Biology", "Chemistry", "Physics", "Business, Accounting and Financial Studies", "Information and Communication Technology" and "Visual Arts" for their S4 students. On the other hand, fewer schools (less than 10%) offer subjects like "Literature in English", "Integrated Science", "Health Management and Social Care" and "Technology and Living".

Regarding the number of students taking the elective subjects, more students take "Economics" (34.4%), "Geography" (22.5%), "Biology" (26.8%), "Chemistry" (27.7%), "Physics" (25.6%), "Business, Accounting and Financial Studies" (29.8%) and "Chinese History" (16.4%). The number of classes offered for these subjects all exceed 500 (please refer to Annex 1 for details).

- (b) All secondary schools in Hong Kong offer 11 to 12 elective subjects at S4 on average. The majority of students (about 95%) take two to three elective subjects. The number of students taking two elective subjects is around 35 000, amounting to 45% of the student population. There are about 190 subject combinations. As for the number of students taking three elective subjects, it is around 39 000, amounting to 50% of the student population. There are about 770 subject combinations (Annex 2). According to the data collected on students' subject combination, schools no longer adopt the traditional practice of streaming students into arts, science and commercial classes. S4 students can take their elective subjects in accordance with their own interest and ability as well as the school situation. In addition, no more than 8% of the student population has taken any particular subject combination. The most popular subject combinations for those taking two elective subjects, listed in order of popularity, are: (1) Economics and Business, Accounting and Financial Studies; (2) Biology and Chemistry; (3) Chemistry and Physics; (4) Economics and Geography; and (5) Chinese History and History. As for the most popular subject combinations for those taking three elective subjects, the list in order of popularity is as follows: (1) Physics, Chemistry and Biology; (2) Economics, Geography and Business, Accounting and Financial Studies; (3) Economics, Chemistry and Physics; and (4) Economics, Biology and Chemistry. The number of students taking each of the above combinations ranges from 1 000 to 5 500. As students of the same class can take different subject combinations while students from different classes can take the same subject combinations, there is no fixed class for any particular subject combination in the school. The Bureau, therefore, is only able to provide the number of students taking different subject combinations. Please refer to Annex 3 for details about the top 100 combinations of elective subjects chosen by most S4 students.
- (c) The numbers of schools offering network programmes, the subjects offered and S4 students taking these programmes are as follows:

The number of schools offering network programmes is 48, and the subjects offered include Chinese Literature, Tourism and Hospitality Studies, Integrated Science, Design and Applied Technology, Health Management and Social Care, Information and Communication



Technology, Ethics and Religious Studies, Music, Visual Arts and Physical Education. About 900 students have joined the network programmes. Under the new academic structure, the numbers of schools and students taking the less popular public examination subjects in the past (such as Music and Physical Education) have increased through the network programmes. Such a scheme has therefore helped schools to provide S4 students with more choices in taking the NSS subjects (Please refer to Annex 4 for details).

## Annex 1

Number and percentage of schools offering NSS subjects,  
classes/groups offered and S4 students enrolled

<i>NSS Subject</i>	<i>No. of schools offered</i>	<i>Percentage of schools offered</i>	<i>No. of S4 students enrolled</i>	<i>Percentage of S4 students enrolled</i>	<i>No. of groups offered in S4</i>
Chinese Language (for HKDSE)	453	100.0%	77 839	99.2%	2 312
Chinese Language (for Non-Chinese Speaking students not preparing for HKDSE)	14	3.1%	484	0.6%	27
English Language	453	100.0%	78 473	100.0%	2 533
Liberal Studies	453	100.0%	78 473	100.0%	2 830
Maths: Compulsory part only	428	94.5%	52 544	67.0%	1 631
Maths: Compulsory part plus Module 1	254	56.1%	9 695	12.4%	312
Maths: Compulsory part plus Module 2	248	54.8%	8 973	11.4%	290
Maths: Compulsory part plus a not-yet-specified extended part	72	15.9%	7 249	9.2%	207
Chinese Literature	188	41.5%	4 696	6.0%	200
Literature in English	28	6.2%	723	0.9%	34
Chinese History	418	92.3%	12 867	16.4%	502
Economics	433	95.6%	26 957	34.4%	807
Geography	416	91.8%	17 694	22.5%	589
History	330	72.8%	9 842	12.5%	380

<i>NSS Subject</i>	<i>No. of schools offered</i>	<i>Percentage of schools offered</i>	<i>No. of S4 students enrolled</i>	<i>Percentage of S4 students enrolled</i>	<i>No. of groups offered in S4</i>
Tourism and Hospitality Studies	155	34.2%	5 434	6.9%	183
Biology: Take Biology as an elective subject	400	88.3%	19 049	24.3%	595
Biology: May change to study Combined Science (Biology part) in S5/6	36	8.0%	1 925	2.5%	58
Chemistry: Take Chemistry as an elective subject	397	87.6%	19 527	24.9%	593
Chemistry: May change to study Combined Science (Chemistry part) in S5/6	40	8.8%	2 178	2.8%	64
Physics: Take Physics as an elective subject	400	88.3%	18 077	23.0%	578
Physics: May change to study Combined Science (Physics part) in S5/6	39	8.6%	2 024	2.6%	61
Combined Science: Biology & Chemistry	180	39.7%	5 470	7.0%	203
Combined Science: Chemistry & Physics	126	27.8%	3 177	4.1%	130
Combined Science: Physics & Biology	80	17.7%	1 968	2.5%	83
Combined Science: Combination not yet specified	3	0.7%	104	0.1%	5
Integrated Science	24	5.3%	699	0.9%	29
Business, Accounting and Financial Studies	408	90.1%	23 374	29.8%	727
Design and Applied Technology	49	10.8%	1 280	1.6%	71
Health Management and Social Care	42	9.3%	1 342	1.7%	45
Information and Communication Technology	437	96.5%	12 725	16.2%	599

<i>NSS Subject</i>	<i>No. of schools offered</i>	<i>Percentage of schools offered</i>	<i>No. of S4 students enrolled</i>	<i>Percentage of S4 students enrolled</i>	<i>No. of groups offered in S4</i>
Technology and Living: Food Science & Technology	23	5.1%	577	0.7%	31
Technology and Living: Fashion, Clothing & Textiles	6	1.3%	182	0.2%	10
Ethics and Religious Studies	62	13.7%	1 370	1.7%	69
Music*	93	20.5%	337	0.4%	95
Visual Arts	335	74.0%	6 602	8.4%	356
Physical Education	53	11.7%	900	1.1%	56

Note:

- \* Some courses are offered by the Hong Kong Institute of Education and Arts and Technology Education Centre.

## Annex 2

### Number/Percentage of Subject combinations and students enrolled for different number of elective taken

<i>No. of Elective Subjects Taken</i>	<i>No. of Subject Combination</i>	<i>No. of S4 Students</i>	<i>Percentage of S4 Students</i>
0*	0	345	0.4%
1	20	1 579	2.0%
2	191	34 915	44.5%
3	775	38 967	49.7%
4 or above**	466	2 703	3.4%
Total:	1 452	78 509	100%

Notes:

- \* A small amount of students may take Applied Learning courses in S5, so they have not yet taken any NSS elective subject in S4.
- \*\* The Education Bureau encourages schools to offer more NSS elective subjects so that students can explore their interest. Students would reduce the number of elective subjects taken in S5.

## Annex 3

Number and percentage of S4 students taking the top 100 subject combinations

<i>Subject Combination</i>	<i>No. of S4 Students</i>	<i>Percentage of Student from the whole population of S4</i>
1. BIO CHEM PHY	5 538	7.07%
2. ECON BAFS	3 399	4.34%
3. BIO CHEM	1 868	2.39%
4. CHEM PHY	1 826	2.33%
5. ECON GEOG BAFS	1 787	2.28%
6. ECON CHEM PHY	1 423	1.82%
7. ECON GEOG	1 187	1.52%
8. ECON BIO CHEM	1 027	1.31%
9. CHI_HIST HIST	1 010	1.29%
10. CHEM PHY BAFS	947	1.21%
11. ECON BAFS ICT	867	1.11%
12. BIO CHEM BAFS	827	1.06%
13. PHY CS	818	1.04%
14. CHI_HIST GEOG	801	1.02%
15. CHI_HIST ECON BAFS	786	1.00%
16. BAFS ICT	746	0.95%
17. CHEM PHY ICT	744	0.95%
18. GEOG HIST	682	0.87%
19. ECON BIO BAFS	673	0.86%
20. ECON CS BAFS	665	0.85%
21. ECON GEOG HIST	653	0.83%
22. THS BAFS	650	0.83%
23. ECON ICT	638	0.81%
24. ECON PHY BAFS	603	0.77%
25. BIO CS	598	0.76%
26. CS ICT	591	0.75%
27. CHI_HIST ECON	582	0.74%
28. GEOG BIO	578	0.74%
29. GEOG BIO CHEM	573	0.73%
30. GEOG BAFS	568	0.73%
31. GEOG ICT	544	0.69%
32. CHI_HIST BAFS	498	0.64%

<i>Subject Combination</i>	<i>No. of S4 Students</i>	<i>Percentage of Student from the whole population of S4</i>
33. CHI HIST GEOG HIST	497	0.63%
34. ECON BIO	489	0.62%
35. CHI HIST ECON GEOG	484	0.62%
36. PHY ICT	480	0.61%
37. BIO BAFS	468	0.60%
38. ECON PHY CS	465	0.59%
39. CHI LIT CHI HIST	461	0.59%
40. ECON CS	461	0.59%
41. ECON HIST	449	0.57%
42. GEOG THS	445	0.57%
43. ECON HIST BAFS	440	0.56%
44. CHI HIST ICT	439	0.56%
45. CS BAFS	437	0.56%
46. ECON PHY	425	0.54%
47. PHY BAFS	423	0.54%
48. ECON CHEM BAFS	416	0.53%
49. THS ICT	414	0.53%
50. GEOG CS	410	0.52%
51. BIO PHY	374	0.48%
52. GEOG CHEM PHY	363	0.46%
53. CHEM CS	346	0.44%
54. BIO ICT	341	0.44%
55. ECON THS	340	0.43%
56. ECON GEOG BIO	329	0.42%
57. ECON THS BAFS	323	0.41%
58. BIO CHEM ICT	314	0.40%
59. GEOG VA	304	0.39%
60. CHI HIST ECON HIST	300	0.38%
61. CHI LIT CHI HIST GEOG	297	0.38%
62. CHI LIT CHI HIST HIST	294	0.38%
63. HIST BAFS	291	0.37%
64. ICT VA	291	0.37%
65. DAT ICT	290	0.37%
66. CHEM BAFS	287	0.37%
67. BAFS VA	286	0.37%

<i>Subject Combination</i>	<i>No. of S4 Students</i>	<i>Percentage of Student from the whole population of S4</i>
68. HIST ICT	278	0.36%
69. CHI HIST THS	262	0.33%
70. PHY CS BAFS	262	0.33%
71. ECON CHEM	261	0.33%
72. CHI HIST GEOG BAFS	258	0.33%
73. ECON VA	257	0.33%
74. ECON CHEM CS	255	0.33%
75. ECON BIO PHY	252	0.32%
76. CHI HIST CS	249	0.32%
77. ECON GEOG CS	246	0.31%
78. CHI LIT CHI HIST ECON	244	0.31%
79. GEOG PHY	242	0.31%
80. ECON BIO CS	242	0.31%
81. HIST THS	225	0.29%
82. CHI HIST VA	224	0.29%
83. CHI HIST BIO	220	0.28%
84. GEOG HIST BAFS	217	0.28%
85. ECON BAFS VA	209	0.27%
86. GEOG BIO CS	208	0.27%
87. BIO PHY BAFS	206	0.26%
88. ECON GEOG ICT	206	0.26%
89. ECON GEOG PHY	205	0.26%
90. THS BIO	200	0.26%
91. ECON PHY ICT	200	0.26%
92. CHI LIT ECON BAFS	198	0.25%
93. BIO VA	191	0.24%
94. CHEM CS BAFS	190	0.24%
95. PHY BAFS ICT	187	0.24%
96. CHEM ICT	185	0.24%
97. HIST VA	184	0.23%
98. BIO CS ICT	176	0.22%
99. HIST BIO	175	0.22%
100. ICT CS PHY	163	0.21%

## Annex 4

Numbers of schools offering network programmes, subjects offered  
and students taking these programmes

<i>NSS Subject Offered through Network Programme</i>	<i>No. of schools involved</i>	<i>No. of students</i>
1. Chinese Language (for Non-Chinese Speaking students not preparing for HKDSE)	2	43
2. Chinese Literature	2	26
3. Tourism and Hospitality Studies	2	26
4. Integrated Science	2	15
5. Information and Communication Technology	2	19
6. Health Management and Social Care	3	30
7. Design and Applied Technology	4	153
8. Music	8	66
9. Visual Arts	10	136
10. Physical Education	10	170
11. Ethics and Religious Studies	21	184

### Progress of Development of EcoPark

16. **MR JEFFREY LAM** (in Chinese): *President, Phase I of the EcoPark in Tuen Mun Area 38 was originally scheduled for commissioning at the end of 2006, but the six lots in Phase I were not all leased out until May 2009. It has been reported that the Government will spend at least \$15 million to construct factory buildings and related infrastructural facilities for the two organizations which have rented the lots in Phase II of the EcoPark. In this connection, will the Government inform this Council whether:*

- (a) *it knows when the business of the six tenants in Phase I of the EcoPark will commence operation; whether it has assessed the reasons for the delay of the tenants in Phase I of the EcoPark commencing business operations;*
- (b) *it has assessed if the supporting facilities in the EcoPark are insufficient, if environmental problems such as the existence of methane are uncovered in the EcoPark, and if it needs to adjust the overall policy of the EcoPark;*

- (c) *the monthly rental income from Phase I of the EcoPark is sufficient for covering the management costs of the EcoPark; and*
- (d) *it has given subsidies to tenants of Phase II of the EcoPark; if so, of the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President,

- (a) The EcoPark is one of the Government's initiatives to promote the local environmental and recycling industry. It provides the industry with relatively cheap land and associated communal facilities to promote and encourage investment by upgrading of the industry.

The EcoPark is a novel concept in Hong Kong, and its implementation is hampered by various constraints such as market situation and approaches adopted by the investors. The development of the EcoPark is to facilitate the transformation of our traditional simple mode of recycling operation (that is, collection, baling and exporting) into high value-added processes that comply with environmental and other statutory requirements. The financial tsunami in 2008 had an impact on the recycling industry both in Hong Kong and on the Mainland in varying degrees. Some EcoPark tenants have taken a more prudent approach in their investment and this has also affected progress.

At present, all six lots in EcoPark Phase I have been leased out, some after re-tendering, for the recycling of waste wood, used cooking oil, used computer equipment, waste plastics, waste metal and waste batteries.

Similar to ordinary private plants, building plans for all the plants to be built in the EcoPark must be submitted for approval by the Buildings Department (BD). All along, the Environmental Protection Department (EPD) has provided advice and assistance to the tenants to expedite the process. Four tenants of the EcoPark had their building plans approved by the BD as at end 2009, and they are preparing to build the plants and recruit staff. The first batch of the plants is scheduled for commissioning in early to mid-2010.



- (b) The EcoPark provides tenants with ancillary facilities, such as roads, berths, drainage channels and sewers, and so on. In addition, tenants are provided with conference and training facilities. They can thus cut down on infrastructure expenditure and direct their capital more effectively to investment in furthering their business.

As for handling landfill gas, the EcoPark is not located in a source of landfill gas. However, parts of the EcoPark are close to the restored Siu Lang Shiu Landfill, thus preventive devices against landfill gas (such as the laying of plastic membrane) have to be put in place during construction. The EPD also provides tenants with due technical assistance and advice on landfill gas. These devices do not involve complex processes or materials. With sound planning, such technical issues usually have no impact on the progress of the building of the plants.

To achieve the objectives and effectiveness of the EcoPark, the EPD will continue to communicate with tenants and assist them with their problems where appropriate. In the meantime, the tenancy terms of the Phase II lots are under review with a view to enhancing the attractiveness of the EcoPark to the industry.

- (c) The total monthly rental from the six Phase I lots is \$510,000. Based on the average rental of Phase I lots, it can be deduced that when all the Phase II lots are leased out, the total monthly rental from Phase I and II lots can cover the management costs of the EcoPark.
- (d) To cope with the impact of the financial tsunami on the local waste recycling market, the Government is setting up two waste collection and recycling centres in EcoPark Phase II targeting recycling materials with relatively limited demand, including waste electrical and electronic equipment and waste plastics which were quite hard hit by the financial tsunami earlier on. The two centres will be run by two non-profit organizations selected through an open process with subsidy from the Environment and Conservation Fund. This supporting measure serves to alleviate the negative impact on the Programme on Source Separation of Waste which has been implemented territory wide for many years and sustain the public's zeal in recycling.

The involvement of non-profit organizations in the waste plastics and waste electrical and electronic equipment handling and recycling centres in the EcoPark is a market-oriented supporting measure, an arrangement which the Government has made after considering the recommendations by the Task Force on Economic Challenges. We believe that non-profit organizations have their role in environmental education and publicity. It is our wish that they can co-operate with the recycling industry and give full play to their strengths to reinvigorate the current market and create a win-win situation for all parties.

As for the development of the other lots in Phase II, the infrastructure works are underway. The first batch of the lots is expected to be available for disposal in mid-2010. The EPD will announce the arrangement for and details of the disposal of the lots in due course. As stated in our reply in part (b) above, the EPD is now reviewing the tenancy terms of the Phase II lots to enhance the attractiveness of the EcoPark to the industry.

### **One-way Permits**

17. **MR JAMES TO** (in Chinese): *President, under the new policy implemented since December 2009, Mainland persons who were under the age of 14 at the time their blood fathers or mothers obtaining the status of Macao residents before 1 November 2001 (overage children) can apply for entry into Macao for settlement. The Central Government has also decided that the policy measure will largely apply to Hong Kong. Regarding the issuance of One-way Permits (OWPs) to Mainland persons for entry into Hong Kong for settlement, will the Government inform this Council:*

- (a) *whether it has assessed the current number of overage children who meet the requirement of the above new measure; if it has, of the number of such persons, as well as how long they will need to wait on average to obtain OWPs;*
- (b) *given that the Mainland authorities have divided the daily OWP quota of 150 places into certain sub-quotas designated for various*

*categories of applicants, among which 60 of such places are allocated to spouses separated for less than 10 years and their accompanying children, unsupported children who need to join their relatives in Hong Kong, persons coming to Hong Kong to take care of their unsupported aged parents (that is, those with no other children in Hong Kong) and unsupported elderly people coming to join relatives in Hong Kong, whether the Government knows how the Mainland authorities allocate those 60 places, and in the past five years, of the number of applicants under each category (including spouses separated for 10 years or more and those separated for less than 10 years and their accompanying children) who had come to Hong Kong for settlement on OWPs as well as the number of unused places under each sub-quota; and*

- (c) *whether it will reconsider requesting the Mainland authorities to adjust the method of allocating the OWP places in order to optimizing the utilization of such places, so as to shorten the period of separation between Hong Kong residents and their Mainland family members?*

**SECRETARY FOR SECURITY** (in Chinese): President,

- (a) The Hong Kong Special Administrative Region (HKSAR) Government and the relevant Mainland authorities are actively discussing the implementation arrangements pertinent to "overage children" of Hong Kong residents applying for OWP. At this stage, neither the HKSAR Government nor the Mainland authorities have accurate information on the number of eligible "overage children" (that is, Mainland persons who were under the age of 14 at the time when their blood fathers or mothers obtained Hong Kong resident status before 1 November 2001). According to the HKSAR Government's estimate, there will be tens of thousands of such children. Also, we are not in a position to estimate the waiting time of the relevant persons at this stage.
- (b) At present, among the daily OWP quota of 150 places, 60 are allocated to persons holding Certificates of Entitlement; 30 to

spouses separated for 10 years or above and their accompanying children; and 60 to "other categories" of applicants, which include spouses separated for less than 10 years and their accompanying children, unsupported children who need to join their relatives in Hong Kong, persons coming to Hong Kong to take care of their unsupported aged parents, and unsupported elderly people coming to join their relatives in Hong Kong.

Statistics on the different categories of persons who had come to Hong Kong on the strength of OWP from 2004 to November 2009 are at Annex.

We do not have information on the allocation of sub-quotas under "other categories". The Mainland authorities applied a points system to determine the eligibility of applicants and the order of settling in Hong Kong according to objective criteria (for example, applicants' age).

- (c) The OWP Scheme aims to enable Mainland residents to come to Hong Kong for family reunion in an orderly manner. The Mainland authorities have from time to time adjusted and enhanced the arrangements as necessary. For example, since 2003, the restriction that applicants under the "separated spouses" category could only bring one accompanying child to Hong Kong was discarded; in 2005, the waiting time of applicants under the separated spouses category in Guangdong was shortened to five years, in line with that of the rest of the Mainland; and, since January 2009, their waiting time was further shortened to four years.

The assessment of applications for and the issue of OWP fall outside the remit of the HKSAR Government. However, the HKSAR Government from time to time exchanges views with the Mainland authorities and reflects to the latter the views of various sectors in Hong Kong. We will continue to discuss with the Mainland authorities, including optimizing the utilization of the unused OWP quotas to facilitate the early entry of eligible persons.

## Annex

## Persons who had come to Hong Kong on OWPs (2004 to November 2009)

<i>Category</i>		<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009 Jan to Nov</i>
"Holders of Certificate of Entitlement" (daily quota of 60)		10 314 (28)	7 062 (19)	5 325 (15)	4 487 (12)	4 490 (12)	4 616 (14)
"Spouses separated for 10 years or more and their accompanying children" (daily quota of 30)	Spouses	2 909 (8)	1 497 (4)	684 (2)	582 (2)	731 (2)	548 (2)
	Children	773 (2)	489 (1)	261 (1)	241 (1)	310 (1)	211 (1)
"Other categories" (daily quota of 60)		24 076 (66)	46 058 (126)	47 900 (131)	28 555 (78)	36 079 (99)	39 252 (118)
Total		38 072 (104)	55 106 (151)	54 170 (148)	33 865 (93)	41 610 (114)	44 627 (134)

## Sub-allocation under "Other categories"

		<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009 Jan to Nov</i>
(a) Spouses separated for less than 10 years and their accompanying children	Spouses	17 486 (48)	31 487 (86)	27 739 (76)	17 541 (48)	22 571 (62)	28 177 (84)
	Children	1 723 (5)	9 864 (27)	15 260 (42)	6 387 (17)	8 413 (23)	7 308 (22)
(b) Joining parents in Hong Kong		3 870 (11)	3 808 (10)	4 012 (11)	3 717 (10)	4 184 (11)	3 059 (9)
(c) Joining children in Hong Kong		731 (2)	602 (2)	562 (2)	579 (2)	575 (2)	497 (1)
(d) Others		266 (1)	297 (1)	327 (1)	331 (1)	336 (1)	211 (1)
Total		24 076 (66)	46 058 (126)	47 900 (131)	28 555 (78)	36 079 (99)	39 252 (118)

Notes:

( ) denotes daily average

The above statistics are compiled from information collected from OWP holders upon their entry into Hong Kong.

**Operation Building Bright**

18. **MR LEE WING-TAT** (in Chinese): *President, the Government, in collaboration with the Hong Kong Housing Society (HKHS) and the Urban Renewal Authority (URA), has implemented Operation Building Bright (OBB) since May 2009 to provide grants and one-stop technical assistance to two categories of target buildings. Category 1 covers buildings with owners' corporations (OCs), and Category 2 covers buildings having difficulties in organizing repair works (for example, buildings without OCs). In this connection, will the Government inform this Council:*

- (a) of the respective numbers of Categories 1 and 2 target buildings which have received grants for the cost of repair to date and, among such grants, the respective highest, lowest and average amounts of grants; and the number of applications involving eligible Category 1 target buildings for which grant was not approved;*
- (b) of the respective numbers of Category 2 target buildings which have been recommended by Members of the Legislative Council and each of the District Councils to date and, among such buildings, the respective numbers of those which were and were not approved grants, as well as the reasons for some buildings not being approved grants;*
- (c) whether the current amount of uncommitted funds are sufficient for accepting a new round of applications; if so, when it will start accepting applications; if not, whether it will seek additional funding from the Legislative Council; and*
- (d) of the respective numbers of Categories 1 and 2 target buildings which have commenced repair works at present, and when the works are expected to be completed?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, as a specific measure for "Preserving Jobs" amidst the financial tsunami, the Government, in collaboration with the HKHS and the URA, has implemented a \$2-billion "Operation Building Bright" to provide subsidies and one-stop technical assistance to help owners of old buildings carry out repair and maintenance works. The OBB aims to achieve the dual objective of improving building

safety and the cityscape as well as creating more job opportunities for the construction sector. The Finance Committee of the Legislative Council has approved a total funding allocation of \$1.7 billion for the Government's contribution to the OBB while the remaining \$300 million is contributed by the HKHS and URA on an equal sharing basis.

Category 1 target buildings under the OBB cover buildings with OCs. OCs of eligible buildings may apply for joining the OBB to carry out repair works on a voluntary basis, including repair, maintenance and improvement works related to building structure, fire safety and sanitary facilities. We have conducted a computer ballot to determine the priority of processing the applications of the eligible buildings. Upon receipt of an approval-in-principle for participating as a Category 1 target building of the OBB, an OC should, in accordance with the stipulated procedures, appoint an authorized person to co-ordinate the repair works and a qualified contractor to commence the works within the specified periods. The HKHS and URA will monitor the progress of the repair and maintenance works and disburse grants to the OC after completion of the works.

Category 2 target buildings cover buildings having difficulties in co-ordinating repair works, such as buildings without OCs. Category 2 target buildings include buildings with defaulted repair orders issued by the Buildings Department (BD). We have also invited the Legislative Council and District Councils to nominate buildings as Category 2 target buildings, and the BD has inspected these buildings. The Steering Committee of the Operation Building Bright (the Steering Committee) comprising representatives from the BD, HKHS and URA has selected suitable buildings as target buildings according to their building condition. Depending on the circumstances, the BD will issue statutory repair orders to the Category 2 target buildings. If the owners of the buildings are unwilling or unable to conduct repair works by themselves, the BD will arrange consultants and contractors engaged by the Government to carry out the repair works stipulated in the orders on behalf of the owners. After deducting the amount of subsidies available under the OBB, the BD will recover the remaining repair costs from the owners. However, if the owners/OCs of the buildings are willing to organize repair works voluntarily, they could follow the approach for Category 1 target buildings to carry out repair works. Apart from the requirements under the repair orders concerning building structure and drainage, the scope of works could include other works items such as fire service installations, and so on, covered by Category 1 target buildings. The HKHS/URA will render assistance to them.

The reply to the four-part question is as follows:

(a) and (d)

*Category 1 Target Buildings*

We have in total received 1 128 applications for Category 1 target buildings, among which 1 025 applications meet the eligibility criteria or have not been withdrawn by the applicants. As we have increased the overall allocation for the OBB from \$1 billion to \$2 billion, all eligible Category 1 target buildings could receive grants. We have followed the priorities accorded by the computer ballot held in June 2009 to gradually process the eligible applications. Up to 21 December 2009, 870 Category 1 target buildings have been granted "notices of approval-in-principle". Amongst these buildings, 57 are undertaking repair works, and the works of another building have generally completed. After completion of the works, the OCs will be provided with the grants. Regarding the abovementioned 870 cases, based on the number of units in the buildings and the past experience of HKHS/URA in co-ordinating building repair, it is estimated that the highest, lowest and average amounts of grants are around \$7.82 million, \$110,000 and \$1.3 million respectively. Moreover, the HKHS and URA are continuing to process the remaining 155 cases. It is anticipated that "notices of approval-in-principle" could be granted to most of the remaining applications by the end of January 2010. After completion of the works, the OCs will be provided with grants. Since the preparatory work and the necessary repair works for individual buildings are different, we cannot accurately predict the works completion time of all the assisted buildings. Generally speaking, it takes about six to nine months to complete the repair works.

*Category 2 Target Buildings*

Up to 21 December 2009, 603 buildings have been selected as Category 2 target buildings. We are planning to select around 300 additional buildings as Category 2 target buildings.

Amongst those Category 2 target buildings where owners/OCs are not capable of organizing repair works by themselves and need the



BD to arrange the repair works, 123 buildings have commenced repair works, among which the repair works of 10 buildings have generally completed. The initial estimates of the highest, lowest and average amounts of grants are around \$370,000, \$20,000 and \$130,000 respectively. The works for the remaining 113 buildings are in progress. It is anticipated that the works of most buildings will be completed before mid-February 2010 (that is, the Lunar New Year).

Regarding those Category 2 target buildings where the owners/OCs are willing to organize repair works, the number of cases with "notices of approval-in-principle" granted is 50. Amongst them repair works in 16 buildings have commenced, and the works of another building have generally completed. Regarding the abovementioned 50 cases, based on the number of units in the buildings and past experience of HKHS/URA in co-ordinating building repair, the estimated highest, lowest and average amounts of grants are around \$2.2 million, \$110,000 and \$630,000 respectively. Besides, owners of another 43 buildings have also expressed their willingness to organize repair works by themselves. Depending on the progress of organization of works by the owners, the HKHS and URA will gradually process these applications with an aim to granting "notices of approval-in-principle" to the owners as soon as possible.

Regarding the remaining Category 2 target buildings, the BD, in collaboration with the HKHS and URA, will continue to consult the owners if they are prepared to organize repair works by themselves, and will gradually arrange Government contractors to carry out repair works for those buildings where the owners are unable to carry out repair works.

- (b) The BD has in total received 513 nominations as Category 2 target buildings, among which 510 nominations were from 14 District Councils and three from two Legislative Council Members. After vetting the building condition and relevant information of the nominations, the Steering Committee has included 263 nominated buildings as Category 2 target buildings. As for the remaining nominated buildings, 67 have earlier submitted applications to participate as Category 1 target buildings and they are being processed by the HKHS/URA. The remaining buildings were not

included as Category 2 target buildings as they do not meet the relevant criteria of the OBB, such as use of building, building age, number of residential units, average rateable value, building condition, and so on.

The numbers of buildings nominated and included as Category 2 target buildings are tabulated by districts as follows:

<i>District</i>	<i>Number of nominations</i>	<i>Number of buildings confirmed by the Steering Committee as Category 2 target buildings</i>
Central and Western	25	12
Wan Chai	15	5
Eastern	11	3
Kwun Tong	58	16
Sham Shui Po	80	51
Yau Tsim Mong	24+3*	6
Kowloon City	161	120
Islands	1	0
Tsuen Wan	47	47
Yuen Long	75	2
North	3	1
Kwai Tsing	7	0
Tai Po	1	0
Tuen Mun	2	0
Total	513	263

Note:

\* The three nominations were from two Legislative Council Members.

- (c) Based on our estimation so far, after completion of the works in all eligible applications as Category 1 target buildings and selected Category 2 target buildings, there will still be a small amount of uncommitted funds available out of the \$2 billion for further deployment. We are contemplating to make use of such remaining funds to assist more target buildings. We will on 26 January 2010 report to the Legislative Council Panel on Development on the latest progress of the OBB, explain the proposed way forward and seek the Panel's views.

## Overseas Study Visits and Training Activities Arranged for Staff of Hospital Authority

19. **MR ANDREW CHENG** (in Chinese): *President, according to recent media reports, the New Territories West Cluster (NTWC) to which Castle Peak Hospital belongs has arranged overseas duty visits for a number of senior health care staff of the hospital, for the purpose of introducing the management mode of the Toyota Motor Corporation of Japan. Regarding the arrangements made by the hospital clusters under the Hospital Authority (HA) for health care staff to undertake study visits and receive training abroad, will the Government inform this Council whether it knows:*

- (a) *the number of staff who had been arranged by the NTWC to go abroad for study visits, training or participating in activities such as seminars, for the purpose of introducing the aforesaid management mode, and the total number of working hours lost as a result; the amount of expenditure incurred on the study visits, the destinations involved, and the number and ranks of staff who participated in the visits by destination; whether the HA has a mechanism for assessing the impact on the front-line work caused by a number of health care staff being absent from their work positions to participate in such activities;*
- (b) *in respect of each cluster, the expenditure incurred on staff training last year and the percentage of the amount in the total expenditure, the number of staff who participated in such training and, among them, the number of those who participated in overseas study visits and training, as well as the expenditure involved; and*
- (c) *the respective expenditure incurred by the HA last year on overseas study visits and training for its senior executives, doctors at the ranks of Senior Medical Officer or above, doctors at other ranks, nurses and allied health staff; the average expenditure incurred in respect of each of these staff members; and regarding the study visit or training activity which incurred the highest expenditure, of its purpose, the amount of expenditure incurred as well as the number of participants and their respective ranks?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the information provided by the HA in response to the question is set out below:

- (a) Last year, the NTWC organized seven overseas visits to places such as Guangzhou, Singapore and Japan with a total expenditure of \$215,568 for the purpose of adopting advanced management concepts to streamline its work procedures and enhance service efficiency and quality. There are a total of 43 participants of the visits, including eight doctors, 22 nurses and 13 staff members of other grades. The number of man-days involved was about 112. The expenditure per participant on average for these visits was about \$5,013. The NTWC has always put its services to patients at the top of its priority and all training activities have been conducted on the condition that the patient services will not be affected. Under the existing mechanism for approving training activities, the HA will assess whether the training activities will have any impact on staff deployment in front-line departments. As most of the participants in the above seven overseas visits were department heads and ward managers responsible for supervision of front-line staff, the visits had no direct impact on the provision of front-line services. Upon completion of the visits, participating staff will apply the advanced management concepts in the operation of their departments and wards to further improve the services to patients.
- (b) In 2008-2009, the total expenditure incurred by the HA Head Office and various hospital clusters on staff training and development, including local and overseas training, was about \$66 million, constituting about 0.2% of the total funding allocated to the HA in that year. There were a total of about 179 000 participants in various training in that year, among which 1 500 were staff of different grades participating in overseas training. The total expenditure of these overseas training was about \$15 million.
- (c) All professional and executive staff in the HA have opportunity for training appropriate to their rank, experience and job responsibility. In 2008-2009, the expenditure on overseas training for HA senior executives (including Cluster Chief Executives, Hospital Chief Executives and Directors at HA Head Office) was around \$17,000 per person on average whereas the expenditure incurred in this

regard for staff from other grades was around \$10,000 per person on average.

In 2008-2009, the training activity with the highest expenditure was the study visit organized for the "Ward Based Work Review" in February 2009. Seventeen departmental heads and managers from the HA Head Office and the seven clusters were arranged to receive training in "Quality Healthcare Management" in the United Kingdom and to visit local hospitals to study how patients' satisfaction and operational effectiveness could be enhanced in the daily delivery of health care services. The total expenditure incurred for this training was \$602,750 with an expenditure of about \$35,000 per participant on average.

All of the above staff training and development activities were held with the aim to enhance the knowledge and skills of staff, improve their performance and productivity to meet current and future operational needs.

### **Disbursement of CSSA Payments**

20. **MR CHEUNG KWOK-CHE** (in Chinese): *President, starting from September 2009, payments under the Comprehensive Social Security Assistance (CSSA) Scheme (including rent allowance (RA)) have all been changed to be calculated on the basis of calendar months and disbursed on the first day of each month. I have received complaints from quite a number of public rental housing (PRH) tenants whose CSSA payments used to be disbursed in the middle of each month pointing out that the Hong Kong Housing Authority (HA) has approached them to recover rent arrears for half of the month of August. In this connection, will the Government inform this Council:*

- (a) *given that since June 2007, the Social Welfare Department (SWD) has been transferring the RA for CSSA households residing in PRH to the HA directly for payment of PRH rents, of the reasons for HA recovering rent arrears from such CSSA households;*
- (b) *whether the SWD has attempted to assist in solving the aforesaid problem; if it has, of the reasons why the situation of rent arrears among CSSA households residing in PRH still exists; and*

- (c) *of the current number of CSSA households residing in PRH who have paid rent arrears by themselves; whether the SWD will pay back the RA concerned to them; if so, when it will do so?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President,

(a) and (b)

Under the CSSA Scheme, RA is payable to CSSA recipients to meet their accommodation expenses (including public housing rentals).

The existing Computerized Social Security System (CSSS) of the SWD came into operation in October 2000. CSSA (including the RA above) has since been released through either one of the following methods:

- (i) for CSSA cases approved after the CSSS commenced operation, the RA and other CSSA payments are released on a calendar month basis (that is, from the first day of each month to the end of the month). This payment method is the same as that adopted by the HA for calculating public housing rentals.
- (ii) for CSSA cases approved before the CSSS commenced operation, the RA and other CSSA payments continued to be released to the recipients on a payment month (that is, the whole month calculated from the date when a recipient became eligible for CSSA) basis. For example, for a recipient who became eligible for CSSA on the 15th day of a month, his payment month would be the period from the 15th day of each month to the 14th day of the following month. There were about 100 000 cases to which CSSA was released on such payment month basis, and about 60% of these cases were residing in PRH. For these PRH cases, the period covered by the RA from the SWD was different from the calendar month used by the HA to calculate public housing rentals. However, since the SWD had already taken this into

account in determining the monthly RA, the amount of RA payable to the recipients had not been affected.

Having regard to the comment of many CSSA recipients on the payment month arrangement that the release of CSSA payments to them on a calendar basis would increase their convenience in budgeting expenses, the SWD has aligned the payment arrangement to one on a calendar basis across-the-board since 1 September 2009.

In implementing the new arrangement, the SWD has already ensured that the amount of RA (including the public housing rentals transferred from the SWD to the HA direct) payable to a recipient would not be affected. Since May 2009, SWD has also operated four telephone hotlines, and set up in August 2009 designated counters at its Social Security Field Units to handle recipients' enquiries regarding the change in payment arrangement. The SWD and the Housing Department (HD) meanwhile also tackled the problem of rental discrepancy of some CSSA households living in PRH who were previously on the payment month arrangement. The reason for the discrepancy was that before the implementation of the arrangement for direct transfer of public housing rentals from the SWD to the HA in June 2007, the SWD had already released to CSSA recipients on the payment month arrangement their RA calculated on that basis, but the recipients had not yet made payment of the public housing rentals to the HA correspondingly.

To enable households with the rental discrepancy problem to prepare in advance for repayment of the rent arrears, the SWD and HD have issued letters to these households to explain their individual situation. The HD also exercises flexibility in dealing with the matter, including allowing the households to settle the rent arrears by instalments.

- (c) The number of households in PRH involved in the discrepancy problem is about 25 000, of which about 22 000 have already settled the outstanding rentals.

As explained above, since the RA payable to CSSA recipients has never been affected, there is no need for the SWD to reimburse any allowance to the recipients concerned.

**BILLS****Second Reading of Bills****Resumption of Second Reading Debate on Bills**

**DEPUTY PRESIDENT** (in Cantonese): Bills. We now resume the Second Reading debate on the Inland Revenue (Amendment) (No. 3) Bill 2009.

**INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2009****Resumption of debate on Second Reading which was moved on 8 July 2009**

**DEPUTY PRESIDENT** (in Cantonese): Mr Paul CHAN, Chairman of the Committee on the Bill, will now address the Council on the Committee's Report.

**MR PAUL CHAN** (in Cantonese): Deputy President, in my capacity as Chairman of the Committee on the Inland Revenue (Amendment) (No. 3) Bill 2009 (the Bills Committee), I now submit the Report of the Bills Committee to the Council, and will report on a number of key issues relating to its deliberations.

The Bills Committee has altogether held eight meetings to examine with the Administration the contents of the Inland Revenue (Amendment) (No. 3) Bill 2009 (the Bill) and hear the views of the representative organizations from the business and professional sectors.

(The PRESIDENT resumed the Chair)

The Bills Committee supports the policy objective of the Bill, which is to enable Hong Kong to adopt the latest versions of the articles for exchange of information (EoI) drawn up by the Organization for Economic Co-operation and Development (OECD) when it signs a comprehensive avoidance of double taxation agreement (CDTA) with a foreign country. Members and the representative organizations are generally concerned about the provision of safeguards to protect local taxpayers' right to privacy and confidentiality of the information disclosed to the requesting party while fulfilling the international



obligation under EoI. In this connection, apart from scrutinizing the Bill, the Bills Committee has also examined the various safeguards to be provided by the authorities in the subsidiary legislation or the Departmental Interpretation and Practice Notes (DIPN) of the Inland Revenue Department (IRD).

Some members and deputations consider that the fundamental safeguards on the scope and usage of information exchanged should be provided in the primary legislation. Members have requested the Administration to make reference to the practices of other jurisdictions in providing for the EoI safeguards.

The Administration has explained that according to available information and its enquiries, other jurisdictions do not provide standard OECD EoI safeguards in their primary legislation. To address the concern of the members, the Administration has undertaken that in the future, after concluding CDTAs with other jurisdictions, it will set out clearly in its submissions on subsidiary legislation to the Legislative Council all the safeguards adopted in individual CDTAs and any deviation from the sample text, so that Members can fully grasp the relevant provisions in the course of scrutiny and play a better role as the gatekeeper. The Administration will also make reference to the Eighth Schedule 8 to the Singapore legislation, and set out in the proposed Rules the information that should be provided in an EoI request. The Secretary for Financial Services and the Treasury has also undertaken to reaffirm in his speech during the resumption of the Second Reading debate of the Bill the policy that the safeguards in the OECD Model Article will be adopted. Besides, having carefully considered members' views, the Administration agrees to subject the proposed Rules, when made, to the positive vetting procedure (rather than the negative vetting as originally proposed), and will put forward amendments in this regard.

As for the commencement of the EoI arrangement under CDTAs, members have noted that as a standard article will be included in all CDTAs setting out that all provisions under the CDTA shall have effect from a stipulated date as agreed and shall only apply to taxes after the effective date, the EoI arrangement under CDTAs shall have no retrospective effect. Having considered members' views, the Administration proposes to add a provision in the proposed Rules that the EoI

arrangement will not apply to any information prior to the commencement of the relevant CDTAs.

Concerning the restrictions to the scope of information exchange, Members have requested the Administration to consider whether the term "foreseeably relevant" used in the OECD Model Article can provide adequate restrictions to the scope of information exchange. The Administration has explained that the term "foreseeably relevant" is recommended by OECD, and adopted internationally in bilateral taxation agreements, so it is unlikely that the treaty partners will agree to adopt any alternative term which Hong Kong proposes unilaterally in any CDTA negotiations with Hong Kong. To provide greater clarity in the restriction of the scope of information exchange, the Administration has agreed to expand the relevant part of the IRD's DIPN to set out the principle that the test of relevancy should be based on the information provided by the requesting party in the EoI request, and that the EoI request must contain information on the relevance of the information to the purpose of the request.

On the mechanism for notifying the relevant taxpayers, the Bills Committee has noted that the Administration will prescribe in the proposed Rules the notification procedures that the Commissioner of Inland Revenue shall follow before any information is disclosed. The person concerned may request a copy of the information, make a request for amendments to the information, and apply to the Financial Secretary for a review of the IRD's decision on the request for information amendments. To address the concern of the Bills Committee, the Administration has agreed to extend the time allowed for the person concerned to submit proposed amendments to the Commissioner of Inland Revenue from 14 days to 21 days. The IRD will also send out the first notice as soon as practicable upon its decision to proceed with the EoI request. Some Members are concerned that on request of the requesting party, IRD may give no notification or prior notification to the person concerned, thus depriving the person of the protection of the right of being notified. In this connection, the Administration has explained that a requesting party who makes such a request must provide explanations and evidence relating to the making of such a request. The Administration will also elaborate further on the details to be provided by the requesting party in this aspect in the schedules to the proposed Rules.

On the mechanism for review of the IRD's decision, a Member has expressed concern as to whether consideration should be given to empowering the Financial Secretary to review the question of law on the decision of the IRD, in addition to the current procedure for the Financial Secretary to review the

question of fact only. Another Member nonetheless holds a different view that reviews on the question of law should be dealt with by the court. Having considered members' views on the proposed notification and appeal system, the Administration agrees to report to the Panel on Financial Affairs on the effectiveness of the system 18 months after implementation.

The Bills Committee agrees to the amendments to be moved by the Administration and supports the resumption of the Second Reading debate on the Bill.

President, below are my personal views:

President, today this Council resumes the Second Reading debate on the Bill to amend the Inland Revenue Ordinance (IRO). This is a right step towards enabling the taxation legislation of Hong Kong to keep abreast of the times. On the one hand, this will prevent Hong Kong from being included in the blacklist of "tax havens". On the other hand, this will also turn Hong Kong into a more effective platform for overseas and mainland companies to set up their offshore investment head offices, because upon the commencement of the legislation, when they use a Hong Kong company for overseas investments, they can enjoy various extraterrestrial preferential tax treatments, such as a drastic reduction of extraterrestrial withholding tax rates for various passive incomes such as interests received, royalty fees, dividends, and so on. Therefore, the proposed amendments to IRO will not only achieve the passive effect of preventing Hong Kong from being included in the blacklist of "tax havens", but will also produce a positive significance of upgrading the competitiveness of Hong Kong.

Following the signing of the Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income in 2006, Hong Kong companies doing business in the Mainland can enjoy preferential treatments; not only this, many overseas investors who make investments in the Mainland can make use of Hong Kong companies as vehicles rather than having to rely on offshore companies for the purpose. This has led to a great increase in the number of companies registered in Hong Kong. The tax arrangement made between the Mainland and Hong Kong has achieved distinctive results. I believe the said amendments to IRO this time will also bring significant benefits to Hong Kong.

For the above reasons, members of the Bills Committee and I strongly support the resumption of Second Reading debate on the Bill.

President, in retrospect, one can say that over the past decade or so, the Government of the Special Administrative Region (SAR) has failed completely to make any progress and fallen behind the times in its taxation policy. I can remember shortly after assuming office as a Member of the Legislative Council in 2008, when I met with Financial Secretary Mr John TSANG together with other colleagues, I took great pains to explain to him that it was necessary for Hong Kong to sign comprehensive bilateral taxation agreements with foreign countries as early as possible time, but due to the restrictions on information exchange under the IRO at that time, it was difficult to move even a single step. I also reminded the SAR Government that it should amend the IRO as soon as possible. Unfortunately, since he thought that there was not yet any consensus in society and feared that the business sector might raise objection, he did not accept my advice. It was not until the G20 Summit last year, when even State President Mr HU found it necessary to defend Hong Kong and resist its inclusion in the blacklist of "tax havens", that the SAR Government hurriedly put forward proposals to amend the IRO, hoping to complete the amendments in time before the G20 Summit. The reaction is a bit belated, but it is better than doing nothing.

President, in fact, the professional and business sectors have been saying to the Government over the years that an in-depth review of the existing taxation policy, tax regime and the IRO must be conducted to ensure that they can keep abreast of the times. My colleagues in the Legislative Council have repeatedly pointed out that we must explore what can be done to Hong Kong's tax regime from the perspective of narrowing the wealth gap, rather than always refusing to conduct any review on the ground that Hong Kong's tax regime is low, simple and time-tested. We need to know that Hong Kong's society has changing incessantly, and so has the external competition environment.

I remember that in February last year, I moved an amendment to Dr Samson TAM's motion on "promoting the development of local creative industries", proposing to allow tax deduction for the expenditure incurred by enterprises in the purchase of "intangible assets" such as trademarks and copyrights, and to increase the amount of tax deduction for "expenditure on

research and development" to 200%. This was supported by a substantial proportion of Members at that time, and I am very grateful to them.

But, unfortunately, Ms Rita LAU, Secretary for Commerce and Economic Development, did not take these views, and she only reiterated that Hong Kong's low tax rate and its simple and clear tax regime were themselves incentives to foreign investments. She considered that given the low tax rate in Hong Kong doubling the tax deduction for the expenditure concerned would only provide a limited reduction of actual tax amount. She also argued that Hong Kong had all along striven to maintain the neutrality of its tax regime, and doubling the tax deduction for certain expenditure items would amount to some kind of hidden subsidy, which was contrary to the principle of maintaining the neutrality of Hong Kong's tax regime. She added that abuse might easily result. If anti-tax avoidance provisions were incorporated to prevent abuse, the tax regime would become complicated. She therefore said that the Administration was opposed to the proposal.

However, President, several months later, that is, on 22 June last year, the Chief Executive said after a meeting with the Task Force on Economic Challenges that in order to promote the development of the six industries, the authorities would actively study the issue of offering innovative financial or tax incentives to encourage the private sector to increase expenditure on research and development. Mr Andrew LAI, Deputy Commissioner for Innovation and Technology, once disclosed that the Government would explore two possibilities of providing financial relief to innovation and technology enterprises engaging in research and development. One of the possibilities, he said, was the formulation of a tax concession policy to allow greater tax concession for research and development expenditure. In many countries, including Singapore and Mainland China, preferential tax deduction rates of 150% to 200% are applicable to research and development expenditure. This is of very useful reference to Hong Kong. By quoting this example, I hope to point out once again that the Administration lacks foresight in respect of the tax regime and legislation. And, I also wish to explain that there is huge room for improving the tax regime and legislation in Hong Kong.

President, another example is the motion I moved in May last year on "enhancing the tax system to keep Hong Kong competitive". It is pointed out in this motion that the Government has inappropriately applied section 39E of the IRO, with the result that Hong Kong investors are deprived of the depreciation allowances for expenditure incurred on machinery or industrial installations

(including moulding tools) they set up on the Mainland under the processing trade arrangements, even though profits taxable in Hong Kong were derived, thus violating the fundamental principle of allowing taxpayers to enjoy tax reduction on costs for generating profits under the tax law in Hong Kong.

At that time the Secretary for Financial Services and the Treasury, Prof K C CHAN, said that the authorities considered that under the import processing arrangements, if a Hong Kong company provided its production equipment for use by a company on the Mainland, it would be difficult for the IRD to determine whether the relevant production equipment would be used solely for producing goods to be sold to Hong Kong. He also indicated that it would not be easy for the IRD to ascertain whether the relevant production equipment had been re-sold and then given to other persons for use after it had been delivered to the Mainland, or whether other persons had already applied for tax concessions on such equipment and installations on the Mainland. President, I think such an argument is actually like "trimming the toes to fit the shoes", ignoring the reality and the problem.

In December last year, the Panel on Financial Services held a special meeting to further discuss the inappropriate application of the IRO. In a rare fashion, the representatives from several professional and business bodies who spoke at the meeting unanimously opined that the method currently adopted by the Government to deal with the matter was unreasonable and required review. The Panel also passed a motion urging the Government to follow up the matter. In fact, there are also some areas evidencing that the IRO is really plagued with problems. I hope the government officials responsible for decision-making can "wake up" in good time and review our tax regime and legislation as early as possible, rather than waiting until they are slapped on the face.

President, having looked at the tax regime and the Government's financial management, we can see that there are actually a lot of problems with the Government's financial management philosophy. We all know that the disparity between the rich and the poor is a very serious problem in Hong Kong. Though many political parties and independent legislators have unanimously supported the provision of subsidy to cover the modest Internet charges incurred by children of families in receipt of Comprehensive Social Security Assistance over the years, the Government is still reluctant to adopt such a measure. Though the Legislative Council has passed motions eight years in a row, requesting the Government to provide transport subsidy to disabled persons, the Government has still turned a deaf ear to the request. In marked contrast, when the Financial

Secretary announced the Budget in February 2008, he drastically lowered the profits tax rate and standard tax rate by 1% with effect from 2008-2009. The Government would receive six billion dollars less each year, and most of those who are benefited are not the most needy in society. President, given the time constraint, I do not want to give further examples one by one. I only wish to take this opportunity to call on the authorities to set up a task force on taxation policy for the purpose of conducting an in-depth and comprehensive review of Hong Kong's tax regime and policy, so as to ensure that they can keep abreast of the times. This will not only enhance the competitiveness of Hong Kong, but will also enable us to accord attention to the reasonable distribution of the fruit of economic growth. In this way, Hong Kong can continue to develop in a prosperous, stable and harmonious manner.

President, I so submit.

**MS STARRY LEE** (in Cantonese): President, in early April this year, when the G20 Financial Summit was held in London, there was an argument between China and France on whether Hong Kong and Macao should be included in the list of tax havens. In the end, thanks to the cogent arguments of State President, Mr HU Jintao, Hong Kong and Macao have not been included in the "blacklist" of tax havens comprising Costa Rica, Malaysia, the Philippines and Uruguay.

We understand that exchange of information (EoI) is a world trend, and there is an urgency to amend the law.

As for the legislative amendments this time around, though the business and accounting sectors can appreciate the rationale behind, some of them are still be apprehensive of the amendments. Their worry is not unwarranted, because once the floodgate is open, sensitive commercial information may be divulged, and their business information may fall into the hands of the executive authorities of various countries without their knowing it. This will affect the status of Hong Kong both as a capital-raising centre and a financial centre.

In brief, they have three main worries: first, they are worried that the EoI arrangement may open the floodgate, as many different countries may try to obtain the internal information of enterprises directly through the Inland Revenue Department (IRD); second, they are worried that the legislation may have retrospective effect; and, third, they do not know whether there will be sufficient

protection for enterprises under the legislation, including affected enterprises' right to be notified and the relevant appeal mechanism.

The Bills Committee has altogether held eight meetings. Thanks to the efforts of the Administration and Members, many worries of the sectors have already been tentatively addressed in this legislative amendment exercise. However, the business and professional sectors still have many worries, so I would like to urge once again that the Administration must do a better job as a gatekeeper in respect of the following issues:

The first concern is the scope of information exchange. Hong Kong is a financial centre. The Inland Revenue Ordinance (IRO) needs to be updated to align with international practices. But at the same time, the scope of information exchange must also be clearly restricted. When the government of a foreign country makes a request for the information concerning an individual or enterprise, it must provide sufficient grounds so as to prevent any arbitrary request for exchange of information with no specific purpose.

Though the SAR Government has made it clear that when a government requests information about enterprises from the Hong Kong IRD, it must be satisfied that the relevant request can meet the requirements of "necessary" or "foreseeably relevant". However, the term "foreseeably relevant" merely denotes an international practice, and there are not any relevant case laws and judgments in Hong Kong. So, the enforcement of the legislation must after all depend on how the IRD decides whether to approve a request for information in light of the actual situation of the case. As for how best the IRD can strike a proper balance, while following the international practice and maintaining the transparency of tax information, it must also take serious steps to protect the privacy of taxpayers .....

Moreover, for the purpose of addressing the sectors' concerns, I urge that when he speaks later at this meeting, the Secretary should reiterate the undertaking he made at a Bills Committee meeting when he speaks later, that is, that is, the undertaking that Hong Kong will adhere firmly to the following principles when negotiating with the treaty partner in a CDTA:

- (i) its policy is to exchange information only upon request from treaty partners in pursuance to a CDTA, and it will not accept any treaty obligation for automatic or spontaneous exchange;



- (ii) it will not agree to the supply of information which would disclose any trade, business and other secrets to foreign governments; and
- (iii) the scope of information will be restricted to income tax.

The second concern is the confidentiality and use of exchanged information. Besides being concerned about the scope of information exchange, the sector is also concerned about how foreign governments will maintain the confidentiality of the information they obtain, and how the information is to be used.

I understand that OECD Model Article sets out various safeguards for protecting the confidentiality of the exchanged information, including the provision that the information shall be disclosed only to persons or authorities concerned with the collection or assessment of taxes, or the enforcement, prosecution or determination of appeals in relation to taxes. Besides, a provision will be included either in CDTA or in its protocol to explicitly state that the information shall not be disclosed to any third jurisdiction.

However, it must be pointed out that in order to further reduce the chance of divulging business secrets, the Administration must undertake to implement additional measures to ensure that unless the negotiation partners' domestic laws so require, the information exchanged can only be disclosed to tax authorities but not to their oversight bodies.

The third concern is the notification of proposed disclosure and the appeal mechanism. This is another concern of the sector. According to the proposal of the Administration, the Commissioner of Inland Revenue must, prior to the disclosure of any information, give notice in writing to the person who is the subject of the request and notify the person of the nature of the information sought, and the person may, in writing, within 14 days after the notice is given, request a copy of the information that the Commissioner of Inland Revenue is prepared to disclose to the requesting government. The person may also request the Commissioner of Inland Revenue to amend the information on the grounds that the information does not relate to the person; or the information is factually incorrect.

However, the Commissioner of Inland Revenue also has the discretion of not to give any prior notification if it is considered that all the addresses of the person are inadequate for the purpose of giving the notification, or if it is deemed

that the notification is "likely to undermine the chance of success of the investigation", no prior notification is required. In addition, if the Commissioner of Inland Revenue believes that the failure of disclosing the information within the time constraint "will likely frustrate the efforts of the requesting government in enforcing its tax laws", he/she also has the right not to give prior notification to the relevant taxpayers.

What exactly are the "reasonable grounds" referred to? And, what are the justifications for believing that the notification is "likely to undermine the chance of success of the investigation in relation to which the request is made", and that the failure of disclosing the information within the time constraint "will likely frustrate the efforts of the requesting government in enforcing its tax laws"? These are the concerns of the sector. Admittedly, the Administration has put forward some criteria and explained that OECD has put in place some detailed guidelines in this regard. However, these are only OECD guidelines, so they cannot fully assuage the sector's worries. For this reason, we hope that when formulating the proposed Rules, the Administration can give a clear account of what detailed information requesting governments must supply before the IRD can decide that it can disclose the information sought without giving prior notice to the persons concerned.

Finally, speaking of the appeal mechanism, the Administration has explained that the Financial Secretary is empowered to conduct reviews due to time constraint. But the sector has doubts about the issue of neutrality.

In conclusion, I hope that the Government can conduct regular reviews of the new legislation after its commencement and improve the IRD's internal work guidelines in order to assuage the anxieties of the professional and business sectors.

President, I so submit and support the Second Reading of the Bill.

**MR JAMES TO** (in Cantonese): President, first of all, I must tender a small apology to Mr Paul CHAN and other members of the Bills Committee because I took up a lot of time at the meetings of the Bills Committee. I spoke a lot at the meetings, taking up as much as 60% to 70% of the time. I deliberated, researched, and repeatedly asked questions on every word, every term and every paragraph. President, I am not trying to show off here today. But I must say that the conclusion of CDTAs is a game that we cannot but play. I can tell you

that even now, my agreement to the passage of the Bill is still marked by great reluctance

However, I do also understand that given the present world trend, if we continue to refuse exchanging certain information with others, ..... I do understand that we must somehow pay a "minimum charge", telling others that we are sincere in exchanging information with them. I realize that if we do not do so, we may come under mounting pressure or even face some kind of sanction. In that case, even our State President may fail to save Hong Kong. Under such circumstances and against this background, I am also compelled to agree that the Bill must still be passed, though it is not very satisfactory.

But, I have made it clear at the meetings of the Bills Committee that, first, we need to consider clearly whether the information to be exchanged is the "minimum charge" in the international community. My point is that whenever permissible, information should not be exchanged or submitted; and, whenever it is possible to prevent any information disclosure through the enactment of legislation, we should do so. Taxpayers must be allowed to take actions in our courts, and use the mechanism to refuse to provide information under the law. In addition, each time when the Government enters into a bilateral agreement with any region, it should adopt the approach of enacting subsidiary legislation, so that this Council can examine the whole thing clause by clause in a positive vetting process, and ascertain whether only the "minimum charge" is involved each time.

Why must we do so? My answer is very frank. It is because while Hong Kong adopts a low tax regime, other countries and regions impose very high tax rates, or even global taxation. In many cases, for various business operation reasons having nothing to do with money laundering, terrorism and even evasion of tax, many organizations may need to set up companies and branches in Hong Kong or engage in certain financial arrangements here. This is not necessarily related to dirty monies, bribery or terrorists, and even evasion of tax. There are so many possible reasons. But we all know that once Hong Kong enters into such agreements, very often, or, to be precise, all the time ..... The parties may not be quite so equal. In other words, ..... As I once told the Commissioner of Inland Revenue, we may be rendered so busy that we may not even have any time for going to the toilet. Why? It is because the tax rates of other countries are high, so once they notice any connection with Hong Kong, they will simply keep pursuing the cases. Switzerland and the United States, for example, have done something like this recently.

Therefore, to a certain extent, Hong Kong's appeal will surely be reduced. Naturally, Mr Paul CHAN considers that the situation is very satisfactory. He says that there will be some sort of compensation, and he even thinks that the whole thing is not negative but should be very good, so we must be a bit more forward-looking. However, I myself have some reservation. I dare not assert that such a situation will surely arise, but I will still prudently assess whether it will really emerge. President, the Democratic Party has already done its very best, succeeding in securing a notification mechanism, the enactment of subsidiary legislation, the adoption of positive vetting, and the prohibition of "fishing expeditions" in the code contained in the subsidiary legislation, that is, attempts to see what information they can get from Hong Kong.

At the end of the day, regardless how the law is actually worded, our IRD and Commissioner of Inland Revenue must still strictly enforce the rules concerned. I also wish to call upon the relevant taxpayers, especially some large companies, to take their cases to court and challenge the decisions of the IRD if they think that the IRD has exceeded the relevant CDTAs and the code after the commencement of the notification mechanism, so that the IRD can be reasonably and strictly comply with the code. In this way, we can ensure that we can just fulfil the minimum requirements of CDTAs, instead of going to the level of "one hundred and one percent" and giving anything that our party partners ask for.

President, Ms Starry LEE has mentioned some details, with which we are also concerned. However, since the exchanges of taxation information are done secretly in many cases, and some enterprises, companies and individuals may find it inconvenient to pursue their cases under the law for various reasons, I also wish to call upon them to lodge complaints with Legislative Council Members and the media if such a situation does happen, or if they think that there are any excesses.

Usually, the media will make such incidents public, but Legislative Council Members may monitor the Government through certain approaches (which are not necessarily open). For example, it may ask whether the Commissioner of Inland Revenue has acted to the excess. Or, it may ask whether the line has been crossed in the process of execution. Or, it may ask whether the disclosure of information has been far too spontaneous and comprehensive. Of course, when I put forth these questions, some colleagues may wonder if I am being overly-honest, to the extent of making the international community think that we are doing it reluctantly. Actually, I have already made it clear that I cannot but play the game despite my reluctance. It is because ..... In the past, there was the gun-boat policy ..... Nowadays, such a policy is no longer adopted. But

Hong Kong still needs to rely on others in the international community from time to time.

I may of course talk about information exchange in a high-sounding manner, describing it as a lofty ideal. For example, I may actually say that we must act as a responsible member of the international community. If we are talking about information exchanges for crimes, for combating narcotics and other criminal offences, for example, I will certainly say so. But, in the case of exchanging taxation information at the economic level, the two sides may not be quite so equal, and the two treaty partners may not necessarily share any common intent and target. There are also people who assert that this is in the common interest of the whole world. However, in this regard, I have to say very candidly that there are actually conflicting interests.

However, I must add that despite such a background, we have still done our very best. And, I also wish to tell our enterprises and members of the public that they must make various arrangements to protect themselves. If they notice that the IRD and the Government have provided any information in excess of the "minimum charge" that we have promised to pay, they must lodge complaints through various channels, remain alert and take corresponding legal actions, so as to keep the Government under reasonable monitoring and enable it to regain some sort of bargaining power before the international community.

Let me quote an incident yesterday as an illustration. The Legislative Yuan of Taiwan has passed some legislation banning the import of certain categories of beef from the United States. The United States is naturally very dissatisfied, but since such legislation have been passed under the democratic system in Taiwan, it is still necessary to respect them. Similarly, this Council also has a huge responsibility to protect our enterprises and individuals. We will not allow any arbitrary compromise of their privacy. We must even seek to prevent any highly sensitive commercial secrets, including confidential information relating to sales and research and development, from being obtained by some governments or persons as a result of any ambiguous expression — though the code already sets out some relevant restrictions

Therefore, I would like to put down on record my warning that the Government must not commit any act other than providing information strictly in accordance with a CDTA.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. This debate will come to a close after the Secretary has replied.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, first of all, I must thank Mr Paul CHAN, Chairman of the Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2009 (the Bills Committee), its members and the staff of the Legislative Council Secretariat for completing the scrutiny of the Bill within such a short time.

The Inland Revenue (Amendment) (No. 3) Bill 2009 (the Bill) was put before the Legislative Council in July last year for scrutiny. The Bills Committee held eight meetings in total, during which the relevant sectors and stakeholders were invited to participate and express their views.

The purpose of the Bill is to enable Hong Kong to adopt the latest international standard for exchange of information (EoI) in signing a comprehensive avoidance of double taxation agreement (CDTA). A CDTA normally includes an EoI article that provides for the exchange of information necessary for the carrying out of the agreement between the two contracting parties. The EoI article currently adopted in Hong Kong's CDTAs is based on the 1995 version of the Organization for Economic Cooperation and Development (OECD) Model Tax Convention. Most economies have, however, adopted the OECD 2004 version of the EoI article (OECD Model Article). This latest version of the EoI article states that the lack of domestic tax interest does not constitute a valid reason for refusing to collect and supply the information requested by another contracting party.

Hong Kong currently cannot adopt the OECD Model Article because under the Inland Revenue Ordinance (IRO), the Inland Revenue Department (IRD) can only collect taxpayers' information relating to domestic tax. This has all along been a major obstacle to our CDTA negotiations, and has restricted the progress

of such negotiations and reduced the number of Hong Kong's potential CDTA partners.

The Bill aims to amend the relevant provisions of IRO to enable the IRD to collect and disclose a taxpayer's information in response to requests made by our CDTA partners for their own tax purposes even when such requests do not involve our domestic tax interest. I am very pleased to note that some countries have taken the initiative to invite us to hold CDTA discussions upon learning of our decision to amend the legislation. I hope that following the passage of the Bill, the relevant discussions can achieve some breakthroughs.

I note the criticism that the SAR Government lacks foresight in upgrading the standard of tax information exchanges. Such a criticism is completely inconsistent with the fact. Shortly after the OECD's adoption of the existing EoI standard in 2004, we already started to consult the business and professional sectors in 2005 on whether Hong Kong should follow the standard concerned. However, the views in the sectors were clearly divided at that time, with many opining that the liberalization of EoI would compromise the interests of Hong Kong. The speeches of some Members just now have also reflected such a worry.

Subsequently, we closely monitored the international development, and came to the conclusion that the adoption of the OECD's 2004 EoI standard was already a general trend. For this reason, from July to October 2008, we extensively consulted the views of the sectors again, and some Legislative Council members also told us that they supported the liberalization of tax information exchange of tax information. Since the sectors generally expressed support for the idea that Hong Kong should expeditiously follow the OECD's latest EoI standard, the Financial Secretary formally announced in his Budget Speech in February last year that the Government would proceed with the relevant legislative work as soon as possible. From this, we can see that even before the issue of "tax havens" became a hot topic in the G20 Leaders Summit held in London in April last year, the SAR Government already took active steps to forge a consensus with the sectors, with a view to promoting the alignment of our EoI arrangement with the international practice.

Following the grave concern about "tax havens" expressed at the G20 Leaders Summit held in April last year, the G20 leaders even announced that they

intended to adopt punitive measures against "tax havens" starting from March this year. The OECD currently assesses the transparency of the tax regime of a place on the basis of whether it has signed the 12 agreements on the compliance with the OECD Model Article. The OECD has even set up a monitoring and industry-vetting mechanism to assess whether the regions have really achieved the standard. If we do not adopt the OECD Model Article, people may form a negative perception of the transparency of Hong Kong's tax system. Hong Kong may thus be classed the international community as a "tax haven" and subject to the related sanctions.

Since the G20 Leaders Summit in April last year, many countries have taken swift actions to comply with the OECD standard. So, there is an urgency for us to amend the legislation as early as possible, so as to enable Hong Kong to adopt the OECD Model Article and sign CDTAs that are consistent with the international standard with more countries.

At the meetings of the Bills Committee, we held thorough discussions with Members on how to protect taxpayers' privacy and the confidentiality of information. We have accepted a number of proposals made by the Members. Apart from the Bill, we have also submitted the framework of the relevant subsidiary legislation and the IRD's draft DIPN to the Bills Committee to explain the overall contents of EoI protection. I hope to sum up here the structure of EoI protection.

First of all, in regard to individual CDTAs, we will adopt the most prudent safeguards acceptable under the OECD Model Article. This means that the suggestions made by Ms Starry LEE just now will also be included. After the signing of a CDTA, a piece of subsidiary legislation on its implementation will be submitted to the Legislative council. We will set out in the submissions concerned any material deviation of the EoI provisions in CDTAs from the sample text previously submitted to the Bills Committee, so as to assist Members in scrutinizing the subsidiary legislation on individual CDTAs.

In addition to those safeguards provided by individual CDTAs, we will, after the passage of the Bill, draw up a piece of subsidiary legislation entitled Inland Revenue (Disclosure of Information) Rules (the Rules) to provide additional safeguards. The main content of the Rules includes the following:



- (i) An EoI request shall be approved only by an IRD officer at the directorate rank or above in accordance with established criteria;
- (ii) a mechanism for prior notification to taxpayers shall be set up;
- (iii) a mechanism for requesting the Commissioner of Inland Revenue and the Financial Secretary to conduct a review of the information to be exchanged shall be set up. We have accepted the advice of Members on extending the time period for the person concerned to request the Commissioner of Inland Revenue to amend the information to be exchanged from 14 days to 21 days. I would like to emphasize that the notification and review procedures are further safeguards we have formulated in response to social concern, and such safeguards are absent in most countries. In response to the advice of the Bills Committee, we will also report to the Panel on Financial Services on the effectiveness of the notification and review mechanisms 18 months after their implementation;
- (iv) we have accepted the advice of the Bills Committee on stipulating in the Rules that there shall be no retrospective effect for EoI arrangements under CDTAs, and that and no information existing at any time prior to the effective date of a CDTA shall be disclosed; and
- (v) to ensure that an EoI request is "foreseeably relevant", and prevent any "fishing expedition" to get information, we have also accepted the advice of the Bills Committee on setting out in the Rules all the information that must be given in individual EoI requests.

Having thoroughly considered the view of Members, we also agree to make the Rules as a subsidiary legislation subject to positive vetting procedures.

Besides the Rules, IRD will also issue a DIPN to provide administrative guidelines with regard to the implementation of EoI so as to enhance the transparency of the information change.

President, both the Bills Committee and the sectors support the expeditious amendment of the legislation. The current proposed amendments have also taken into consideration the views of Members and the sectors. In response to

the views of the Bills Committee, we will move three amendments, two of which aim to make the Rules as a subsidiary legislation subject to positive vetting procedures, and the remaining one is a technical amendment. These three amendments are supported by the Bills Committee.

I sincerely call upon Members to support the Bill and the amendments proposed by the Administration.

President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Inland Revenue (Amendment) (No. 3) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Inland Revenue (Amendment) (No. 3) Bill 2009.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

**INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2009**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Inland Revenue (Amendment) (No. 3) Bill 2009.

**CLERK** (in Cantonese): Clauses 1, and 4 to 9.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1, and 4 to 9 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 3.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Chairman, I move the amendments to clauses 2 and 3. I move the amendments to the clauses read out just now, as printed in the paper circularized to Members.

These three amendments are proposed by us in response to the views of the Bills Committee. The third amendment is to insert subsection (7) in section 49 of the IRO, setting out that "the rules made under subsection (6) are subject to the approval of the Legislative Council". This means that the relevant rules shall be changed to be a subsidiary legislation subject to positive vetting instead of negative vetting.

The first amendment is to set an earlier date of commencement for the abovementioned provision relating to positive vetting, so as to enable the Legislative Council to deal with the rules submitted by the Government under the positive vetting procedures immediately after the Bill has been enacted and gazetted. The relevant rules known as the Inland Revenue (Disclosure of Information) Rules (the Rules) are in the form of a subsidiary legislation intended to provide additional EoI safeguards after the passage of the Bill. The other provisions of the Bill will come into operation on a date to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette after the Legislative Council has completed its scrutiny of the Rules.

The second amendment is a technical one, replacing "notwithstanding" under section 49(1) of the IRO with "despite", which is meant to achieve consistency between the newly inserted section 49(1A) and section 49(1) without effect on the meaning of the provisions.

Chairman, these three amendments are all supported by the Bills Committee. I hope Members will support the amendments concerned. Thank you, Chairman.

#### *Proposed amendments*

#### **Clause 2 (see Annex I)**

#### **Clause 3 (see Annex I)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 3 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 2 and 3 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

**Third Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: Third Reading.

**INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2009**

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

Inland Revenue (Amendment) (No. 3) Bill 2009

has passed through Committee stage with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) (No. 3) Bill 2009 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Inland Revenue (Amendment) (No. 3) Bill 2009.

## MOTIONS

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2009.

**PRESIDENT** (in Cantonese): I now call upon the Secretary for the Environment to speak and move his motion.

## PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I move that the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2009 (the Amendment Order), be amended as set out on the Agenda.

The Amendment Order was tabled at the Legislative Council on 4 November 2009. The Legislative Council subsequently established a Subcommittee to scrutinize the Amendment Order. I wish to express my heartfelt gratitude to Ms Audrey EU, Chairman of the Subcommittee, and other members of the Subcommittee for their invaluable opinions during the course of the scrutiny.

The Amendment Order stipulates the implementation details of the second phase of the Mandatory Energy Efficiency Labelling Scheme, such as the coverage of products and specification of energy labels.

The second phase of the Mandatory Energy Efficiency Labelling Scheme covers dehumidifiers. We propose to cover dehumidifiers with a rated dehumidifying capacity not exceeding 87 litres per day. The United States and Canada also adopt a similar practice.

The Subcommittee invited deputations and other relevant organizations to express views at its meeting. Some of them advised that dehumidifiers of rated dehumidifying capacity between 35 litres and 87 litres were rather uncommon for domestic application, and their sale volume was very limited. The cost for such

dehumidifiers to comply with the mandatory scheme would be relatively higher given its limited sales volume. As such, members of the Subcommittee requested us to consider adjusting the product coverage of dehumidifiers.

In view of these comments, the Electrical and Mechanical Services Department consulted members of the trade task force in a questionnaire survey. Most members indicated support for narrowing down the coverage of dehumidifiers in the Amendment Order to those with a rated dehumidifying capacity not exceeding 35 L. In view of the low sales volume and support from the trade and the Subcommittee, we decide to adopt the suggestion and move this amendment.

I wish to express my gratitude to the Subcommittee again for its invaluable opinions. I sincerely call upon Members to support to the proposed amendment. Thank you, President.

**The Secretary for the Environment moved the following motion:**

"RESOLVED that the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2009, published in the Gazette as Legal Notice No. 204 of 2009 and laid on the table of the Legislative Council on 4 November 2009, be amended, in section 2, in the new Division 5, in section 1(b)(iv), by repealing "87" and substituting "35"."

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

**MS AUDREY EU** (in Cantonese): President, in my capacity as the Chairman of the Subcommittee on Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2009 (the Order), I now report on the outcome of the deliberation of the Subcommittee.

This Order is intended to include washing machines and dehumidifiers in the second phase of the Mandatory Energy Efficiency Labelling Scheme (MEELS). Under the Order, washing machines having a rated washing capacity



not exceeding 7 kg and dehumidifiers having a rated dehumidifying capacity not exceeding 87 litres per day must bear energy labels if sold in Hong Kong, so as to inform consumers of their the energy efficiency performance. The Subcommittee is concerned about the coverage of these two prescribed products because it notes that while washing machines with a rated washing capacity exceeding 7 kg are not uncommon in the local market, dehumidifiers with a rated dehumidifying capacity exceeding 35 litres per day are not common for domestic application. The Subcommittee has, therefore, requested the Administration to explain why the threshold for washing machines is set at not exceeding 7 kg and that for dehumidifier at not exceeding 35 litres.

The Administration's explanation is that the scope of washing machines under the mandatory EELS is consistent with that under the voluntary EELS. According to a trade survey commissioned by EMSD in 2008, the sales volume of washing machines with a rated washing capacity exceeding 7 kg accounts for around 1% (about 2 300 units) of the total annual sales quantity of washing machines in Hong Kong. The compliance cost for such washing machines under the mandatory EELS, if included, will be relatively higher. In the light of the Subcommittee's concern, the Electrical and Mechanical Services Department (EMSD) has conducted another questionnaire survey to consult all members of the trade task force on the proposed change in scope for washing machines. The majority of them have expressed the view that the proposal (of including washing machines with a rated washing capacity exceeding 7 kg) might drive some of these products out of the market and in turn reduce consumers' choice. They therefore have reservation about the proposed expansion. In view of the trade's views and the fact that the potential energy saving of the proposed expansion of scope would be limited, the Administration holds the view that the original scope of washing machines should be kept.

Regarding dehumidifiers, the Administration has explained that the scope is proposed after making reference to relevant international practices, such as the United States and Canada. In the light of the Subcommittee's concern, the Administration has consulted all members of the trade task force in the questionnaire survey on narrowing down the coverage of dehumidifiers. Since the sales volume of dehumidifier with capacity exceeding 35 litres is very small, most of them have indicated support for narrowing down the scope of dehumidifiers. Therefore, the Administration will move corresponding amendments to the Order later at this meeting.

The Subcommittee has also discussed other issues, such as the bases of computing the energy efficiency performance of washing machines and dehumidifiers, the progress of the initial phase of the MEELS, the further expansion of scope of prescribed products under MEELS, and recovery of compact fluorescent lamps (CFLs). The relevant details are included in the Subcommittee's report.

The Subcommittee supports the amendment proposed by the Administration to narrow down the coverage of dehumidifiers to those with capacity not exceeding 35 litres.

President, in the following part of my speech, I shall speak in my personal capacity and on behalf of the Civic Party.

Speaking of environmental protection, different people will have different opinions. Some people think that regulation should be strengthened to ban products with high energy consumption, while others think that various kinds of levies should be imposed to achieve the purpose of eliminating such products. Still some others think that we should let the market decide, and environmental costs should be reflected in product prices. They think that the invisible hand of the market should be left to solve environmental problems, and there is no need to enact any legislation.

President, we should not perceive the enactment of legislation and market forces as mutually exclusive. Rather, we should flexibly combine regulatory measures and market forces as a means of achieving environmental protection. The case of energy efficiency labelling is a very good example. In a nutshell, energy efficiency labelling is all about enhancing the circulation of market information to enable consumers to have fuller product information, that is, information about the power consumption of products. In this way, when making purchases, consumers can consider various factors other than prices and quality, such as electricity tariffs and environmental protection, and make the best possible consumption choices. The MEELS can also encourage producers to develop better energy-saving products as a means of attracting customers, because producers can infer by common sense that energy-saving products will be more welcomed by consumers.

Joseph STIGLITZ, a Nobel Laureate in economics often says that the market in the real world is not perfect, as not everyone in the market can obtain homogeneous information. As a result, he says, consumers are often unable to

make the correct judgment due to unsatisfactory dissemination of information. The idea of mandatory energy efficiency labelling is precisely to establish a mandatory mechanism, whereby consumers can make comparison more easily and choose green products based on simple and easy-to-understand labels issued after the conduct of officially recognized and credible product tests that conform to simple, universal and scientific standards.

In principle, we in the Civic Party are in total support of the energy efficiency labelling scheme. As I said when the primary legislation was passed two years ago, we support the scheme, and not only this, we even hope that more products can be included in the MEELS as soon as possible. Members may look at this newspaper advertisement I am holding. At that time, the advertisements of the electrical appliances covered in phase 1 of the scheme, such as refrigerators, were very green in style. The caption here reads, "Awarded Grade 1 Energy Label/Green Living is Right Before You". This is a very good example.

When we look at the Government's projections once again, we can see the environmental benefits that can be brought about by the MEELS. Even in the case of washing machines and dehumidifiers alone, the Government computes that annually, 25 million units of electricity, or \$25 million in electricity tariffs, can be saved, and there will also be a reduction of 17 500 tonnes of carbon dioxide emissions every year.

However, it is a pity that while the Government already put forward a voluntary energy efficiency labelling scheme for 18 types of products as early as 1995 (President, we are talking about 1995 in the very distant past, before the reunification), it was not until as late as mid-2008 that three types of products, namely, room coolers, refrigerators and CFLs, were required to bear mandatory energy labels. And, we must still wait until now that the second phase is finally launched to include washing machines and dehumidifiers. Every time when new products are added, there is invariably a grace period of 18 months. We can see that the progress is very slow indeed. The penetration rates under the voluntary scheme are generally on the low side. Members can see that the rates for electric rice cookers, electric clothes dryers, cold/hot water dispensers and computers are even 0%.

Regarding electric clothes dryers, we can actually see that Canada, Australia and the European Union have already put in place mandatory energy efficiency labelling schemes. We frankly fail to see know why the Government

has only added washing machines to the scheme and has still left out electric clothes dryers. The Government explains that there are no recognized local laboratories that can do testing for some products such as electric rice cookers, and that in the case of other products, such as television sets, international testing standards were not available until very recently.

In regard to television sets, standards for measuring power consumption in the stand-by mode have already been formulated in the United States and Australia in recent years. It is hoped that the Government can actively consider the inclusion of television sets in the labelling scheme in the next phase.

Speaking of electric rice cookers, President, Members all know that this is a type of electrical appliances which are most commonly used in Hong Kong, but which are, perhaps, not used by so many people in foreign countries. So, the pace will be too slow if we are to wait until foreign countries draw up a set of testing standards that Hong Kong can follow. We hope that Hong Kong will take the lead in this regard. The Government should encourage universities in Hong Kong to carry out the relevant testing, so that energy efficiency labelling can also be applied to electric rice cookers very soon.

Actually, the testing and certification industry is one of the six major industries the Government wants to promote. The promotion of the energy efficiency labelling scheme can thus provide the precise opportunity for the development of the testing and certification industry as one of the six major industries.

In addition, it is also very important to conduct publicity after the legislation has been enacted. The reason is that while the public must get to know energy efficiency labels, they must also know ..... It is because very often, many labels ..... In the case of dehumidifiers, for example, we understand that the trade has pointed out the need for publicity on replacement. I also hope the Government can do a good job in this area.

Moreover, I would like to speak on the initial phase of the MEELS. President, as you may also remember, there is the issue of CFLs. The Government has disclosed that following the implementation of the initial phase of the MEELS, CFLs have come to account for about 60% of local electricity consumption in the residential sector. However, CFLs contain mercury. We already discussed this problem in great detail in the process of enacting the legislation. We expressed grave concern about the possibility of contamination.

The Government told us not to worry, explaining that impermeable liners would be used to prevent the leakage of mercury from spent CFLs upon their arrival at landfills. The Government also pointed out that spent CFLs might also be transported to the Chemical Waste Treatment Plant at Tsing Yi for treatment. However, President, CFLs are very fragile. They may be broken even before their arrival at Tsing Yi or landfills, and the mercury may also vaporize. Therefore, if the authorities do testing on the waters near landfills only, they may not detect any contamination at all.

It can thus be said that the Government has actually failed to do a very good job in the recovery of CFLs. In the discussion on the second phase of the scheme this time around, we have pointed out to the Government that we do not see any sticker labels for the collection points of spent CFLs, which shows that this is by no means a common practice. The Government needs to do something to let us know of the measure. We seldom see any publicity advertisement either. Even Legislative Council Members who are so concerned about environmentalism and conservation cannot find any such sticker labels, so we can imagine that the recovery scheme is really not very successful. I very much hope that the Government can step up its efforts of collecting spent CFLs. This is the first point.

Besides, President, a bigger problem is that even if we can do a good job in recovery, we should also note the rapid technological advances these days, especially the development of light-emitting diode (LED) lamps, which contain no mercury. In the past, since there was no international testing standard due to technical difficulties, the use of LED lamps was not promoted in any vigorous manner. However, early last year, Professor Ron HUI of Hong Kong succeeded in making breakthroughs in the research on LED lamps. He has even been invited to give lectures in Japan and other countries. This particular segment of the market has been developing very rapidly. So, during the row arising from CFLs, many market players questioned why the Government (especially the Electrical and Mechanical Services Department and the Environmental Protection Department) has done the work so slowly. I hope the Government can make more efforts to promote the use of LED lamps.

Finally, I wish to mention that many catering establishments have switched to the use of CFLs. Can the Government make more efforts to recover spent CFLs from them? Or, can it launch a producer responsibility scheme in this regard?

President, in short, we hope that the Government can make more efforts and act more swiftly in regard to environmental protection, so that our environment can be improved as soon as possible. Thank you, President.

**MR WONG TING-KWONG** (in Cantonese): President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and I both support the passage of Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2009 (the Order), which seeks to bring washing machines and dehumidifiers under the ambit of the Energy Efficiency (Labelling of Products) Ordinance for the implementation of the second phase of the Mandatory Energy Efficiency Labelling Scheme (MEELS).

Nowadays, environmental protection is a general world trend. Although the Copenhagen Climate Summit ended without setting down any emissions reduction targets for the future, there are still widespread concerns. Hong Kong is likewise concerned about global warming. If we can put more efforts to save energy, it should be possible to reduce the impacts on the global climate and energy resources. After the passage of the Order today, the products included in the MEELS at different times will include room coolers, refrigerators, CFLs, washing machines and dehumidifiers. I believe that this will help consumers make wise decision when purchasing the relevant products, thus contributing to environmental protection and energy saving.

The Administration has pointed out that currently, the voluntary labelling scheme covers 18 types of household electric appliances and office equipment, including electric storage water heaters, gas water heaters, electric rice cookers, laser printers, photocopiers, computers and LCD monitors. The authorities will also conduct reviews on the effectiveness of the initial phase of the MEELS this year and the next. Depending on the review outcomes and the development of testing standards, they will explore the way forward. In other words, the MEELS may expand continuously, and so may the scope of prescribed products as mentioned above. I, therefore, wish to stress that the authorities must strike a balance in respect of the business environment, environmental protection, consumer interests as well as policies and measures.

In recent years, the SAR Government has imposed more and more restrictions on the business environment of the business sector. For example, there are the smoke ban, the plastic bag levy and food nutrition labelling. And,

the inclusion of discarded electronic products in the mandatory producer responsibility scheme is being mooted. It is expected that a public consultation exercise will soon be launched. To describe such a situation, I really wish to mention a remark of the business sector which I have quoted every now and then, "People like us who run lawful businesses are even more miserable than drug-peddlars." The reason is that there are too many restrictions. I am concerned about the business environment, which is why I think that the authorities should listen more to different stakeholders. They are duty-bound to do so. Besides listening to organizations and bodies such as chambers of commerce, green groups and the Consumer Council, the authorities should also consult different sales units directly, with a view to collecting thorough information and getting to know the actual situation. This is the only way that can help them formulate appropriate policies and measures and avoid draconian policies.

During the deliberation of the Subcommittee, the Administration explained that they had made reference to international practice in proposing to include dehumidifiers with a daily dehumidifying capacity not exceeding 87 L, but some relevant deputations reflected at the meetings that Hong Kong households seldom used dehumidifiers with a dehumidifying capacity between 35 L and 87 L, and that the daily dehumidifying capacity in general does not exceed 35 L. Therefore, after consulting members of the trade task force in a questionnaire survey, the Administration has drawn up an amendment, proposing to narrow down the coverage of dehumidifiers to those with a daily dehumidifying capacity not exceeding 35 L. This is a good example showing how the Administration can formulate a sensible policy by listening to more views.

Apart from listening to more views, the Administration should also conduct public education on environmentalism, so as to enhance people's awareness of energy saving. I believe that this can help facilitate the smooth implementation of the legislation, maximize the effect and double the results of its efforts.

President, with these remarks, I support the amendments.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for the Environment to reply. This debate will come to a close after the Secretary has replied.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I wish to thank the Subcommittee for its support, and Ms Audrey EU and Mr WONG Ting-kwong for speaking just now. I have nothing to add. Thank you.

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 2/09-10 of the House Committee laid on the table of the Council today in relation to the Dumping at Sea (Exemption) (Amendment) Order 2009.

**PRESIDENT** (in Cantonese): According to the relevant debate procedure, I will first call upon the mover of motion to speak and move the motion, and then call upon the Chairman of the Subcommittee formed to scrutinize the subsidiary legislation concerned to speak, to be followed by other Members. Each Member may only speak once and may speak for up to 15 minutes. Finally, I will call



upon the designated public officer to speak. The debate will come to a close after the public officer has spoken. The motion will not be put to vote and the Council will immediately proceed to the next item of business.

**PRESIDENT** (in Cantonese): Members who wish to speak will please press the "Request-to-Speak" button.

I now call upon Ms Miriam LAU to speak and move her motion.

### **MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE**

**MS MIRIAM LAU** (in Cantonese): President, in my capacity as Chairman of the House Committee and in accordance with Rule 49E(2) of the Rules of Procedure, I now move the motion as printed on the Agenda to enable Members to debate the Dumping at Sea (Exemption) (Amendment) Order 2009 contained in Report No. 2/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments.

The new procedure proposed by the Committee on Rules of Procedure for debates in Council on subsidiary legislation and other instruments to which no amendment has been proposed was endorsed at the House Committee meeting on 13 November 2009, and approved by the Council on 2 December 2009. I move the motion in accordance with the new procedure.

President, I so submit.

### **Ms Miriam LAU moved the following motion:**

"That this Council takes note of Report No. 2/09-10 of the House Committee laid on the Table of the Council on 6 January 2010 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Dumping at Sea (Exemption) (Amendment) Order 2009 (L.N. 203/2009)."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

**MR ALBERT HO** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Dumping at Sea (Exemption) (Amendment) Order 2009 (the Amendment Order), I now report to the Council on the deliberation relating to the Amendment Order. The Subcommittee has altogether held two meetings. Members supported the Amendment Order in principle, so that the regulatory control regime under the Dumping at Sea Ordinance (DASO) can be applied to the new sediment disposal facility situated at the east of Sha Chau.

Members have queried the arrangement for locating most sediment disposal facilities in New Territories West (NTW). The Administration has explained that waters in NTW are relatively still. If pits of a surface area as big as 1 000 m x 500 m are formed in shallow waters (5 m to 30 m in depth), it will be easier for the sediments to settle within the pit boundary.

As for the regulatory control for disposal operations, members have noted that the operator should, prior to the application for a permit, conduct a detailed chemical and biological analysis of the sediments to be disposed to facilitate the authorities' classification of the sediments for disposal and designation of the right facility for disposal. The permit is valid for one month, and has to be renewed if the disposal operation cannot be completed within the period needed. During the actual disposal operation, the dumping barge would be led by the guide boat of the Civil Engineering and Development Department (CEDD) to the best disposal location, and the dumping barge should switch off the engine and be allowed to drift into the designated location before disposing the sediments. It would remain drifting until all disposed sediments are settled into the mud pit. According to the Administration, the whole process is monitored by the on-site staff of the CEDD, and consideration would be given to cancelling the permit if the operator did not follow the instructions of the on-site staff. The control centre of the Environmental Protection Department (EPD) would monitor all disposal operations round-the-clock with a global positioning system installed on the dumping barge. When an anomaly is identified such as disposal at non-designated location, the control centre would take action accordingly to rectify the situation.

Members have also expressed concern about the adverse impacts of the contaminated sediment disposal facilities on marine environment and the reinstatement of the marine ecology. Members have noted that the pits in the east of Sha Chau are about 20 m deep beneath the shallow water, and after a pit is filled with contaminated sediments reaching a level of at least 3 m below the surrounding seabed, it will be capped with a layer of 3 m to 6 m of clean sediments, the thickness of which is sufficient to isolate the contaminated sediments from the surrounding waters and to enable recolonization of marine organisms in the area.

Some Members have pointed that the pits in the east of Sha Chau have led to changes to the marine ecology at NTW, including a reduction in fisheries resources and a change in the varieties of marine organisms recolonized in the affected seabed. The Administration has explained that environmental monitoring and audit for the Contaminated Mud Pits (CMPs) at the east of Sha Chau have been conducted since 1993. According to the monitoring findings, the concentrations of most contaminants in the sediment outside the mud pits were below their respective Lower Chemical Exceedance Level, and no or little toxicity was observed in the relevant sediments, indicating that there was dispersion of contaminated mud outside the mud pits to the surrounding waters. In addition, the results of testing on the contaminant concentrations of target species showed that the operations at the CMP would not necessarily cause adverse effects on the abundance of fisheries resources. Contaminant concentrations of the tissues and the whole body of the target species fluctuated over time, but no cause of concern was observed. Moreover, analysis of the human body and ecological risk assessment show that the chance for the general public and fishermen to develop chronic diseases from the consumption of marine produce from the area of east of Sha Chau was small. The Administration has also advised that contaminated mud disposal operations at the CMP have not produced any adverse environmental impacts to water quality. The Administration has said that in general, there is no evidence of any adverse impacts caused by the disposal activities in the east of Sha Chau CMP facilities, and the operations have proceeded in an environmentally acceptable man.

Members have requested the Administration to provide regular reports on the monitoring results relating to the dredging and disposal activities in NTW waters for the reference of the Tuen Mun District Council (TMDC), so as to enable it to know the severity of the impacts of these activities. The

Administration has undertaken that it will continue to provide bimonthly reports on the environmental monitoring results of the existing disposal facility at the east of Sha Chau to the Environmental Hygiene and District Development Committee of TMDC until the completion of the new disposal facility CMP V.

President, the Subcommittee generally supports the Amendment Order made by the Administration.

President, you may notice that during our scrutiny of the Amendment Order, members made very meticulous enquiries about the entire monitoring process.

Actually, we were unable to obtain such comprehensive information even in the past District Council enquiries. The reason is that this time around, professionals from the relevant departments were also invited to attend the relevant meetings, and they thoroughly answered all our questions, which touched upon issues ranging from the monitoring of the entire operation to the way in which regular testing is conducted on water quality and even the organisms in the waters. I believe that this report will help the TMDC a lot in continuously monitoring the water quality in the area, to say the very least. Therefore, I believe that whenever the Government submits a bimonthly report, members of the Panel on Environmental Affairs will certainly read it in detail, and ask colleagues from the Government for their advice at its meetings.

However, I really hope that contamination can be reduced to the minimum. Speaking of avoiding contamination completely, I do not think that anybody will ever believe this to be possible. That day, Mr WONG Yung-kan also expressed many worries on behalf of the agriculture and fisheries sector.

But, I still want to say a bit more. I think the Secretary is also aware that when the TMDC approved the construction of CMP V, there were in fact many worries and arguments, as too many obnoxious facilities had moved into NTW, especially the administrative district of Tuen Mun. In the end, we still expressed our support. But the assumption behind our support is that no approval will be given easily for any such large-scale facilities to move into the administrative district of Tuen Mun in the future, unless there are cogent and sufficient justifications.

However, we still have to thank the Secretary. He has formed a co-ordination team, and this team is also studying how to deal with some other facilities. But, as I have clearly pointed out, as long as Tuen Mun is affected, that the Administration can fully consider the grave concern of the whole TMDC. We expect to receive reports from the Administration as soon as possible to facilitate the Council's continued monitoring of the works in NTW. Thank you, President.

**MR WONG YUNG-KAN** (in Cantonese): President, I have been following up the issue of dumping at sea for many years. Why? Outside of the legislature, ..... Since joining the Legislative Council, I have observed that the issue of dumping at sea is rather difficult to handle. It is because at the very beginning, more than a decade ago, there was not even a monitoring system. As a result of repeated requests, we have succeeded in persuading the Government to monitor barges and tug boats.

Our greatest worry at this stage is that the dumping areas under discussion are located in the waters of Sha Chau and at the south of Cheung Chau, which have been designated for some uses in the future. In regard to Sha Chau, Siu Mo To Chau and Tai Mo To Chau, we always have the worry that while the Government plans to build a marine park in these waters in the future, it also intends to commence works on a number of mud pits there. Therefore, as I already mentioned in the Subcommittee, the Government should increase the strength of monitoring if it is to select the site there. Today, I want to put forward such a request once again on behalf of DAB. When I talk about the strength of monitoring, I mean that the Government has already dug some mud pits there, but it has conducted very few studies on the marine ecology and the pollution of the surrounding environment. It has even failed to consider the ecological system after reinstatement works. This means that the Government has never considered doing a comparison of the situations before and after the works concerned.

Since there will be so many mud pits in the waters of NTW or the outlying islands, and also since the Government has been talking so much about protecting and improving the marine ecology, should the Government itself step up its research and monitoring efforts? As a result of the activities under discussion, the environment under the sea has changed, and the sector I represent has been saying that there is no fish to catch out there most of the time. Well, it must be

said that though no fish can be found in waters near the coast, there is still fish in the waters farther away, say, 100 m or 200 m, from coast. But, the problem is that even these waters will be contaminated if the Government fails to do a good job in monitoring. This is what we feel most worried.

What is more, we know that some vessels may have come a long way before arriving at a mud pit for dumping. By this, I mean that a vessel may dredge up some toxic and contaminated mud in the northwest of the New Territories and then make a big turn to Sha Chau for disposal. The voyage is quite a long one. The Government should, therefore, establish a more satisfactory mechanism for monitoring such tug boats. If not, tug boats may simply tow the mud along, contaminating the environment on the way and even leaving mud in the sea, as what the sector is currently doing. This is a situation that we do not want to see. So, I hope that the Government can do better in this regard.

My main point is that every time before digging any mud pits, the Government should compile a study report for public reference. After a mud pit is filled up and capped, surveys must be conducted to ascertain whether the marine organisms in the surrounding waters have been contaminated. I think this is a long-term practice that the Government should adopt. When the Assistant Director, Mr Au, attended a meeting with the sector that day, the sector asked a lot of questions. Tolo Harbour in Taipo is a simple example. There were reclamation works at Pak Shek Kok. Since the waters there are relative shallow, the other side of the sea has now risen, that is, the original water level has gone up. The Government apparently does not see any problem with that because the water surface looks very nice, and it is after all just a depth of 1 m to 2 m. But the truth is that at a level of almost 1 m under the sea, oxygen is completely absent, and the surrounding environment along with the organisms there are all contaminated. That is exactly why I have repeatedly emphasized and even urged the Government that it must increase compensation for the permanent losses caused by reclamation works. The reason is that waters that can be used as fish farms have disappeared. Should the Government review whether there are any problems with this mechanism? The Government simply should not adopt the practice of holding discussions only when it wants to carry out works, and stopping the discussions when there are no works.

The sector has told me that the Government should attach importance to this problem. People's attention is all on the actual area of reclamation. But

the sector points out that while the actual reclamation area is some 90 hectares, the affected area is larger than this. Some people even say that after reclamation or the dumping of mud, no more organisms will be found in the affected areas. Therefore, should the Government seek to ascertain the damage to the marine ecology and the impacts on the sector when the study report is completed? I think it is only sensible for it to do so.

Of course, the DAB does not mean to raise any objection. Rather, it only wants to point out once again that it is necessary to ascertain whether there are any changes to the marine ecology after mud pits have been dug, filled up and capped. This is the most important point. The sea is different from the air, in the sense that the suspended particulates in the air can be measured, but in the case of the under-sea environment, no one will do any measurements or bother about it at all. Who will be the victims then? Only those people who live on the sea would know where the problem lies. So, once again, I wish to request the Government to do a better job in this regard. Every time when the Government and environmental impacts assessment companies are preparing environmental impacts assessment reports, they do not discuss with the sector to see whether they will be affected, or whether any problem will arise. The Secretary has never done so. I, therefore, hope that the Government can require the consultants it commissions to sit down and discuss with the sector, so as to gain an understanding of the actual situation faced by the sector. This is the only way in which problems can be solved. If the Government fails to draw up proper measures, does nothing and only believes its consultants' assurances that they will be no problems, then when any problems arise, the sector will certainly hold the Government accountable. They will definitely not hold the consultant concerned responsible.

For all these reasons, I hope that the Government can strengthen its effort to find out whether it is viable to rely on consultancy reports. I also want to know whether the Government will make new regulations or methods on the conduct of consultancy studies. I think these are the things we need to do. Thank you, President.

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

**MR ALBERT CHAN** (in Cantonese): President, though I have not attended any meetings of the Subcommittee, I can still say, on the basis of all the fishermen's complaints and related issues I have handled over the past decade or so, that the dumping of substances at sea has created numerous problems. In this connection, I suppose fishermen will all think that the Government is already bankrupt in terms of credibility. The undertakings of the Government have all turned out to mere empty talks. The emergence of actual problems has shown the total deficiency of monitoring, and deficient monitoring has inflicted losses on fishermen. But the Government has never offered any compensation.

Is what we are discussing now a repetition of past problems? I want to put down on record my concern over this matter and my doubt about the Government's credibility. President, I want to quote two very clear and actual cases. First, when the Government commenced the West Kowloon reclamation, the sludge in the seabed of West Kowloon must be dredged away and shipped to the mud pits in the waters to the south of Cheung Chau for dumping. In the course of the dredging works and during the shipping of sludge, there were already numerous complaints from fishermen about the illegal dumping of sludge by the vessels concerned along the route. President, such a practice was really absurd, because when the relevant legislation and a number of plans were scrutinized back in the early 1990s (when I was also a member of the Advisory Council on the Environment (ACE)), the Government clearly stated that adequate monitoring control would be implemented. However, illegal dumping at sea subsequently filled the whole Victoria Harbour (from its exit to the waters near Cheung Chau) with stinking sludge, thus leading to endless complaints from fishermen. In many cases, the vessels concerned even carried out illegal dumping at night, so it was not easy to detect them. Following endless complaints, the Government eventually launched an investigation along the routes of the vessels concerned. Only at this time did the Government discover that the whole seabed was covered with sludge and many other kinds of waste which even amassed to several feet in thickness in some cases. This proved the complete failure of monitoring control.

It was only after fishermen had detected all the problems and lodged numerous complaints that the Government had a rude awakening and decided to install a global positioning system (GPS) on each of the vessels concerned. A surveillance mechanism based on GPS was then set up to ensure that a vessel would always go from Point A to Point B and sail back from Point B to some other places after dumping. The Government had a rude awakening only after repeated complaints from fishermen. The undertaking on works monitoring



which it requested the ACE to give to Legislative Council was all nonsense. It is impossible to calculate the losses suffered by fishermen, and the Government has never offered them any additional compensation for their losses. Top government officials, however, received their salaries, pay rises and promotion all the same. And, consultants also continued to "tuck" the money into their pockets. As for fishermen's losses — sorry, they were only the victims of social problems, so the Government would not implement any special measures for them. Such cases are really numerous during the processes of many works projects.

Moreover, deficient monitoring was also observed in the Disneyland's there reclamation works at Penny's Bay. In this case, the fishermen at Ma Wan complained that the mud from the reclamation works at Penny's Bay was dumped at sea, and I also witnessed some such activities myself. At the time, the Government promised the Legislative Council that following the problems at the mud pits to the south of Cheung Chau, it would examine the reclamation plan for Penny's Bay very cautiously. It even undertook to use double-protection nets to ensure that the sand and mud from reclamation would not disperse beyond the boundary of the works. Despite the undertakings, the fishermen lodged complaints all the same, saying that the protective nets had been damaged. The protective nets had been broken after the passage of time, so all was just like opening the gate wide, with sand, mud and stones gushing out like the Yangtze River thundering its way into the sea.

That day, I conducted an on-site inspection on a fisherman's P boat. Lying at anchor there were a Marine Department vessel, and an engineering vessel in charge of regulatory control. They even tried to drive us out, saying that we had entered the works area. Could the people on these vessels realize that the protective nets had been damaged? I also saw the conditions of the protective nets. They were not torn on that day but had been damaged for quite some time. The Government dispatched vessels there for regulatory control and prevented other vessels from entering the works area, but they turned a blind eye to the damaged nets. When the Government asked for the approval of the relevant plan, it promised the Legislative Council that it would adopt adequate regulatory control, and that enough measures would be taken. But all turned out to be nonsense, and its credibility simply went bankrupt.

Fishermen have suffered losses for many times. Whenever there are any works projects ..... the reclamation works at Penny's Bay, the reclamation at North Lantau, or the North Lantau Highway ..... whether sand and mud for

reclamation are used, or whether there is any dredging of sludge ..... Even when contaminated mud drifts to a fish raft and the fishermen complains to the Government, if it is 5 pm on Friday, the staff members concerned will invariably wait until Monday before they come for an inspection. The contaminated mud will disappear in half an hour, but the authorities will only conduct an inspection three days later. By the time they come, all the fish will probably be dead.

I must emphasize once again that the salary of government officials are paid by taxpayers. But when something within their areas of responsibilities happens, they just "go slow". In the case of Penny's Bay that I mentioned just now, could the people on the vessels at anchor there not see that the protective nets were damaged? But they even did not take any action until we lodged our complaints, by which time the whole Victoria Harbour had already been reeking as a result of illegal dumping at sea. However, the Government still waited until fishermen lodged complaints with the Legislative Council, and it was only after a whole series of debates that it started to deal with illegal dumping at sea, just like as person awakening abruptly from a dream. These problems have come up time and again, but even after fishermen's complaints, the Government will only take actions at its own pace. This was already the Government's attitude in the 1990s. Whether it is the reclamation works at Penny's Bay, or any of the other several projects, the Government would promise anything when it is asking for the Legislative Council's approval. It will promise monitoring control, any practically everything. But then, problems will still emerge one after another during implementation.

President, our discussion on this matter again today has brought up many sorrowful and heartbreaking memories in me because the livelihood of many fishermen has been dealt a heavy blow. The situation of fishermen in Hong Kong now is already very miserable. Should they be further affected by these works, their income will only continue to drop. Nowadays, fishermen's catches are basically just approximately 30% of the catches in the early 1990s. A handful of people still earn a living by fishing, but many fishermen have already been compelled to switch to other industries. In the mid-1990s, when the construction industry was at its peak and booming, many fishermen switched to work in construction sites. Some who did not switch to other industries, and who have continued to engage in fishing has seen a continuous decline in their catches. The monitoring of dumping at sea is still off balance, and the Government's dereliction of duty and indifference continue. If fishermen are

victimized by the Government's dereliction of duty, blunders and lack of conscience, the Government should be condemned by God.

Therefore, President, I would urge the Government once again that it must not give me its commitment casually this time around. One must do one's job whole-heartedly. If it is the fault of the Government itself, its officers, departments or policies that has caused suffering to people, it simply cannot sit back and do nothing, and it must not behave in such an unscrupulous and indifferent manner. Like "Mr LAM the Eunuch", the Under Secretary may also speak like a tape-recorder, churning out responses that were already given before, but I still hope that he can squarely address the problem, so as to avoid the recurrence of the situation that I have mentioned just now. You may keep on having promotions and pay rises, but fishermen will continue to be affected as a result of your dereliction of duty.

Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Members have already spoken. I now call upon the Secretary for the Environment to reply. This debate will come to a close after the Secretary has replied.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I would like to express my gratitude to Members who have spoken on the Dumping at Sea (Exemption) (Amendment) Order 2009 (the Amendment Order), and to Mr Albert HO for proposing this debate today.

The Civil Engineering and Development Department (CEDD) has commenced construction works of a new facility situated in an area to the east of Sha Chau in 2009, which is expected to be put into service in the middle this year. To align with the operation of the new disposal facility, we have to amend Schedule 2 to the Dumping at Sea (Exemption) Order (DAS(E)O) under the Dumping at Sea Ordinance (DASO) to ensure that only persons with a permit

issued by the Environment Protection Department (EPD) will be allowed to engage in the operation of dumping of sediment in the new disposal facility. The amendment to DAS(E)O is mainly to regulate the disposal operation in the new facility with a view to protecting the marine environment. This arrangement is similar to the arrangement for the existing sediment disposal facility situated to the East of Sha Chau (ESC).

I am very glad to see that the Subcommittee on the Amendment Order supports this amendment.

Mr Albert HO has mentioned just now that he hopes the Government can strengthen regulatory control to minimize the environmental impact of the operation of the new disposal facility. First of all, I would like to elaborate that under the existing system, a person who engages in the disposal of sediment without a permit issued by the Director of Environmental Protection or without observing the provisions set out in the permit commits an offence and is liable on a first conviction to a fine of \$200,000 and to imprisonment for six months. Apart from setting out the name, model and dumping capacity of the sediment disposal barge, it is also required under the permit that the sediment disposal barge be mounted with a global positioning system to enable that the EPD's control centre can apply the real-time data for all-weather monitoring. When the barges carry out the disposal of sediment, there will also be staff from CEDD to conduct on-site monitoring and to ensure that the sediment settles in the pit. EPD will from time to time launch sudden surveillance on land, at sea and in the air with a view to deterring illegal disposal activities. For example, the Government has made about four prosecutions over the past three years, all of which related to an incident of illegal disposal of sediment in 2007. In this prosecution, the works contractor and the disposal personnel are convicted, and respectively fined an amount of \$15,000 and \$10,000. Therefore, we will continue to carry out the aforesaid surveillance and law enforcement in such circumstances without relaxing our vigilance, and ensure that all operations of the new disposal facility will be in conformity with the requirements for environmental protection.

Some Members have also raised concerns about the impact of contaminated sediment disposal pits on the marine ecology. We have, since 1993, monitored the water quality, ecological community structure and level of biotic tissue contamination around all disposal pits, and all along we have also

conducted testing of the chemical contamination levels and toxicity of sediment samples taken in the surrounding of the disposal pits. I want to emphasize that as reflected by the monitoring results over the past 15 years, the contaminated mud nearby the disposal pits has not been dispersed to the surrounding waters, and the mud disposal operations at ESC has not caused any adverse impact on the environment.

Mr WONG Yung-kan mentioned just now the issue of consultation. We understand that the CEDD has consulted the Capture Fisheries Sub-Committee (CFS) and Aquaculture Fisheries Sub-committee (AFS) of the Advisory Committee on Agriculture and Fisheries in regard to the new disposal pits. We understand the concerns of Members about the operation of the new sediment disposal facility. In compliance with the environmental permit issued by the Director of Environmental Protection and in accordance with the requirements of the Environmental Monitoring and Audit Manual, the CEDD will conduct comprehensive and stringent monitoring of the new facility, including water quality, sediment quality and toxicity, marine ecology and benthic community, and assessment of the risks posed to human health and ecology. During the operations, as what Mr Albert HO has said, the Government commits to report on the environmental monitoring results to the Environment, Hygiene and District Development Committee of the Tuen Mun District Council (TMDC) at an interval of every two months for reference of the members.

Finally, I hope to reiterate here that the implementation of the Amendment Order is very important to environmental protection. Not only is the Amendment Order in conformity with the legislative intent of DASO, but through this legislation, it also puts Hong Kong in a better position to fulfil its obligation under the London Convention and align with the relevant international practice. We are happy and willing to continue the communications with all sectors in this regard.

Thank you, President.

**PRESIDENT** (in Cantonese): The debate ends. In accordance with Rule 49E(9) of the Rules of Procedure, I will not propose any question on the motion. This Council now proceeds to the next item of business.

**PRESIDENT** (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of these motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): First Motion: Establishing a comprehensive consumer protection regime.

Would Members who wish to speak please press the "Request-to-Speak" button.

I now call upon Ms Starry LEE to speak and move her motion.

## **ESTABLISHING A COMPREHENSIVE CONSUMER PROTECTION REGIME**

**MS STARRY LEE** (in Cantonese): President, I move that the motion printed on the Agenda be passed.

Though Hong Kong is renowned as a shopping paradise, consumer pitfalls are seen everywhere, and different types of cheating tricks are forever emerging. It can be said that it is hard to guard against them. Even smart consumers may be cheated. Locals and tourists are just alike, there being always the possibility for them to be trapped.

Figures can tell all the facts. In recent years, complaints by Hong Kong consumers have consistently remained at high levels. The total number of complaints lodged with the Consumer Council in the first nine months of 2009 stood at 27 099, representing an increase of 4% over the figure of 26 037 for the same period of 2008. Of these, 7 000 cases involved unscrupulous trade practices. Even if the complaints lodged by investors of Lehman Brothers products are to be set aside, there were still some 3 000 cases involving complaints against false descriptions, misleading advertisements, hard selling,

pre-paid services, unfair contracts and so on. There was a sharp increase of 50% over the 2 000-odd cases for the same period of last year.

To avoid trouble or in order not to waste time, many consumers do not want to lodge any complaints. According to a survey conducted last July by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), 23% of the respondents said that they once suffered monetary losses when making purchases locally for being misled, deceived, placed under hard-pressure, intimidated, harassed or subjected to other unfair marketing practices. However, consumers incurring monetary losses who actually lodged complaints with the Consumer Council only constituted 11%, which is indicative of the fact that the complaint figures of the Consumer Council only represent the tip of the iceberg.

An examination of our current legislation on consumer protection reveals that more than ten pieces of legislation are about the protection of consumer rights, but all such legislation can be described as "deplorably fragmentary and ramshackle". In Hong Kong, the services industries account for more than 90% of the GDP, but all these 10-odd ordinances and regulations do not cover the making of false or misleading descriptions in the marketing of services. Precisely due to the deficiency of existing ordinances and regulations, law-breaking businessmen have been encouraged to cheat consumers brazenly and mislead them.

Consumers will immediately think of lodging complaints with the Consumer Council once they have been cheated. However, whether the Consumer Council is able to help them remains very doubtful. The reason is that at present, the means that the Consumer Council can use are very limited. The Consumer Council will first ask the trader and the complainant to settle the complaint through mediation, and the name-disclosure mechanism for revealing traders' unscrupulous sales practices will be activated only when a case cannot be settled through mediation. Alternatively, consideration may be given to using the Consumer Legal Action Fund to help victims take legal actions.

However, the Consumer Council cannot force traders to engage in mediation. Also, mediation outcomes will not affect the licensing of traders and their licence renewals. Furthermore, most traders tend to resort to "stalling tactics", so it may not be possible to resolve a complaint within a short period of

time. As for the name-disclosure mechanism, the Consumer Council does not use it very frequently.

Recently, I have been helping a group of victims who wanted to lose weight, and I have already referred their cases to the Consumer Council for follow-up. Earlier on, Consumer Council already exposed the marketing practices of some slimming centres in its monthly magazine CHOICE. However, the names of those slimming centres adopting misleading practices were not made known at the same time. As a result, centres with questionable marketing practices can continue to mislead consumers.

Actually, the Consumer Council will only consider disclosing the names of traders who are unwilling to engage in mediation. So, regarding the name-disclosure mechanism, traders who agree to engage in mediation while deploying delaying tactics do not even have to face any risk of having its name disclosed. The central problem with the name-disclosure mechanism is that the Consumer Council is not protected by any disclaimer of liability provisions. The Consumer Council fears that once the name of a shop under complaint is made public, the shop may retaliate and sue it for libel. So, the Consumer Council is very cautious on this.

Admittedly, the Consumer Council has the Consumer Legal Action Fund as its trump card for financing the legal actions of victims, but since the establishment of the fund 15 years ago, only 32 applications have been approved, meaning an average of two cases per year. Given the fact that in recent years, the Consumer Council has been receiving some 36 000 complaints a year, the legal action fund can indeed be described as "near to nothing". This can show that the Consumer Council is really a "paper tiger", capable of doing very little in the protection of consumer rights.

In a bid to make improve the aforesaid situation, DAB issued a proposal entitled "Protection for Consumers and Regulations for Businesses" in August last year. I think the proposal has already been forwarded to the Bureau. I will hand it to the Secretary again in a moment. We advise the Government to expeditiously bring order out of chaos and bring the unscrupulous trade practices of the services industries under regulation. More importantly, the Government should take a forward-looking stand and formulate a consumer protection ordinance for different trades and industries, in which unscrupulous trade



practices are thoroughly and meticulously defined and a comprehensive consumer protection regime is provided for, with a view to fundamentally reversing the situation of inadequate consumer protection.

Following the publication of our proposal, the Government undertook that early this year, it would submit to this Council a bill to amend the Trade Descriptions Ordinance, so that the prohibition of false or misleading representations in business operation can be extended to the services industries. However, the actual timetable of implementation is still unknown to us.

While the schedule for amending the ordinance is unknown to us, every day, there is still news about consumers being cheated. The tricks adopted are ever changing. First, there were indiscriminate SMS charges, and an ordinary citizen was required to pay as much as \$10,000 in SMS fees. Then, some elderly persons were cheated of their money. Since television is a daily necessity to the elderly, some unscrupulous traders and salespersons seized the opportunity arising from the digitization of television broadcasting, lying to them that if they did not install any set-top boxes, it would be impossible for them to view toll-free television later. In this way, they persuaded them to buy set-top boxes at a price triple the market price, thus reaping exorbitant profits.

Moreover, complaints relating to beauty care and slimming services as well as travel membership have been on the increase. Over the past six months, the DAB has received some 350 such complaints, of which 50 are related to beauty care and slimming services. Members must not think that the complainants are gullible because they are "beauty freaks". It is in fact not so. Most of them gave way for the reason that they were unable to bear pressure marketing tactics. President, I remember that some 10 years ago, I myself also once came under the influence of such pressure marketing tactics and was persuaded to pay or sign up for certain modelling courses. I well understand the potency of such pressure marketing tactics.

President, we nonetheless understand that it takes time to consolidate different ordinances to establish a consumer protection regime applicable to different trades and industries. So, we are of the opinion that apart from formulating long-term counter-measures, the Government should also roll out some medium- and short-term measures, so as to combat all undesirable trade practices involving brazen cheating.

The implementation of a "cooling-off" period is a short-term measure that can be introduced relatively quickly. We propose to follow the practice of Singapore and England, requiring the provision of a "cooling-off" period for agreements on membership, package tickets and other pre-paid services, so that after signing an agreement on purchasing the products or services concerned, the consumer can think it over clearly within a specified period before the agreement takes effect. Also, we may make reference to the experience of foreign countries and set a ceiling for pre-payments. If a lot of money is involved, payment must be made by installments. There should also be a stipulation prohibiting full payment at one go.

Next, it is necessary to place person-to-person commercial telemarketing calls under regulation. We have all received many SMS. Many people now find person-to-person commercial telemarketing calls a nuisance. The DAB proposes to extend the scope of the Unsolicited Electronic Messages Ordinance to include person-to-person commercial telemarketing calls. Mr WONG Ting-kwong will speak in greater detail on this point when he speaks later on at this meeting.

Another point is that pyramid selling practices in Hong Kong are ever-changing, but the Pyramid Selling Prohibition Ordinance was enacted some 20 years ago. Actually, it can hardly cope with the ever-changing pyramid selling practices. In this respect, Macao has proceeded faster than Hong Kong, and it implemented a new law in June 2008 to step up the control on pyramid selling practices. Hong Kong should also speed up the revision of the relevant ordinance to extend its scope, raise the penalties, and step up the curb on fraudulent multi-level marketing practices, so as to prevent people from being cheated and trapped.

Although Hong Kong is reputed for its sound judicial system, there are no class actions here. And, lawyers are not allowed to provide service on "no win, no fee" terms. Consequently, no matter how unfair victimized consumers feel it is or how much evidence of unfairness there is, many have to stop short at the doorway on account of the high costs and long court proceedings involved.

In view of all the never-ending consumer traps, the DAB proposes to empower the Consumer Council to act as the proctor of victimized consumers, so that when any substantial interests are involved, it can act for individual

consumers or take class actions to seek compensation from unscrupulous traders. This can enable the Consumer Council to act proactively and can also eliminate the worry that if an individual consumer loses his case, he may have exorbitant litigation costs. At the same time, this can also enable the Consumer Council to seek compensation on behalf of individual consumers who are themselves unable to institute any lawsuits. Under the Trade Practices Act 1974 of Australia, the Competition and Consumer Commission may, on obtaining consent from consumers, initiate proceedings in courts directly on their behalf to claim civil liability from unscrupulous traders and seek compensation for consumers' losses.

President, as a matter of fact, quite a number of nations and places have already drawn up legislation to define unfair trading practices. For instance, in 2003, Singapore implemented the Consumer Protection (Fair Trading) Act, which specifies 20 unfair trading practices, including the making of false statements in respect of sponsorship, endorsement, effects, characteristics, accessories, materials, spare parts, qualities, uses or merits accredited to products or services, and the use of improper pressure or influence on consumers (that is, the hard-pressure marketing tactics that I referred to earlier on) to force them into transactions involving the products or services to reap profits. In Hong Kong, legislation in this area is still lacking. In this respect, Hong Kong has been standing still and refusing to make progress, lagging far behind the times.

President, some of unscrupulous businessmen have brought about a proliferation of cases of misleading or cheating consumers. This not only undermines consumers' rights but also smears our reputation as a shopping paradise. The situation has reached an outrageous level. The Hong Kong Government indeed can ill-afford to remain aloof; nor can it use the excuse that it takes time to legislate. Instead, it should live up to its words by bringing in short- and medium-term measures to protect our reputation as a shopping paradise from further damage. I hope that the Secretary can respond to my aforesaid recommendations when she speaks in later on.

President, with these remarks, I move the original motion.

**Ms Starry LEE moved the following motion: (Translation)**

"That, incidents of traders using misleading, deceptive, high-pressure, intimidating, harassing or other unfair means to market products or

services are common in recent years, undermining the interests of consumers, and many people consider that consumer protection in Hong Kong is inadequate; in this connection, this Council urges the Government to establish a comprehensive consumer protection regime, including:

- (a) to require a cooling-off period be provided for agreements involving membership, package tickets and other pre-paid services to allow consumers to terminate such agreements within a specified period after signing an agreement to purchase the relevant goods or services without having to pay any fees or charges;
- (b) to require traders to issue in writing the terms and conditions within a specified period for any service agreement reached verbally through on-street promotion or over the telephone, and that the agreement will only be effective upon a signed confirmation by the consumer;
- (c) to monitor effectively the services provided by telecommunications service operators and those services provided by a third party through such operators, such as mobile messages and content services, etc. so as to ensure that the marketing practices, terms and conditions of services and charges are transparent and fair;
- (d) to extend the scope of the Unsolicited Electronic Messages Ordinance to include person-to-person commercial telemarketing calls, and require the caller to stop all marketing activities immediately upon a roaming signal coming from the telephone of the receiver;
- (e) to introduce legislative amendments to enhance the regulation of multi-level marketing;
- (f) to empower the Consumer Council to act as the proctor for consumers whose interests are undermined to initiate court proceedings to seek compensation from unscrupulous traders when required; and
- (g) to formulate a comprehensive Consumer Interests Protection Ordinance to plug the loopholes arising from the existing

fragmented and discordant legislation, and to fully regulate unfair trade practices involving goods and services; and at the same time, in order to tie in with the implementation of the Consumer Interests Protection Ordinance, to confer administrative and law enforcement powers under the Ordinance to the Consumer Council, or establish the post of consumer protection commissioner to undertake the relevant administrative and law enforcement work."

**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): Four Members are going to move amendments to this motion. The motion and the four amendments will now be debated together in a joint debate.

I am going to call upon Mr WONG Kwok-hing to speak first, to be followed by Dr Samson TAM, Mr Fred LI, and Mr Vincent FANG; but no amendments are to be moved at this stage.

**MR WONG KWOK-HING** (in Cantonese): President, my amendment is meant to improve and supplement the original motion. It is like giving the original motion boots, a hat and a waist-belt. To give the motion a hat means to provide further and clear protection for the three basic consumer rights, namely, the rights to information, choice and protection. To give the motion boots means to further enhance publicity and education for the purpose of raising consumers' awareness of self-protection and alertness. To give the motion a waist-belt is my major emphasis. My purpose is that through my amendment, I can bring home to the Government that while seeking to step up supervision and publicity and education on promoting lawful and proper sales practices, it must expeditiously amend the Pyramid Selling Prohibition Ordinance (Cap. 355), so as to clamp down on fraudulent pyramid selling practices.

President, there are explicit legislative provisions in Hong Kong on banning pyramid selling practices. I am referring to the Pyramid Selling Prohibition Ordinance, in which clear provisions are set out to combat and prohibit all types of fraudulent sales practices. In brief, the computation of

monetary gains based on the numbers of lower-tier recruits is strictly prohibited. Unfortunately, this piece of legislation is already outdated. It's also too simple. Thus multi-level marketing companies are able to make use of existing loopholes in the law. They simply offer some products for multi-level selling as a form of disguise. In this way, they are able to evade the regulation of the Pyramid Selling Prohibition Ordinance.

Earlier on, I received a lot of complaints about fraudulent pyramid selling activities. There is a multi-level marketing company called Digital Crown Holdings Limited (DCHL). Through various improper practices, it recruited members at all tiers, and lured them into a pyramid selling scam. Since the Government was unable to any strong and timely actions to clamp down on the company, it managed to expand the scam continuously. At first, only locals were cheated. Later, people from the Mainland also became victims. Recently, South Asians have also been deceived. How come the company is still able to sustain its scam and expand business continuously? The main problem is that there are loopholes in the existing legislation, and the Government has not taken any stern actions to clamp down on it.

Through coercion and enticement, this company has succeeded in misleading or deceiving people into borrowing huge instant loans from several finance companies all on one single day. The people concerned are also made to surrender the loans in their entirety to the person-in-charge of the company for custody, so that they can become member distributors of the company. These people are admitted as individuals, but at the same time, they are also required to be registered as an unlimited company. According to victims, the real purpose of this multi-level marketing company is to induce more people to join the company as members, so that the members on the upper tiers can grab part of the capitals invested by lower-tier members as commission. In this way, a pyramidal scheme of trickery is formed.

A victim was aged only 19 at the time. Since he borrowed very heavily, he had to petition for bankruptcy in the end, thus becoming the youngest bankrupt in Hong Kong. And, a young lady sent me an e-mail, telling me how her younger sister had changed entirely since joining DCHL. Having looked into the matter, she discovered that her younger sister had borrowed a total of \$35,000 from three finance companies at one go on joining DCHL. On top of that, she also borrowed \$5,000 from an upper-tier member to meet her living expenses. All the promissory notes were held by the finance companies and the upper-tier

member. Later, she was forced to ask her father for a loan of some \$60,000 but was refused. Then she broke up with her boy friend and her family, vanishing into thin air. No one can possibly imagine that the involvement in such pyramid selling may make a person up to the neck in debt and ruin his family, or may even take his life.

The existing legislation is unable to clamp down on this kind of pyramid selling scam. According to many front-line law-enforcement officers, it is difficult to institute prosecutions in such cases as there are loopholes in the existing legislation. The companies concerned, making use of the loopholes in the legislation, keep on expanding their business. How come the SAR Government can ignore such fraudulent practices?

We may look at the Macao Special Administrative Region Government. Since the legislation on prohibiting pyramid selling was amended in mid-2008, the Macao branch of the DCHL had to close down its business immediately. Why is the amendment to the legislation in Macao so effective? The most important point is that it provides for a cooling-off period, thus giving people time to think it all over. There is also the provision that the relevant products or services can be returned unconditionally. This is an effective way of stamping out fraudulent sales practices. It is really necessary for the Hong Kong SAR Government to make reference to the Macao measure, and expeditiously revise the legislation on the prohibition of pyramid selling. Several months ago, I took up the matter with the Government. According to the Government, an amendment bill would be introduced late last year or early this year. However, so far no schedule has been put forward. I hope that the Secretary can respond to this point later because many members of the public are listening.

President, multi-level selling is basically a lawful trade. Many wage-earners and housewives have been depending on this as a means of livelihood. Multi-level selling is itself not a bad thing. However, to recruit members in the manner of pyramid selling so as to squeeze commission out of them is definitely a fraud. President, my amendment is not meant to deal any blow to lawful multi-level selling activities. In fact, way back to the time around 2000, in Brazil, there was already the successful experience of developing an integrated multi-level selling network. All along this has been much talked about. It is a brand name dependent on multi-level selling, namely, Avon, the one that markets cosmetics and skin care products through multi-level selling. When it was launched in Brazil, many women joined it. On the one hand, they

could look after their families. On the other, they could earn some money to supplement family incomes. This, in fact, is something good. However, as the saying goes, "A whole pot of porridge may be spoiled by just a few lumps rat excrement". Because of companies like the DCHL, the business environment of Hong Kong has been impaired. Thus, the Government must not turn a blind eye to it.

Since DCHL can continue to operate in total defiance of the law, we can now observe the proliferation of similar fraudulent multi-level selling practices. The fraudulent selling of hotel or tour membership is one example. In my opinion, the SAR Government must not ignore the situation. Hence, I very much hope that the original motion and the amendments that we move today can make the Government pay more attention to the fact that in our business environment, there are some law-breaking elements who are undermining our reputation as a shopping paradise. I hope that the SAR Government can take decisive actions and adopt effective measures and means to clamp down on these elements.

I so submit.

**DR SAMSON TAM** (in Cantonese): President, I am very grateful to Ms Starry LEE for moving a motion on establishing a comprehensive consumer protection regime today. The reason is that some business operators may not be so law-abiding, and our business environment and consumer confidence are both affected as a result. Hence, I am in total support of improving the existing consumer protection regime. But how exactly are we going to go about the task of implementation? Will actual needs be met? This is my greatest concern, because the circumstances of different professions and services are unique. It may be possible to apply some measures of enhancing consumer protection effectively to every trade. So, today I want to move two amendments to the original motion. My first amendment is about the original motion's proposal of requiring traders to issue in writing the terms and conditions within a specified period, and that the agreement can take effect only upon a signed confirmation by the consumer. The other amendment of mine is about excessive charges for SMS and related services.

President, I have consulted some reference materials on today's topic. I notice that in the past, quite a large portion of people's complaints about the lack



of consumer rights protection were related to telecommunications services and Internet services. Such a situation is probably due to the fact that technological advances have led to many new inventions, and telecommunications, communications or technology products and services are emerging one after another, attracting more and more consumers. As technology becomes common, adults, elderly persons and children all become users. However, they may not be able to keep abreast of technological advances, so misunderstanding may easily arise, and they may even be misled by unscrupulous traders. As a result, there are more and more complaints. So, the Government should, on the one hand, step up the work of educating people. On the other, consideration should be given to formulating an effective mechanism of regulation.

All along, disputes and complaints involving the telecommunications industry have been mainly about fees, service renewal and termination processes as well as the lack of clarity of agreement terms and conditions. It has been discovered that very often, these services are being marketed, either by phone, or online, or even on the streets, by independent third-party marketing companies. So, it is possible that some consumers may agree to buy the products or services concerned without fully grasping all the necessary information. Problems will crop up when fees are to be paid or termination of services is requested. Very often, this gives rise to a lot of disputes or even litigations.

As there may be problems during the significant stage of selling, we should find ways to make improvement to that first stage in order to apply the right solution to the problem. Ms Starry LEE's original motion proposes that all traders be required "to issue in writing the terms and conditions within a specified period, and that the agreement will only be effective upon a signed confirmation by the consumer". Is this feasible as a solution to the problem? Surely, it is quite a thorough and desirable approach to issue in writing the terms and conditions and then obtain the consumer's confirmation. However, I wonder whether this is suitable for every trade in practice. I have much doubt about this.

Here is a simple example. I have been using the iPhone for some time. In my daily use of it, apart from making phone calls and sending e-mails, I occasionally go online to see what value-added services are available. I often watch for software or electronic books. When I come across any suitable products, I will purchase and download them. Now, suppose I want to buy an

electronic book for immediate reading, but then it will necessary to wait for the delivery of a written confirmation. And, downloading can only be done after I have put down my signature. Probably it will take a few days. To consumers wishing to use the required information instantly, this is indeed a big obstacle and inconvenience. I, therefore, move an amendment to propose that traders be allowed to issue in writing or by electronic means a clear notice of terms and conditions for further confirmation by the consumers before an agreement takes effect. The reason is that electronic confirmation is getting more and more popular globally. It is fast and it also ensures that consumers are somewhat able to trace the matters. Such online or instant purchases can certainly meet the actual needs now. It is hoped that this amendment can protect consumers and make sure that there can be convenient channels for consumers to avail themselves of services.

As for my second amendment proposal, it is about adding content service value to the Internet or mobile phone. As we all know, earlier on there were many disputes about Internet charges, and according to the Consumer Council, the problem has been growing in gravity. Even some Members also "got hit" by "love letter SMS" and so on. I therefore think the Government must address the problem squarely. I know that after the incident that happened in the middle of last month, the Office of the Telecommunications Authority (OFTA) did conduct discussions with the operator concerned to work out some code of practice. Yesterday, we also received from the parties concerned some preliminary papers, in which some codes of practice for the trade are set out. However, they are mostly for voluntary participation hopefully. Can this move achieve any effect? This is definitely unknown.

What else can the Government do here to protect consumer rights? I put forward to the Government two suggestions: (1) Content services providers at present are not directly regulated by OFTA. Given the fact that there is no regulation, it is indeed quite difficult to ask them to voluntarily observe the code of practice. My wish is for the Government to expeditiously set up an independent or third-party regulatory or licensing mechanism and impose licence revocation as a penalty. This is going to be a more credible arrangement than putting content services providers entirely under the supervision of telecommunications services operators; and (2) According to what I have heard, many people have the worry that while there is a monthly fee of around or below one hundred dollars with unlimited air-time for making calls on mobile phone,

there is basically no ceiling for the charges of value-added content services. I suggest that OFTA or members of the trade should set a ceiling for such charges, say, \$200 or \$300 a month, so as to give consumers options. When the fee exceeds the ceiling, the telecommunications services operator must seek re-confirmation from the registered user. It is only after receiving electronic re-confirmation that the telecommunications services operator can continue to send fee-charging content services to the user. This can alleviate the worry of registered users. The reason is that adults aside, most users are children and elderly persons. They use mobile phones too. If they can be protected by a fee ceiling, they will have more peace of mind as users.

President, I reiterate that I am in favour of establishing a comprehensive consumer protection regime, and I support the original motion as well as most parts of the amendments. However, as certain proposals are not in line with actual needs and may pose problems of implementation, I want to put forward the aforesaid amendments to the relevant proposals. It is hoped that Members will support my amendments. President, I so submit.

**MR FRED LI** (in Cantonese): President, I am very grateful to Ms Starry LEE for moving this motion. As I am a member of the Consumer Council, I am especially concerned about to this topic, and I have had many exchanges of views with the Secretary. Also, I notice that in recent years, problems concerning consumer rights in the service industries have been growing in gravity.

According to statistics of the Consumer Council, during the 11 months from early 2009 to November, there were 1 278 complaints concerning the beauty care industry. This represents an increase of 11% over the 1 155 cases for the 12 months of 2008. This figure is bound to go up as the month of December is not yet counted. In 2007, there were only 731 complaints, so the rate of increase over the past three years has reached a double-digit level. Complaints about travel membership have also been on steady increase. There were already 230 cases in the first 11 months of last year, which represents a sharp increase of more than 70% over the figure of 134 cases for the same period of the previous year.

Issues involved in such cases include exaggerated and untrue advertisements, marketing by means of misleading methods, and the use of detention-like approaches to force and press the victims to hand over

communications equipment such as mobile phones. The victims are then made to listen to some "talks", and staff members will take turn to repeat the same messages to the victims to bring them to submission. These cases usually involve traders of pre-paid services. In most cases, if consumers purchase package tickets, they usually cannot get back their money upon the closure of the companies even after the lapse of a long period of time. Usually they will not institute litigations for the sums involved are just a few hundred or thousand dollars.

Thus, the Democratic Party thinks that Hong Kong must formulate a piece of comprehensive legislation for the protection of consumer rights. Many countries have drawn up such legislation, but we have not. The protection that we offer to consumers is scattered here and there among different pieces of legislation. However, it takes a lot of time to formulate a piece of new legislation. In order to effect the protection of consumer rights as far as possible, I propose to expeditiously amend the Trade Descriptions Ordinance (TDO). At present, the TDO only covers goods, that is, tangible goods. However, just as stated by me earlier on, more and more complaints are against slimming services, telecommunication services, and so on. All these are not goods. In the course of marketing, there are often misleading representations or even untrue advertisements. In my opinion, the TDO should be revised expeditiously to include the services industries. This is the quickest way.

Because of their limited power under by law, in some cases, government departments and the Consumer Council cannot effectively handle consumers' complaints. As a result, many people are disappointed at the Consumer Council. I understand people have complained of the incompetence of the Consumer Council, because they find it useless to lodge complaints; in many cases, the Consumer Council will only make phone calls to the shops under complaint. However, these shops are often already under complaint. Moreover, if the shops are large-scale ones with a strong background, they will just ignore the Consumer Council. Hence, complainants are very disappointed, and have the impression that the Consumer Council is useless. This is also a fact. So, with regard to the power of the Consumer Council in protecting consumer rights, it is really necessary to serious review how it can be vested more the power required

I can recall the following example. The Trade Descriptions (Amendment) Ordinance 2008 and 8 items of subsidiary legislation went into effect on 2 March

last year. Among other things, they prohibit misleading price indications, that is, misleading indications of prices and weight units. On the third day after that piece of legislation came into effect, the Customs and Excise Department and the Police took action, deploying more than 70 officers. Several ginseng and dried seafood shops in Tsim Sha Tsui and Yau Ma Tei were raided. Among them were the ones already named time and again in complaints about cheating with misleading weight units. For instance, the price display of wild ginseng shows \$1,200. However, the font size of the word for the weight unit is too small to be seen. The word is even elongated, which makes it impossible for consumers to see that the actual unit is "qian". That is to say, it is \$1,200 per "qian". Consumers would make purchase on seeing the low price. But after slicing up the commodity, the shop attendants tell the customer that it was \$12,000 per tael, that the price display showed the price for every "qian", and that \$60,000 was payable as a total of 5 taels had been sliced. The consumer had to pay a huge amount very reluctantly. I would like to tell you that in that operation, the officers seized huge quantities of ginseng and dried seafood with similar price displays from eight shops suspected of misleading consumers. Nine persons were arrested and convicted. It is hoped that the Government will not go soft on the crackdown on unscrupulous traders.

Similar problems appear in other industries. It is, therefore, necessary to expeditiously amend the TDO. Regarding traders who are often under complaint, or traders who, after receiving service fees, do not provide the services or provide services different from those promised, we also propose that legislation be drawn up to stipulate that traders who do not provide services after receiving pre-paid service fees shall be subject to criminal prosecution, so as to protect consumer rights and interests. Such a move can stop the trickeries of dishonest traders. Such traders will also be prevented from resorting to civil business disputes and personal debt arguments as a shield, and as a means of cheating consumers and avoiding legal responsibility.

The Democratic Party supports item (1) of the original motion, the one on having a cooling-off period. This is quite important. A cooling-off period, is only fair to all operators of service industries and consumers. I have item (2) of the original motion deleted. It is not that I am against its spirit. The point is that in my opinion, there is no need for written confirmation if there is the requirement to have a cooling-off period since we are talking about service industries making deals verbally. Once there is a cooling-off period, then

consumers may verbally effect cancellation anytime. This is already a form of protection. So, it is most crucial to have a cooling-off period.

Finally, the Secretary may remember that I once asked her to spend some time on reading the advertisements in weekly magazines. I have picked two copies at random. One is East Week magazine. The other one is the Next magazine. Every week, two companies invariably publish sizable advertisements in the magazines. Europe International Therapeutic Association is one of the companies. However, I can tell Members that most of the contents of the advertisements are misleading. Secretary, let me read out some of the contents for you all: Removing eye bags without leaving a scar. Many Members here have eye bags.*(Laughter)* Everybody understands why we have eye bags. The words used in this advertisement are really appealing: Fat in eye bags can be extracted by experienced professionals; wrinkles removed by skin tightening; dark circles around the eye eliminated; done at one go; no relapse; no surgery required. If possible, I would like to be a customer too. This other one is on skin regeneration and beauty treatment, claiming that one's electrostatic restructuring and body functions can be enhanced; wrinkles on the face, neck or around the eyes, dark circles around the eyes, eye bags, yellow pigmentation, freckles, and acne scars can all be removed; skin pores can be shrunk; and effective at one go.

Here are some advertisements which may be more sensitive in nature. There is an advertisement put up by Medi Beauty Concept Creative Association. However, I think it belongs to the same group. Every week it publishes in each of the two weekly magazines a full page advertisement, making the claim that they can provide long-lasting breast enhancement therapy — no surgery required; guaranteed to be effective; breast augmented by 2 to 4 inches after the treatment course. I think all these are impossible. I would like to let the Secretary know that such advertisements appear every week in different weekly magazines. Also, they are not confined to these two. I have made some investigation. Behind them is in fact the same group. It is just that different names are used, and women are cheated every day. Unfortunately, most of those cheated are women. Complaints lodged with me are invariably from women who have borrowed twenty to thirty thousand dollars from their families for participation in the treatment course, only to have their own skin impaired.

Madam Secretary, I wonder if you have read such advertisements. I once called upon you to use a little time to take a look at the advertisements in those

magazines. In that case you can see how misleading they are. The reason is that the TDO does not cover such services. Also, they are not advertising on television. It is not permissible to advertise on television or radio by using the same words. It is because there is legislation to regulate such advertisements. Why is it permissible to advertise in the printed media? I think the Government can give no answer. Why is it permissible to use the same words in printed advertisements? It is precisely because there is a loophole in our legislation. The protection of consumer rights cannot afford any further delay. Seven years ago, in a case about travel membership, the court ruled in favour of the victim. At that time, the judge expressed the hope that the Government could draw up legislation in that respect. That happened seven years ago. Secretary, we have been waiting for seven years. We can wait no longer.

I so submit.

**MR VINCENT FANG** (in Cantonese): President, I have been in the retail industry for some 30 years. As said in my operation manual, customers (known to all of you as consumers) have very friendly and close ties with us. Although our slogan is not as sensational as the one used in the Mainland — "Customers are God" — we do cherish our relationship with customers. It is because our business philosophy is all about the long run, and to retain customers is even regarded as the most important issue.

Since becoming a Member, I frequently have to face requests for enhancing consumer rights and consumer protection, and motions like the one today. It seems that others all look upon the people in the wholesale, retail and services industries as burglars, swindlers and abductors who treat consumers as enemies. We do understand that accusations are made against a handful of unscrupulous traders only, such as those dishonest shops which were found cheating mainland tourists in 2007.

At that time, I stated in the relevant debate that such dishonest shops and trade practices which damage our reputation as a paradise for both shoppers and gourmets will also deal a blow to law-abiding traders like us. As the saying goes, a whole pot of porridge may be spoiled by just a lump of rat excrement. Honest traders are like porridge in the pot, and are bound to be affected.

There is an example in the beauty care industry, the one mentioned by Mr Fred LEE in his amendment. Today, every Member will receive a joint letter from the Federation of Beauty Industry chaired by me and four other trade associations. In this letter, the ways in which those black sheep have impacted their businesses are described.

Why do I serve as the president of the Federation? It is because in the aftermath of the financial tsunami, banks, on account of their own investment mistakes, reorganized their business and tightened the settlement of credit card payments for the beauty care industry by moving up from the original T+2 days to T+180 days. Because of this, the industry got into trouble immediately. So, members of the industry wanted to negotiate with the banks through me. However, to my regret, I was unable to help them. Later, some beauty saloons closed down on account of operational problems. Yet some members of the industry who were engaged in dubious trade practices took the opportunity to cheat customers and then closed down. This dealt further blows to law-abiding traders. To protect the reputation of the industry and to restore consumers' confidence in the industry, members of the Federation voluntarily stepped forward to honour, at no charge, the unfinished treatment courses for the victims.

What these unscrupulous traders have damaged aren't just the rights and interests of consumers. Also damaged are the reputation of Hong Kong and the business environment of law-abiding traders. Hence, the Liberal Party and the industries are in favour of getting rid of such "rat excrement" by stipulating stern punishments or announcing their names to warn consumers. However, the motion of today gives me this feeling that since it is so difficult to identify unscrupulous traders, we had better discard the whole pot of porridge and start afresh. Even if there are to be more laws, they can only keep a watch on the gentlemen and tie up the law-abiding persons. There can be no watch on the villains or stake-holders intent on cheating people.

At present, there are in Hong Kong some 20 pieces of legislation on trade practices and consumer rights, such as the Unconscionable Contracts Ordinance and Supply of Services (Implied Terms) Ordinance. These are in fact already quite enough. However, there is, on the other hand, not a single piece of legislation for the protection of law-abiding businessmen.

We understand that in recent years there have still been cases of cheating consumers from time to time, and there have been especially more complaints



about contracts with many terms and conditions. So, both the Liberal Party and the wholesale and retail sector are also in favour of setting different cooling-off period for different industries, so that consumers may terminate the contracts at no extra charges if there are good reasons and justifications. However, in the case of the beauty care industry and electrical appliances industry, it is relatively hard to set cooling-off periods. It is mainly because most customers pay with credit cards. If there is cancellation after the making of payments, banks will charge handling fees and blacklist the traders concerned. What is more, if on the day of package ticket purchase, treatment was already received or goods already taken away, and if the transaction is subsequently cancelled, then how should the price of that treatment be computed? How can the trader sell the bottle of facial cream, one with a broken seal? Regarding electrical appliances, shops usually do not keep a lot of stock. Orders are placed with wholesalers only after customers make their picks. If there is cancellation by the customer, who is to be responsible for the delivery cost?

Should a shop wish to have a customer "ripped off", it definitely will treat the customer as a VIP during the cooling-off period, and proceed to do so only after the period. In the event that a customer abuses such a provision, the shop will incur losses. At the end of the day, it is again honest traders who suffer.

With regard to the confirmation of agreements concluded verbally or over the phone, the Liberal Party believes that a more flexible approach should be adopted. The key point is instead all about letting the parties concerned fully understand the contents of such agreements.

With regard to regulating person-to-person telemarketing calls, we too think that it is not advisable to place that outright under the ambit of the Unsolicited Electronic Messages Ordinance. It is because many trades still have to market over the telephone, some examples being business stationeries and appliances, real estate agencies, and even marketing surveys. Once they are included in the no-call list, normal selling activities and channels for collecting public opinions will be stifled, thus reducing the business development prospects for small and medium enterprises and shattering the "rice bowls" of many.

However, lest telemarketing calls may cause inconvenience to the public, we propose to impose appropriate regulation person-to-person telemarketing calls, such as by requiring designated prefixes for such calls and the display of numbers, so that people can identify them and decide whether to answer the calls.

It is believed that it is more difficult to enforce the law with regard to roaming. It is because at present it is hard to tell from the sound of the ring if the person is outside Hong Kong or not.

These days we have been paying much attention to the indiscriminate sending and charging of SMS messages. The Office of the Telecommunications Authority yesterday released a code of practice for the purpose of regulation, explaining that there is no need for legislation. The Liberal Party finds this a good approach. It can be said that the Consumer Council can claim full credit for this achievement. So, the existence and functions of the Consumer Council are beyond any doubt. It is especially effective in dealing with consumers' complaints and liaising with the business sector.

President, consumers are the "bosses" of the wholesale and retail industries. We definitely cherish them. However, is it fair to legislate incessantly to tie up honest traders just because of a handful of unscrupulous traders? In our opinion, every new measure must balance the rights and interests of the two sides. We definitely agree that the Government should adopt stronger measures to punish unscrupulous traders and set up a satisfactory mechanism for the disclosing the names of those blacklisted. At the same time, it is hoped that the Government can step up measures to clamp down on counterfeit goods, and deploy additional resources to expand the "Quality Tourism Services" scheme and the "No Fakes" accreditation scheme, so as to uphold our reputation as a shoppers' paradise. We are very much in favour of such efforts. Only these are beneficial to Hong Kong, consumers and shoppers.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, free competition is the cornerstone of our economic success. While advocating an open market to foster a favourable and fair business environment in Hong Kong, the Government is also committed to protecting consumer rights and enhancing consumer confidence, with a view to upholding our reputation as a shoppers' paradise. The objective of our policy on consumer protection is to make sure that the products and services in the market are up to standard in safety while quality-wise, they do measure up to reasonable yardstick, so that there can be fair and reasonable treatment for the consumers. With regard to traders, the Government likewise has to protect their legitimate rights and interests and encourage members of the industries to do business in

ways that are fair, so as to maintain good business reputation, and thus enhance people's confidence in making purchases. The two are not in no conflict.

With regard to those unscrupulous sales practices that crop up in the market from time to time, the Government is aware of them and is very concerned. The Government is pressing ahead with the review of the current consumer protection legislation, and conducting examination to see how to strengthen the current legislative regime, so as to tackle unscrupulous sales practices more prevalent in the market in a timely and targeted manner. When formulating proposals for legislative amendments, we will make every effort to strike an appropriate balance between protecting the fair and reasonable rights of consumers and the operational efficiency of business. We will give careful consideration to see how we can clearly define unscrupulous practices and formulate effective and specific measures to clamp down on them. Also, efforts will be made to avoid, as far as possible, causing the business sector unnecessary compliance costs or affecting their daily operations and marketing activities. Our target is to bring a win-win solution to both the consumers and traders.

The Government's review has already entered the final stage. There is a plan to explain to the Legislative Council in the near future the direction of the Government's legislative amendment proposals. I thank Ms Starry LEE for introducing today's motion debate, and am also grateful to Mr WONG Kwok-hing, Dr Samson TAM, Mr Fred LI and Mr Vincent FANG for their amendments. Today's debate gives us the chance to listen to views and draw on collective wisdom. It is likely for different parties to differ on some details. However, with regard to the principle of safeguarding the reasonable rights and benefits of buyers and sellers, we share the same objective. When formulating proposals on the enhancement of consumer protection, we will fully consider opinions from both Members and the public.

To help today's motion debate, I have here some figures for Members' reference. According to data from the Consumer Council, from January to November 2009, the Council altogether received 7 869 complaints about unfair trade practices. Those concerning the services industry totalled 6 568 cases, or 83% of all the complaints. The breakdown by trades shows that trades getting the highest numbers of complaints are, in descending order, the financial services (4 148 cases, of which 4 068 cases are Lehman Brothers-related complaints), the telecommunications services (773 cases), and electrical products (458 cases). Of the unfair trade practices under complaint, the giving of false statement tops

the list (5 499 cases). The second place goes to hard-pressure marketing tactics (102 cases), then baiting in selling (52 cases).

Figures of complaints received by the Consumer Council give us a better understanding of the general situation of undesirable marketing tactics in the market, thus enabling us to introduce more effective and specific legislative amendment proposals. Surely, figures of complaints received by the Consumer Council do not necessarily reflect the whole situation. So we also pay much attention to all media reports on undesirable marketing tactics. Relevant consideration will also be given when formulating new policy proposals.

President, I will listen to Members' views first, and respond to the main proposals in the motion and the amendments at the time of summing up. Thank you.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, Hong Kong has long enjoyed the reputation as a shoppers' paradise. Unfortunately, in recent years, undesirable trade practices have been emerging one after another as unscrupulous traders seek to reap colossal profits. As a result, there is a non-stop stream of complaints. Furthermore, with the Government remaining aloof by neither drawing up legislation to regulate nor stepping up law enforcement, Hong Kong's solid reputation as a shoppers' paradise has gone to pieces. Complaints concerning undesirable trade practices that the Consumer Council alone received in the first three quarters — also referred to by the Secretary earlier on — totalled some 7 000 cases, a figure representing an increase of 50% over the same period of last year.

Why is the said figure constantly going up? Has the Government sought ways to deal with it? The situation is indeed one in which righteousness is strong, but the devil is ten times stronger. Unscrupulous traders definitely will find every way and play every trick to make use of loopholes in the law. However, if the Government thus takes a passive approach, they will only turn even more aggressive, making dupes out of consumers.

Here is an example. There is a piece of legislation in Hong Kong on prohibiting pyramid selling, but unscrupulous pyramid selling practices in the market have kept changing. In some cases, the sales of goods or services are simply not involved in order to avoid regulation. The company mentioned by

Mr WONG Kwok-hing is an example. How is the Government going to deal with it? The Government is often "slow-moving", saying that it is necessary to study the legislation of other countries or places, and that the needs of Hong Kong must be catered for. In brief, there are all sorts of excuses, as a result of which a solution is nowhere in sight.

While it was pointed out by the Consumer Council earlier that people were lured by unscrupulous traders into buying digital set-top boxes at high prices, I in fact have also received many complaints, including those from friends close to me. According to them, there were a lot of obstacles when attempts were made to terminate the service of a certain subscription television company. Members of its staff will make every effort to coerce or mislead consumers, so as to deter them from canceling their subscription. Elderly persons, women and children, are especially easy to deter. Let us again look at the complaints against that company received by the Consumer Council. They are so huge in number that the top position surely goes to them. With regard to such companies that do business dishonestly, what has our Government done to safeguard humble citizens' rights and interests?

Here is another issue that very much deserves attention. In recent years, there has been the proliferation of person-to-person telemarketing activities. The situation has reached such an outrageous state. A citizen invariably receives one or two telemarketing calls daily. This is something very common. However, all along the Government refuses to place person-to-person telemarketing calls under the regulation of the Unsolicited Electronic Messages Ordinance on the ground that most of our business establishments are small and medium enterprises (SMEs) that rely on this as a means of marketing. This is indeed disappointing.

We probably understand that once these telemarketing calls are placed under control, some SMEs will indeed be affected. This, however, does not make such calls any more justifiable, the reason being that these selfish activities are tantamount to seeking happiness at the expense of others' suffering. We definitely are not asking for a total ban of all person-to-person telemarketing calls. We only seek to ensure that people may refuse to take these calls when they so wish. It is hoped that the Government can realize the problem, and use no further lame excuses to dodge responsibility.

I think that it is necessary for legislation safeguarding consumer rights and benefits to keep abreast of the times, so as not to let the crooks have any chance to take advantage. At the same time, all the fragmentary legislation on this issue should be consolidated in order to monitor unfair and unscrupulous trade practices more comprehensively. I support the motion's proposal on studying the possibility of entrusting enforcement powers to the Consumer Council, instead of just leaving the matter to the Police and the Customs and Excise Department and other departments.

It is my belief that so long as the Government has the determination, our reputation as a shoppers' paradise can surely be rebuilt, and the local people and tourists can then spend money here with even greater peace of mind. President, I so submit.

**DR PAN PEY-CHYOU** (in Cantonese): President, in fact, the subject of protecting consumer interest has been discussed in the community for many years. However, cases of consumers being misled and deceived are still never-ending and it can even be said that they are still very common. There has not been much improvement in the situation. Improper sale practices do not just undermine the interests of the public, but they also affect the reputation of Hong Kong. We know that some mainland organizations even remind local people to be particularly careful when coming to Hong Kong for sightseeing and shopping lest they may falling into any trap.

Today's motion once again reminds us that we must face the problem squarely and it also tells the Government that the situation has already come to such a pass that we can delay no more. We must now put words into action and take real actions to protect consumers comprehensively.

Undeniably, in order to make products more attractive, sales persons may call a black cat white to mislead or deceive consumers and such instances are very common. The amounts involved may vary from as small as a few dollars to as much as one's life-time savings. Earlier on, Members mentioned some fraudulent cases involving consumer products, that is, some fraudulent cases involving some articles or consumer goods. However, I wish to talk about two examples that are more special. The first one is in the financial domain and is related to London gold trading.

According to the information of the Consumer Council, six and four cases of complaints about London gold trading were received in 2007 and 2008 respectively; and as at October 2009, there were five complaint cases. The amounts of money involved ranged from tens of thousands dollars to hundreds of thousands of dollars. The complaints were mainly against unscrupulous sales practices and the conduct of sales representatives. So far, my office has received 13 such complaints in one year.

London gold trading is actually a normal investment activity. However, on the pretext of conducting questionnaire surveys, some agents from investment agencies trading in London gold made phone calls repeatedly to members of the public, persuading them to take part in London gold trading and investment activities and providing them with wrong information, claiming that they only have to participate in it to make handsome profits in a short time. As a result, some members of the public were led into thinking that this was true.

However, after these unlucky members of the public had put money into the accounts and signed the agreements, the agency would change its attitude. Not only would it refuse to provide information about the trading operation, the transaction documents, and explain the risks involved, it would even demand that investors continue to increase the amounts of investment. Some agents even make use of investors' accounts to keep doing transactions without consent from investors in order to earn custodian interest and commissions. Even when the investors requested to "cut loss", this was to no avail and the deposits in their accounts would eventually "dry up". Throughout the entire process, investors would not make any profit, their original assets evaporated rapidly and they had no complaint channel.

Although it is said that the value of investment and trading funds may rise as well as fall, what should the Government do when investment companies or agents deliberately take fraudulent or misleading acts and blatantly make use of the assets in investors' accounts to earn commissions from the transactions without the knowledge or consent of investors? Can this be monitored by enacting legislation, so as to prevent more members of the public from falling into such fraudulent traps as a result of buying this kind of financial products?

In fact, unscrupulous business practices in society are ever-changing. The chances of members of the public being deceived will only keep rising and the industries and items involved are also getting more extensive. The example I

cited just now do not involve conventional consumer products and the next example involves education.

In order to encourage members of the public to pursue further studies, the Government launched the Continuing Education Fund (CEF) to subsidize them in pursuing further studies and enhance themselves. This is in itself something desirable. However, quite unexpectedly, this has become an opportunity for some institutions to cheat people of their tuition money.

Several months ago, my Member's office received some complaints about the English language courses offered by an institution and eligible for application for subsidy from the CEF. I have received complaints from over 30 victims, who said that the institution concerned used the prospect of the CEF offering a subsidy of \$10,000 as the bait to persuade the public to join the English language courses offered by the institution.

After being coaxed into enrolling, they were requested by the institution to make a one-off payment for all the tuition fees. In the classes, students with diverse standards were put together. As a result, some students with lower standards could not learn anything in class at all, not to mention coping with examinations or completing the course, which was a requirement for claiming the subsidy from the CEF.

Unfortunately, although "the actual goods delivered do not fit the description", the students could not get a refund of their tuition fees and they had nowhere to turn to for help. These students only wished to pursue further studies. Although they paid the money, in the end, they could not get anything in return.

At present, more and more consumers have been victimized. Has the Government ever considered fully regulating unfair trade practices involving goods and services, including stepping up the regulation of the advertising gimmicks of commercial organizations and in parallel, prohibit the practice of one-off payment in order to protect the interests of consumers?

Although the two foregoing examples above involve different areas, when consumers fall victim to them, their rights are similarly infringed upon. To address the problem once and for all, the Government must address this issue



squarely and actively review and improve the existing legislation to impose full control. Otherwise, it will totally undo Hong Kong's reputation as a shopping paradise.

I so submit.

**MR WONG TING-KWONG** (in Cantonese): President, of all the many issues compromising the interests of consumers, I will mainly comment on the problem of person-to-person telemarketing calls.

To people living in this modern city of Hong Kong, mobile phones are indispensable accessories in their daily activities. However, people who own them have invariably suffered from the pestering of telemarketing calls. What is even worse is that after one has been pestered by those telemarketing calls on a business trip overseas, one has to pay the charges for these long-distance calls.

The SAR Government enacted the Unsolicited Electronic Messages Ordinance (UEMO) in 2007 to regulate the sending of commercial electronic messages, but the UEMO does not cover person-to-person telemarketing calls. At that time, I already felt that person-to-person telemarketing calls really had a great impact on mobile phone users. Therefore, I considered the legislation inadequate and I proposed an amendment to cover person-to-person telemarketing calls. At that time, I even had the support of Mr Ronny TONG of the Civic Party. However, in the end, the Government's motion was passed with 26 Members for and 16 Members against it. According to the Rules of Procedure, after the passage of the government motion, my amendment would be negated. I find this a pity.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

Yesterday, I made a visit to a telecommunications company in Kowloon Bay on purpose and had thorough exchanges with the industry and its users (including some banks and insurance companies). They indicated that at present, there are about eight telecommunications companies in Hong Kong with over a thousand employees. There are detailed guidelines on their operation and

front-line staff also have to undergo strict training. There are also very stringent requirements on the users of their services. According to their clients, that is, those banks and insurance companies, they have provided their classified promotion lists to these telecommunications companies to let them contact their clients. These companies can by no means make random calls wantonly. If their clients find it somewhat disturbing, these telecommunications companies have to immediately delete the names from the lists. They think that the present problem found in society is caused by telecommunications companies outside Hong Kong. These are the black sheep and the industry is also worried that a piece of across-the-board legislation may cause innocent ones to suffer.

The UEMO has been implemented for two years. The DAB has recently conducted a survey and found that more than 70% of respondents who had received person-to-person telemarketing calls indicated that in the past six months, the proportion of person-to-person telemarketing calls was higher than that of marketing calls with pre-recorded telephone messages. More than 50% of the respondents even considered that the number of person-to-person telemarketing calls had increased in the previous six months. On this basis, it can be estimated that a great deal of telemarketing activities have switched to the person-to-person mode. In addition, more than 90% of the respondents have a negative perception of person-to-person telemarketing calls, with 60% of them criticizing this kind of calls for being annoying. Only 8% of them would go on listening when they received telemarketing calls and 40% of them would hang up at once. I believe that without any regulation, the public are quite resentful to this kind of telemarketing calls. Putting them on the right track can only serve to enhance the image of the industry.

Therefore, the DAB suggests that all person-to-person telemarketing calls must display callers' identities and the phone numbers. A registration system should be set up and the commercial organizations concerned cannot make person-to-person telemarketing calls to the phone numbers in the registry. It should also be stipulated that during a person-to-person telemarketing call, the recipient should be allowed to choose whether or not he wishes to continue to receive calls from a particular company in the future. Besides, upon receiving a roaming signal from the telephone of the receiver, the caller should hang up immediately. In the meeting with the industry during the visit yesterday, I found that the aforesaid recommendations were also found in the operating guidelines of these telecommunications companies.

We think that putting in place a registry can help the industry delete names of those clients who absolutely do not wish to receive person-to-person telemarketing calls as well as raise the response rate. At the same time, this can also leave some room for members of the public who do not wish to totally refuse any kind of messages to choose not to register in the "do-not-call registers", so that they can decide whether or not to receive a company's call according to the services provided by the marketing company. Displaying caller's numbers and displaying the calling line information can assist the public in deciding quickly whether to answer the call and to continue with the telephone communication.

I repeat that the purpose of introducing appropriate regulation is to enhance information transparency in order to strengthen the protection of consumer rights, rather than to ban such marketing activities completely. I hope that we can do our best to safeguard the interests of all law-abiding companies in doing businesses in a fair and healthy business environment without affecting the operation of local telecommunications companies, and to protect consumers against any unfair or unjust treatment.

I so submit and support the original motion and all amendments.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, these days, pre-paid contractual services are very prevalent but they have also led to a lot of problems at the same time. In July last year, I assisted in handling a case in which the victim was a student on Comprehensive Social Security Assistance looking for a summer job. As he was eager to find a summer job, he entered into an agreement of subscription to pay television service with the service provider. However, later, he could not afford to pay the subscription fee, so he sought assistance from us. In the end, we found out that the claim that consumers can be assisted in finding jobs by signing an agreement of subscription to a pay television service is false. This is a real case.

When handling the cases received by us last year, a random survey on the situation at Oi Man Estate was conducted. Mr CHO Wui-hung, a member of the District Council concerned, and I jointly conducted the survey and found that there were 40 cases of complaint against telecommunications and pay television services within the short span of just a few months. What are the complaints concerning pay television about? The conclusion we draw is that in fact, new marketing practices appear all the time. Take public housing estates as an

example, many promoters might claim themselves to be staff members of the Housing Department or to be co-operating with the Government. Or, they might claim they have been authorized by the Housing Department to carry out door-to-door promotional activities or check television signals and broadband. However, after gaining entry on such pretexts, they would promote other products. Another kind of cases is similar to the aforesaid one. It is claimed that they can help consumers get a job or that there are free gifts such as digital set-top boxes, free subscription to digital television, upgrades of the signals in the building or free checks on a household's telecommunication or broadband speed. Once consumers are persuaded and sign an agreement, they will be bound by it. If they default in payment after signing the agreement, they will be considered to have breached their contracts. Consumers will be told that their company is a large one and that it could call the police to arrest the other party to the contract. It is also said that the existing four free television channels will no longer be available if digital set-up boxes are not installed. Some would claim that the installation technician has been arranged, so the agreement must be signed. These specific examples are all the personal experience of the people in local communities.

From the figures, due to the limited time, I can only raise two points, one being whether or not the promoters made any special offer and requested the signing of contracts. Among the respondents, 28.69% indicated that the promoters would try to induce them to sign contracts with some special offers. Another question is whether or not the promoters resorted to any threats if the respondents refused to sign contracts or requested to terminate such agreements. The percentage for those who answered in the affirmative was as high as 33%. Of course, being threatened or not is a subjective feeling but the people concerned might feel immense pressure.

In addition, there are also other examples. Today, we have also received a submission from the Federation of Beauty Industry. I also have some experience about the problems relating to the beauty industry. For example, I almost wanted to lodge a complaint with the Consumer Council against a rather well-known beauty salon called Modern Beauty Salon but pursued no further in the end as I had no time. How is its practice like? In fact, its fees and charges are low and it also provides a large number of services. After pre-payment, consumers are given membership for one year and the charges are much lower than those in the market. However, the majority of the complaints involved the inability to use its services due to the great difficulty in booking a time slot for

services. Despite continuous efforts in making phone calls, the calls were transferred to another telephone and even for those who have succeeded in making appointments after much effort, and they would usually be persuaded very hard to join a new plan when they have used 70% of their coupons. I think that this way of providing services is definitely exploiting the loopholes in the law since no one has the time to keep calling to make appointments. Therefore, many consumers could only give up using its services because they are too busy.

Therefore, insofar as the sale of contractual services or pre-paid packages are concerned, it would be desirable to both consumers and the industry if the Administration can put in place more stringent requirements. In fact, the Federation of Beauty Industry has indicated that it hopes very much that just like other industries, the beauty industry can be allowed to exercise self-discipline and carry out self-management. This I can understand. Here, let me say this to the beauty industry: In fact, I also understand that there is a minority of bad elements in it and some of them are coming up with a host of ploys all the time. These ploys are not illegal as they are just making use of loopholes in the law. However, this will give the impression that there are problems with the entire industry. I think that if the industry can really put in place a code of practice, enforce it strictly and exercise self-discipline, the number of complaints will decrease and society will not be subjected to such immense pressure because many people, including a number of Members, have experienced various kinds of sale practices.

In addition, what is even worse is of course the Lehman Brothers minibond incident, which is still under investigation. Lehman Brothers-related products involved even larger sums of money. In marketing and advertising them, a lot of exaggerations were made. As a result, inexperienced investors were not protected when buying these products involving large sums of money. Therefore, I agree that a cooling-off period be set and I also agree with Honourable colleagues who said that when amending the legislation (such as the Trade Descriptions Ordinance), the scope of the amendments should cover the services industry. In this regard, basically, we think that these large-scale enterprises should assume corporate social responsibility. When amending the legislation, I also agree that representatives of the industries should be included, so as make sure that the difficulties facing promoters can be understood because the majority of the complaints we received are from consumers. Of course, we can only talk about the situation of the complainants. In fact, I think that it is a good thing that the Federation of Beauty Industry has given us their submission.

I also welcome the participation of the representatives from the industry when the relevant legislation is amended. We will definitely consider their voices. Thank you.

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

**MISS TANYA CHAN** (in Cantonese): Deputy President, today, we are discussing the establishment of a consumer protection regime. In fact, frankly speaking, today's debate has come too late. Such policies and legislation should have been put in place since long ago. Just now, some colleagues have given some examples that happened around us. However, we can also take a look at some other places. Take Taiwan as an example, there are legislation and policies there to protect consumer rights. In many aspects, consumers in Hong Kong are not protected. For example, Honourable colleagues mentioned earlier on that some young people were targeted in the sale of memberships using inappropriate marketing practices or are requested to pay telephone charges amounting to \$10,000 after having replied to a couple of short messages inadvertently. Moreover, at present, no protection on pay television, Internet and the purchase of investment products, properties and ossuary niches, and so on, is available. In Taiwan, Article 1 of the Consumer Protection Law states, "The Consumer Protection Law is enacted for the purposes of protecting the interests of consumers, facilitating the safety of the consumer life of nationals, and improving the quality of the consumer life of nationals." I also wonder when the rights of customers in Hong Kong can have the protection of a comprehensive legal regime.

Next, I will talk about two matters that are different from those raised by Honourable colleagues earlier on. What I want to talk about is the abodes for the living and the abodes for the dead. In fact, these two are our very long-term investments. Apart from raising children, the abodes for the living are our biggest investment; whereas our offspring may have to continue to pay for the abodes for the dead after we have made the investment and these abodes may even become their burden. Members of the public want to buy their own properties. Buying first-hand residential properties is not the same as buying a piece of jade. Despite the fact that the amount of money involved can be as much as several million dollars, the prices of the property are not known until the

day before the commencement of the sale of the property or even later. In fact, in 2002, the Government proposed the Sales Descriptions of Uncompleted Residential Properties Bill. However, the Bill was subsequently withdrawn by the Government. The consumer protection afforded by the Bill at that time was far greater than the present code of practice for the property industry. The Bill required developers to announce the prices seven days before the commencement of the sale of the property and imposed detailed regulation on the sales brochures. Most important of all, if there were problems or false information in the sales brochure, the buyer could call off the transaction. These were provided in the Bill. Today, the advertisements for the sales of uncompleted properties are multifarious. Despite recent amendments to the legislation, self-discipline by property developers is still necessary.

Talking about the interests of consumers, just now, I said that I wanted to talk about the abodes for the dead, that is, niches. The price for a private niche ranges from tens of thousands of dollars to hundreds of thousands of dollars. I have heard of one that cost more than a million dollar. Buying a niche in advance does not mean that one can have peace of mind. Private columbaria are still not regulated for the time being. There are reports that some have violated the rules on their construction. The most outrageous thing is that even a car park can be turned into a columbarium. My office has received 20 to 30 cases of complaints about niches bought before death. One of them is really astonishing. That complaint was about a niche bought by a member of the public while alive. The operator demanded that the person who had bought the niche should personally "put the urn in". That is to say, the end-user of the niche has to personally "put the urn in". I find it very strange. How on earth can one get the buyer to personally "put the urn in"? Let me repeat that the terms and conditions are that having purchased a niche while one is alive, one has to personally "put the urn in" after death. I really do not know how that can be performed.

Another case involves a member of the public who bought a niche by installments. Unexpectedly, the niche was suspected to have breached the land lease and the transaction was stopped by the Lands Department. However, before the issue of whether or not the lease allows the construction of niches was sorted out, one already had to start paying the installments. Fortunately, thanks to the mediation of the Lands Department, the buyer could defer payment by one installment. However, up to now, the seller is still reluctant to undertake to give

the buyer a full refund in the event that it is not possible to make the columbarium Comply with the law.

In addition, if Members pay more attention, they may notice that these contracts are very tricky. The installments are for cleaning charges and management fees. The buyers never have any ownership. The greatest twist is that in 2047, the buyers can discuss the issue of land premium with the Government through the seller. However, the fees and charges will be paid by the buyers, that is, to be shared by all buyers and the person-in-charge of the columbarium will absolutely not pay the land premium. The contracts for these niches are quite unfair. They all talk about cleaning and management fees and charges but there is no mention of how repairs and maintenance will be carried out in the future. If in the end, unfortunately, an operator of a columbarium (who may be a company incorporated with a capital of \$1) suddenly disappears or cannot be traced, who will be responsible for the repairs and maintenance in the future? Or, has the Government put in place a policy to take it over? Similar to the case of abodes for the living, all these can be described as "uncompleted properties".

In order to solve the problems of land burial and land shortage, the Government has been encouraging people to switch to cremation. However, the niches are found to be insufficient and there is no supervision at present but so far, there is no answer to questions such as what places can or cannot be used to store ashes and whether there is any breach of the land lease. The Lands Department has to enforce the law based on the land lease. If it cannot detect any violation of the rules, it cannot enforce the law. Recently, Secretary Dr York CHOW proposed the establishment of a voluntary registration system but can this really rectify a problematic system thoroughly? I cannot see this possibility. What does this ordinary voluntary registration system signify? In fact, it does not mean that a columbarium is compliant and legal, nor does it mean that there will be a fund to provide services in the future. This directly involves consumer rights. We hope and suggest that columbarium operators set up a stakeholders' account with a solicitor firm before they have found out whether or not they can operate these services. However, to my understanding, the Government still has no intention of making such an arrangement.

I hope that the Government can provide a comprehensive consumer protection regime covering such areas as the various marketing practices mentioned by Honourable colleagues earlier on, the beauty services mentioned by



the Deputy President as well as columbarium niches. Be it the abodes for the living or abodes for the dead, I hope the Administration can provide protection to the public. Thank you, Deputy President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, Ms Starry LEE's original motion points out that incidents of traders using misleading, deceptive, high-pressure, intimidating, harassing or other unfair means to market products or services are common in recent years, thus compromising the rights of consumers. Deputy President, the problem raised by Ms Starry LEE is very true. The tactics really include misleading, deceptive, high-pressure, intimidating, harassing or other unfair means. However, some of her claims are not very accurate. She said that these problems occurred in recent years but in fact, that is not true. They have existed for many years. Unfortunately, the Government is turning a blind eye and a deaf ear to this problem. It did not actively handle the problem at all. As a result, victims keep complaining. Recently, it even tolerates and condones law-breaking business people in going further and using even more diverse ways to undermine the interests of consumers. The extent of consumer's losses can range from several hundred dollars at minimum to losing their lives at worst, and this is the most sorrowful thing.

(THE PRESIDENT resumed the Chair)

I wonder if Members have noticed the case relating to the sale of aromatic products. Several persons incurred debts amounting to a million dollars because of selling aromatic products and when they could not solve their problems, they killed themselves by jumping off buildings in the end. I do not know how much the Government knows about this issue. I believe the Government is probably aware of it because it also reads some news. However, even if it is, so what? Up to now, there is still no legislation to regulate or stop this kind of situation and in fact, the several companies concerned still exist and people are falling prey to them every day. I do not know why the Government can tolerate or condone their existence. Apart from those cases of aromatic products, just now, some Honourable colleagues have also mentioned travel club membership. The four companies marketing travel club memberships still exist. They still attract people to them by means of telephone calls, and then coerce them into signing contracts using misleading, deceptive or intimidating means, as Ms Starry LEE

said. To ordinary members of the public, the amount of money involved in these contracts is not a small one. They will first ask the victims to give them all the money they have with them and then sign a contract with them on the collection of the "balance". In the cases referred to me, the debts involved could be more than \$80,000. Although the catalogues of these so-called travel club memberships provided by those companies are very attractive, when the victims wanted to try out the service according to the information provided, they found out upon telephone enquiry that no such service was available at all. When they requested these companies to make the arrangements for them, their requests were refused on various pretexts and they could not make a trip even when memberships expired.

How does the Government deal with these problems? Does the Government think that since the victims are adults, they should not fall into such traps due to intimidation or misleading practices? How can they be so stupid? I hope that the Government will not say anything like this. However, how can it help them resolve the problem of contracts signed under deception and intimidation? There are real cases in which three persons in a room first took away the identity card of a victim, then his credit card and then asked him to sign a contract. As those items are in those people's hands, he could not possibly refuse to sign. If the victims said they had no money, two burly guys would escort him to an automatic teller machine to make withdrawals. Such instances really exist.

The usual practice of these companies is to first make a telephone call to conduct a survey to find out the interviewee's age and family background. Their target is a certain age group, that is, young people in their early twenties. As they are fresh graduates not familiar with things in society, they were attracted to these companies to listen to the presentations on travel club memberships and then forced to sign contracts. Of course, since the products were not actually available, the victims would not pay the money, so these companies would threaten to take legal action. Generally, people will panic. Even though these cases only involved the Small Claims Tribunal, they were still frightened. These companies would then propose settlements with the victims and demand that they pay tens of thousands of dollars. In order to avoid litigation, the victims would just pay to settle the matter. To a consumer, he is paying a sum of money without getting anything in return. These people have also sought help from the Consumer Council (CC). The CC has now gathered a dozen of cases and suggested that the victims make counter-claims against these companies in order

to recover the money. There is a fund under the CC. However, people running the fund still cannot come up with a decision even after a long time, and in meantime, the other party continues to exert pressure on the victims. As a result, they do not know what to do. These members of the general public are very worried. Without any support, they do not know what to do and are feeling all at sea.

Therefore, I think the first important question is whether or not a cooling-off period is provided in signing contracts. After one is forced to sign a contract, if one can cancel it on finding out that something is wrong, it can be said that protection is available. Meanwhile, if there is a support fund to offer help in legal proceedings, one will also have greater confidence. However, at present, there is nothing whatsoever. In the cases relating to aromatic products mentioned just now, what is even more serious was that the people were deceived by fraudulent pyramid selling practices and they had to commit suicide by jumping from height. Therefore, their situation is very miserable. I hope that the Government will not tolerate these problems anymore but deal with them as soon as possible.

I think that the recent incident concerning Liquefied Petroleum Gas (LPG) is also a problem. It turns out that its quality is not regulated. This makes drivers very worried as they cannot be sure if the LPG they use is safe or not. I hope that the Government can consider monitoring the quality of the product at the same time to ensure that consumers can have a sense of security because confidence is very important. I hope the Secretary can pay greater attention to this area and take measures to deal with the problem expeditiously to prevent consumers from being victimized.

**MR JAMES TO** (in Cantonese): President, I have served as a Legislative Council Member for over a decade, so when I saw this subject, I thought it is nothing new. However, the greatest difficulty lies in how to understand this subject and how to make legislative proposals in the end. Pure discussion is a very easy thing to do, particularly because I find that many motions talk about making improvements or enhancements but this is of no use. Rather, I think that the most important thing is to ask, "What is the direction? How can this be done?"

President, I came across a very laughable thing during my journey to the Disneyland in the United States with the head of a law-enforcement agency. I found out that if you are willing to attend the marketing activity for a certain property development or take part in the marketing activity for certain time share arrangements for one hour, you can get an admission ticket valued at US\$40. I have ventured into the lion's den to see how they do their marketing. Similarly, my staff members have also voluntarily taken part in marketing activities for similar multi-level marketing or time-share arrangements in Hong Kong. Audio-recordings were made. I have also received many complaints lodged by the victims in many cases. Some of them participated in those activities or asked their friends or relatives to attend the activities and made audio-recordings. I understand from the facts that such misleading, deceptive, high-pressure or intimidating marketing practices really exist.

However, the question now is on how legislation can be enacted to distinguish honest businessmen, so that they do not have to bear higher costs due to this problem and they may even have to pour their money down the ditch. Members also have to bear in mind that honest businessmen will also suffer losses due to those costs and eventually, consumers will not stand to gain anything.

Certainly, it is suggested that one way is to put in place a cooling-off period. However, on the overall direction, I wish to raise some points with the Secretary. First, at present, we have not yet fully exploited the potential of criminal prosecution. Sometimes, the victims may just go inside any police station and are unable to give proper accounts of the facts of their cases. So, the officers on duty in a district may find it very difficult to handle cases like that. The station sergeant on duty may even make them leave one way or another. If this happens, it is very unfortunate. In fact, if we can gather information on these cases, after some planning, we can carry out "undercover" operations or find some consumers who are smart and can give statements. Then, in some cases, it is really possible to bring those people to justice.

Of course, I say so because I have accumulated experiences in assisting this kind of victims for more than a decade. The police and I have also joined hands in planning operations and dealt with a lot of cases successfully. I think this is the first step because legislation will take time. Although the Secretary said that consultation would commence next month, we have not fully utilized the potential of criminal prosecution. If Honourable colleagues or our assistants are

more astute or we know how to help the victims, in many aspects, we can really crack them, if I may say this. This is the first point. Of course, these operations also require collaboration from law-enforcement agencies. We have to know how to follow the clues and the Department of Justice also has to be able to identify appropriate cases for instituting prosecutions. I think that in this regard, some approaches have not been fully utilized. The Secretary should join hands with departments such as the police and the Customs and Excise in conducting detailed studies on such matters as what cases there are, what sort of "rascals" or thieves there are in Hong Kong at present, what kinds of marketing practices they are using and how we can institute criminal prosecution against them.

Second, let me give some examples. Some companies, after selling a large number of packages and getting the money, or after offering very big discounts within a very short period of time, simply close down all of a sudden. Regarding these cases, there is no need to talk about a cooling-off period or what, since this is already a kind of deception. They would even transfer the company's assets (if they are valuable) back to the Mainland or change the shell of the company and continue to do the marketing after obtaining the data. I think that what these companies have done can be dealt with by means of criminal prosecution.

However, I also know that we may not be able to deal with these grey areas or legal loopholes if there is no legislation on unfair trade practices and we can only make major changes to existing legislation. Precisely because we must deal with these grey areas and loopholes in the legislation, we have to enact the relevant provisions carefully. If the provisions are not properly drafted, honest businessmen will be worried about these problems. In sum, I think that a cooling-off period can generally be a little helpful within a certain period of time for agreements involving services. However, I dare not say that it will be very helpful.

I want to talk about a couple of examples that I have come across. They are about placing advertisements. A fax came through to ask you to place a commercial advertisement and then asked you for your particulars. You might provide your particulars, thinking that this was free of charge and only people who placed advertisements would be charged separately. However, it turned out that small prints were used to explain that by signing, it meant that you had placed an advertisement and were willing to pay. So, he would claim the

amount from you by way of a civil contract. This is obviously very unfair. However, he has a specious contract. What can be done? In the end, how long can a cooling-off period be, even if there is one? No matter if it is one week or one month long, the claims will be made against you after this period. What can be done then? After the cooling-off period, you still have to pay the money because you have no choice as the cooling-off period has lapsed.

Therefore, one cannot say that since the terms are set down in small print and they form part of the contract, the contract is invalid. We have to think about this: The words printed on credit cards used at present are even smaller. I have tried to make a comparison and found that the words printed on credit cards are even smaller. How can we apply the same set of laws to both of them? How can we differentiate between the contract for placing advertisements on this telephone directory and the contract for bank credit cards? What actually can be considered unfair? How can we tell them and let them understand in what circumstances a contract can be cancelled? All these questions are very complicated. Nevertheless, I think that we have accumulated a lot of experience. In fact, we have presented these cases to the Government and the CC numerous times. They should already have a basic framework and an idea of how to approach the problem and then conduct detailed consultation with us.

For the time being, if we can move on step by step, by providing for a cooling-off period as well as making use of criminal prosecution as far as possible, coupled with comprehensive legislation, I am confident that we can solve this problem step by step.

**MR TOMMY CHEUNG** (in Cantonese): President, Hong Kong enjoys the reputation of being a shopping paradise. This reputation is built by tens of thousands of customer-oriented and honest businessmen. Unfortunately, there are bound to be black sheep in any community. A minority of unscrupulous traders resort to all kinds of unscrupulous and unfair tactics to market their goods and services in order to make quick money, thereby undermining consumer interest.

The behaviour of these black sheep does not only affect Hong Kong's international reputation as a shopping paradise but also affects consumers' confidence in shops and the great majority of honest businessmen are also affected as well. Therefore, just as Mr Vincent FANG put it earlier on, the

Liberal Party is of the view that the authorities must conduct a comprehensive review of the existing consumer protection regime and regulations. It must act promptly and targeted actions such as stepping up law-enforcement and plugging the loopholes in existing legislation, with a view to maintaining a reasonable business environment and giving those black sheep severe punishment at the same time.

However, if all businessmen are presumed to be "unscrupulous" owing to a small number of black sheep, and regulation and harsh measures are thus imposed across the board, this will inevitably affect innocent law-abiding operators and reduce their flexibility in business operation and limit their room for survival. For example, the original motion proposes that a cooling-off period be required for all agreements involving membership, package tickets and other pre-paid services. The coverage will indeed be too wide and the requirement is too stringent.

For example, at present, some restaurants are promoting a membership system. A customer can enjoy discounts and cash vouchers of equivalent value upon joining as a member. Similar membership systems involve "memberships" and "package tickets". According to the proposal in the original motion, a cooling-off period may be required. However, if a customer says that he wants to terminate the agreement after he has used a couple of vouchers on meals before the end of a cooling-off period, does it mean that the restaurant has to give a "full refund" for the termination of the agreement? If so, is it fair to operators who spend real money delivering services with dedication?

We understand that some businessmen adopt unscrupulous marketing practices which are like "mental bombardment". Earlier on, many Honourable colleagues have mentioned the use of high pressure and deceptive means to make consumers sign agreements in unwilling, ill-informed or unknowing circumstances. The fraudulent case relating to travel club memberships recently explored by the CC is an example. Regarding this kind of agreements, we fully agree that consumers should be allowed to terminate their agreements without having to pay any fees or charges. However, it seems that it is an overkill if, due to a single incident, other law-abiding people are also punished and it is also unfair to other operators.

In addition, I find it inappropriate for the original motion to make an "across-the-board" proposal to require the terms and conditions of all verbal

agreements to be set down in black and white and that they can be effective only upon signing a confirmation. With the advance of science and technology, electronic means such as electronic certificates, short messages, emails or audio recordings can also be used to transmit terms and conditions of agreements and confirm agreements. Such restrictions are not necessary at all. Otherwise, normal business operations will lose the flexibility and adaptability that they should have. In particular, some industries, such as the provision of telecommunications services and securities trading, may have to complete their transactions within a short time and cannot possibly wait for the exchange of correspondence before they can take effect.

Lastly, regarding the amendments proposed by Mr WONG Kwok-hing and Dr Samson TAM, such as Mr WONG's proposal to step up publicity and education on the protection of consumers' rights and Mr TAM's proposal to enhance the flexibility of the issuance and confirmation of agreements, in fact, the Liberal Party also has similar ideas and finds them acceptable. However, as we have reservation about the original motion, we find it difficult to support their amendments.

Mr Fred LI's amendment proposes to subject traders who do not provide services after receiving payment to criminal prosecution. We think that the Government should strive to plug the loopholes and bring to justice those black sheep who willfully deceive customers and who have no intention to provide goods and services at all. However, it should not subject all businessmen who cannot continue to provide services to criminal prosecution, even if there is no deception, and put them in jail indiscriminately without looking into the causes to see if there is any difficulty in operation or any other unforeseeable factors. May I ask who would like to do business in such a harsh environment? Therefore, we cannot support this amendment.

President, I so submit.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, in fact, when it comes to establishing a comprehensive consumer protection regime, to briefly describe the important aspects, we should target at the three hard-hit sectors. The first one is telecommunications and television services; the second is property developers; and the third is the financial sector.



Regarding fraudulent cases related to derivative products in the financial sector, up to now, it seems that the Government wants to put a full stop to the Lehman Brothers minibond incident in a sloppy way by buying back the minibonds at 60 to 70% of the original capital. The Government did not give an account to Hong Kong people as to why this fraudulent case of the century led to such a disaster in Hong Kong. At a meeting of the subcommittee for investigating the Lehman Brothers incident, I suggested that we might as well ask the United States branch of the Hong Kong and Shanghai Banking Corporation to join us in the investigation to see why the issuers could cheat the Bank of China (BOC) Group into buying such "toxic" products, which then distributed them to the ordinary consumers by improper means. Actually, among those consumers, many were depositors. That is to say, the only consumption they had was to deposit their money into the bank in order to protect themselves and get a small sum of interest. They were misled into buying some products that they did not understand, products that can generate little profit but may lead to a total loss. Today, in this grand legislature, we are talking about establishing a comprehensive consumer protection regime without mentioning this matter, so this is downright a joke. In terms of the severity of the disaster, the amount of money involved and the scale of the deception, this incident is second to none.

Therefore, in speaking here today, I am in fact making a fuss about nothing. There is no problem with such derivatives as the Lehman Brothers minibonds or ELN in Australia or in any other places but Hong Kong. In our Government, we have the Financial Secretary, John TSANG, Secretary Prof CHAN Ka-keung and Secretary Frederick MA, who resigned and returned to the business sector on finding that things were not going well. Also, there is the Chief Secretary for Administration, Henry TANG who wanted to run for the post of Chief Executive. None of them was investigated. Joseph YAM was paid a handsome sum of money on his departure and after black-box operations, Norman CHAN succeeded as the Chief Executive. However, there is no need to give Hong Kong people an account of this black-box operation of consumer protection. Why should the Government suppress those small traders? What kind of ethics and moral is this? This is the first hard-hit area.

The second one is television and telecommunications. First of all, as the mass media, they assist the Government in suppressing dissents for a long time. In news reports, they make untrue reports on the democratic movement for long periods of time, making the most vivid descriptions to provoke discord. That is

how they are like. I am also aware that in the Residence Bel-Air incident (that is, turning the Cyberport project into the Residence Bel-Air development), the richest man in town, LI Ka-shing, deserves criticism. In addition, incidents such as the stock listing with the code of eight and Tom.com were all deceitful incidents in which rich people cheated people of their money. However, we cannot do anything about them. Is the system plagued with problems when some young people who are anxious to find jobs are forced to deceive customers in the street? I have already said in the Legislative Council that if these front-line people are guilty, those who conceived those plans should also be guilty. He should at least be sent to naraka 20 forever — it is not enough to just send them to naraka 18. Do we dare to investigate them? Under the ethics and morals of our society, these people have been awarded Bauhinia medals. All of them still want to brag about justice and morality? Members, this is the second hard-hit area.

The third area is about property developers. Can we simply ask them to sort out the problem of flats with "inflated" saleable areas and not to allow the skipping of floors? They are so arrogant as to ask why these should not be allowed. Can we ask property developers to state clearly the saleable area of flats, so that people can have a clear idea? No. It is well-known to all Hong Kong people that they are making bundled sales internally to jack up the prices of properties but no investigation has been conducted.

Today, we are still putting up pretences here, saying that we have to protect the interests of the general public. Are we sick? This Council is just like this. When there is nothing to talk about, we would raise this issue for discussion. Members are pampering our mouths here. What do I mean by pampering our mouths? Pooling money together, right? We are pooling money together for a feast here. This Council has degenerated to such an extent. What happened, buddy? In order to establish a comprehensive consumer protection regime, we have to deal with these three major aspects. If these three major aspects are not resolved thoroughly, they will be weighing over the Consumer Council. They are weighing on it, victorious and triumphant. What else can we say? However, today, we still have to thank the Consumer Council. We are really critically ill. What does this measure amount to? It is to drop a watermelon when trying to pick up a grain of sesame, that is, when picking up a grain of sesame, one drops a big watermelon onto the ground, breaking it into pieces.

Honourable Members, what we have said here today sounds more or less familiar and it is somewhat like shedding crocodile tears. These three main pillars are deceiving consumers day in, day out. If those people who do these wicked things and commit such sins can become leading honourable members of the community and voters in the selection of the Chief Executive, need we say more about how corrupt this system is?

**DR MARGARET NG** (in Cantonese): President, in fact, Ms Starry LEE's motion of "establishing a comprehensive consumer protection regime" today is not a new subject. About two years ago, the Consumer Council (CC) published a report entitled "Fairness in the Marketplace for consumers and Business", in which none other than these problems are mentioned and it also includes all the unfair trade practices mentioned in Ms Starry LEE's motion. I find it very strange why the Secretary HO did not mention it in any way in his preliminary reply but just said such trite things as how a balance can be struck and that a bill would be tabled shortly. President, sometimes, having stayed in this Council for too long, I have the feeling that we are just marching on the same spot. Two years ago, there was already a complete report which talks about what other organizations had done but we just treat it as if nothing had ever been done and the Government simply shrugged off the problem.

In fact, apart from covering the areas of concern arising from unfair trade practices, this report also raises the most important issue — the existing legislation on consumer protection and the promotion of fair trade practices is still very piecemeal and relies heavily on criminal sanction. There are both an advantage and a disadvantage in this approach. The advantage is that individual members of the public do not have to pay for law enforcement. However, the disadvantage is that since it is a criminal matter, it will require a very high standard of onus of proof and it is difficult to prescribe the criminal offences. Besides, if the Government does not enforce the law, members of the public will feel helpless.

Therefore, at that time, the CC then raised the question of whether we needed a comprehensive trade practices statute to specifically target problems in marketing, contract and so on. What is special about this recommendation is that it no longer relies on the enforcement of the existing laws by public agencies through criminal sanctions but puts the overall emphasis on civil law. In addition to civil law, the report also proposes that there should be a dedicated

law-enforcement agency. That is, after the enactment of the legislation, we have to specify what amounts to unfair trade practices and when there are instances of violation, who is going to enforce the law. The CC recommended that there should be a dedicated law enforcement agency capable of implementing the law in a more flexible and inclusive manner. It can also actively monitor, investigate and receive complaints. Its operation can be multi-level, including, as a first step, to assist in the reconciliation of disputes between the parties. It may not immediately resort to instituting prosecution. For example, it may require traders to give court enforceable undertakings or provide other redress. Apart from this, in the end, the dedicated enforcement agency can still resort to court proceedings. Therefore, members of the public do not have to pay any cost. Meanwhile, the report also suggests establishing a Consumer Tribunal, which is similar to the present Small Claims Tribunal, to consider matters regarding consumer transaction disputes which are less formal and do not require costly handling by lawyers.

As regards which organization is the most suitable enforcement agency, the CC suggested that it itself should be the one in charge of such matters. However, we pointed out that there might be a conflict of interests or roles. Therefore, the CC proposed that this issue should be decided by the public. President, a trade practices statute also covers complaints against all industries, such as the banking, financial, electronic and telecommunications service industries. However, the report also suggests that when enacting new legislation, attention should be given to the fact that the existing legislation for some trades already imposes established regulation, so that there would not be any overlapping in coverage. Therefore, President, this is a set of well thought-out approaches. We have looked at the figures in Appendix I of the report. It can be seen that from 2005 to 2007, the statistical figures on complaints involving deceiving, misleading and unfair trade practices was on the increase. Just now, the Secretary pointed out the figures for 2009, which show that the relevant figures have again increased when compared with those provided by the CC.

President, I really cannot understand why the Administration can turn a blind eye to such an excellent report, such a comprehensive study and the specific recommendations made and make no response whatsoever. This report was published in February 2008. Can the Secretary really give a comprehensive and specific response today, that is, two years later? What actually has the Administration done? Regarding the many recommendations made in the

report, which ones will be accepted and which will not, which will be implemented, using what approach and schedule of implementation? In fact, in it, even the ossuary niches mentioned by Miss Tanya CHAN are also ..... it seems that niches are not mentioned but property transactions are surely included. President, I have heard all the speeches delivered by Members and I am just waiting for the Secretary to formally respond to the report of the CC.

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

**MR LEE WING-TAT** (in Cantonese): President, I would like to add just a few points.

First of all, if I remember correctly, issues relating to property transactions were not covered under the Trade Descriptions (Amendment) Ordinance and I have always found this to be the most ridiculous thing about Hong Kong. I often said on radio programmes that barbecue pork vendors are prosecuted, actually prosecuted, if found tampering with their scales, and the vendor concerned would be fined several hundred dollars; but people who sold properties worth several tens of millions of dollars in Hong Kong would not be punished when found cheating on floor areas. In fact, such deeds have never been punished in Hong Kong. As regards to the regulation of property sales and services, though I understand that it should be the responsibility of the Transport and Housing Bureau, Lands Department and Secretary Carrie LAM, I have to state that the most ridiculous thing about Hong Kong is that while the authorities could regulate small traders (though some big traders may also be included), the biggest traders in Hong Kong are not subject to any form of regulation, as shown in the cases of prospective buyers being to make decisions within 30 minutes at properties sales which opened at midnight, "diminished flats", "inflated saleable area (SA)" and so on.

I once asked the Secretary ..... How much money is involved in buying a lot of Hong Kong and Shanghai Banking Corporation (HSBC) stocks when we now buy stocks at banks? Several thousand dollars, and for such an amount, the bank has to make a tape-record of the relevant stock prices at the time of purchase. Several millions to approximately ten millions of dollars are involved in purchasing a flat. I once talked to the Real Estate Developers' Association of Hong Kong and asked, "If I, LEE Wing-tat, wanted to buy a flat, could we sit

down and talk about the details of the flat and record the conversation, so that there would be no argument in future?" But I was told that this is possible. President, this is definitely not the responsibility of Secretary Rita LAU, but it gives people a general impression that Hong Kong real estate developers are not subject to any form of regulation. I have "bombarded" at such situations at the Panel on Housing for quite some time before slight improvements were made in listing the usable floor area and posting information on the actual sold premises on the web within five days of the sale. It is actually only just and fair to do so. President, in regard to purchasing a flat worth several millions of dollars, such quality of services are not proportional to the price being paid. In this connection, I do not know whether the Secretary would discuss this issue with the relevant Secretaries — the two ladies sitting next to her — to see whether this problem should be addressed. If she is not going to do so, I would think that the greatest joke on earth would be: Hong Kong has only got the barest minimum regulation or even no punishment mechanism at all with regard to the property sales of real estate developers.

Secondly, I would like to talk about the OFTA, and that is the Office of the Telecommunications Authority, which is within the scope of the Secretary's responsibility. In dealing with telecommunication service operators which solicit business on the streets and persuade people to purchase Internet and other services, I think that the Government is as weak as a toothless tiger. The phenomenon we see is that front-line staff members — whom I sympathize with — only have a basic salary of two to three thousand dollars and would only get commissions if they manage to sign up clients. The income of secondary and university students marketing telecommunication services on the streets is even less than that of Comprehensive Social Security Assistance (CSSA) payment recipient families. Under such circumstances, they would certainly act desperately. However, I have always told the OFTA that not only the front-line staff in question should be penalized, but the relevant company should also be held responsible.

I have quoted the following example for as many as ten times, and that is, the example of Housing Authority (HA) construction sites. I was a member of the HA for eight years. The situation of construction sites was very appalling in the mid-90s, for many illegal workers were employed back then. When I told principal contractors that they should not employ illegal workers, they said that it had nothing to do with them and that second and third subcontractors were responsible. However, principal contractors should really be held responsible

for they have signed the contract with the HA. Later, the HA proposed to introduce a regulation on holding principal contractors responsible if illegal workers were found on construction sites. As a result, all illegal workers disappeared from the construction sites within three months of passing the regulation. Would the HA allow the employment of illegal workers for a \$500 million contract signed with a principal contractor, who then subcontracts the works to second and third subcontractors, who in turn further subcontracts down plastering, planks moving and other sundry work to "fourth tier" and "fifth tier" workers?

The OFTA should inform main telecommunication service providers that if anything happens and if solid evidences are found — we certainly need solid evidences — then their companies would be held responsible. The authorities would first issue a verbal warning and then follow-up by a written warning if incidents of the nature occur a few more times, and would finally consider imposing a licence suspension penalty upon repeated occurrence of such incidents. By doing so, the number of cases in which people, such as 13 year olds or elderly men, are cajoled into signing contracts, would certainly decrease. Front-line staff members should also be aware that such actions are against the regulation, and the consequence would be that in addition being held responsible; the company will also face sanctions in regard to its licence.

I have spoken to the OFTA and the relevant Commissioner on this issue for so many times that I have run out of breath, but my suggestion has still not been accepted. I was told that we could only wait for the OFTA to take coordination and mediation actions. What in the world is such a rationale! If a large company has a great number of staff members working outside their offices, the company should have its own code of practices on tell them how to act. I think that this matter needs to be resolved; otherwise such incidents would only happen again and again. Problems such as the recent incidents of misleading or even deceptive short messages sent through telecommunication service companies or providers have to be resolved. If the authorities have imposed the condition that the company itself would be held responsible, then it would act prudently. I do not think that telecommunication service companies would risk their most major source of business, generated from mobile phones and internet services just for the sake of earning several more hundreds of thousands or a million dollars. Such problems would only occur if it would not ever be held responsible.

Next Monday, I am going to meet again with the relevant persons and I would put forward this suggestion again. I hope that it will not once again be "a waste of time", otherwise the number of complaints received by the Consumer Council would never "decrease" (減少) — since I do not know the correct pronunciation of the two Chinese characters "壓止" and "揭止" which mean put a stop to, I dare not read them aloud, but anyway, it means that the number will not "decrease". If we wish to reduce the number of complaints, then we should adopt such a method, for I think that it is the simplest way. As such, I hope that the Secretary would be more explicit when she talks to the staff of the OFTA, and I believe that the situation would improve if a solution could be found.

Thank you, President.

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

**DR RAYMOND HO** (in Cantonese): President, cases in which consumers' interests are undermined are not uncommon in Hong Kong. In addition to local residents, victims of such cases also include tourists visiting Hong Kong, and this has greatly impaired Hong Kong's reputation as a shoppers' paradise. Many of such cases even involve traders adopting unfair, or even dishonest marketing practices. However, due to the existing loopholes in our legislation, consumers often have no means of recovering their losses through legal channels even when they discover that their interests have been undermined. In order to protect the interests of consumers, the authorities must be determined to deal with this issue by adopting various means.

First of all, the authorities must strengthen its work on the dissemination of information to consumers, so as to enhance their alertness in relation to unscrupulous marketing practices and knowledge of consumer interests. Though the relevant authorities have now disseminated certain information on unfair and dishonest marketing practices through various channels, the media and newspapers in particular, cases in which consumers' interests have been undermined are still very common. As such, the Government should consider disseminating information systematically, so that consumer would be more aware of their own rights and would know what to do when they come across certain problematic marketing practices. In fact, cases in which consumers' interests are undermined have often occurred under circumstances where they do not have



sufficient information. Though unscrupulous marketing practices often appear in different forms, the tactics and methods adopted could be said to be quite similar.

Secondly, the Government should crack down on traders who adopt unfair and unscrupulous trading practices in accordance with the law. The relevant authorities must take prosecution actions against traders who adopt illegal sales practices. With regard to certain unscrupulous traders that are frequently being complained against, the relevant authorities should assign law enforcement officers posing as customers to such cases, so as to increase the rate of successful prosecutions. As regards shops which focus exclusively on visitors to Hong Kong as targets of deception, the police should also step up its law enforcement actions so as to avoid Hong Kong's reputation as a shoppers' paradise from being undermined. In addition, there are also traders who try to avoid prosecution by taking advantage of the loopholes in our law, and who adopt marketing practices which are not in contravention of any law. In this connection, the relevant authorities should explore ways of perfecting the relevant legislation so as to reduce the opportunities of consumers' interests being undermined.

Apart from the above measures, the Government should also consider enhancing the role of the Consumer Council. Over the years, the Consumer Council has played an important role in enhancing consumers' awareness of protecting their own interests. However, due to restrictions under its terms of office, the part it can play in protecting consumers' rights is also quite limited. What the Consumer Council can do against companies adopting unfair and unscrupulous trading practices is also very little. The best it can now do is to publicize the list of such companies but this does not have an adequate deterrent effect. Colleagues have made many constructive suggestions in relation to enhancing the role of the Consumer Council, including empowering the Consumer Council to act as proctor for consumers to initiate court proceedings and to seek compensation through legal actions on behalf of consumers whose interests are undermined. Furthermore, it is also a good idea to confer administrative and law enforcement powers to the Consumer Council through the enactment of a Consumer Interests Protection Ordinance and establishment of the post of consumer protection commissioner. As such proposals would enable the Consumer Council to play a greater and more comprehensive role in the protection of consumer interests, they are worth the authorities' further consideration.

President, it is true that there have been improvements in Hong Kong in regard to the protection of consumer rights as compared to the past, but the protection which the people get could be said to be very limited and inadequate, and many consumers have sometimes suffered great monetary losses. Thus, it is necessary for the relevant authorities to conduct serious studies and formulate relevant measures in relation to establishing a comprehensive consumer protection regime. President, I so submit.

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

**MR ALBERT CHAN** (in Cantonese): President, I found that you have shown increasing signs of fatigue in the Chamber ever since you got married. Perhaps this is due to the fact that the intense atmosphere of this Chamber has been overshadowed by your joy.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, please speak on the motion.

**MR ALBERT CHAN** (in Cantonese): the President is now a bit more awake.

President, as regards problems with consumer rights, especially situations in which members of the general public were being deceived or misled by telecommunication service operators, have happened again and again. In fact, I have submitted a paper to the Government two years ago listing out the eight crimes of the telecommunication services industry. This was what I already put forward two years ago. The eight crimes I listed back then were, firstly, misleading consumers; secondly, inducing elderly people to use unnecessary services; thirdly, obstructing people from terminating service subscriptions; fourthly, poor services; fifthly, ambiguous bills; sixthly, arbitrary charges; seventhly, automatically renewing service contracts without the knowledge of the client; and eighthly, terminating services without clients' knowledge. In fact, the eight crimes have constantly reoccurred. I have asked the Government many times in the past to regulate such a situation through licence control and that unscrupulous services should be adopted as one of the considerations for deciding whether the licence should be renewed or revoked.

Let us come back to the relevant Ordinance. In respect of misleading or deceptive practices, the Telecommunications Ordinance provides that service providers must not adopt any anti-competitive, misleading or deceptive practices, and must specify the details of its charges. However, the Office of the Telecommunications Authority (OFTA) could be said to have seriously neglected its duty over the years. As the former Chief Executive of the OFTA was subsequently appointed chief executive of a telecommunications service company, it could be said that the whole system have ceased to exist except in name only and the spirit of the enforcement of the relevant Ordinance is also just nominal.

As such, we could see that the Government could be said to have allowed big consortiums to have their own way in bullying the people in this regard. The recent problems we saw have actually repeatedly occurred over the years, the situation of which is similar to that of a shop which has constantly been robbed, but the police have ignored the situation. President, we would be in great trouble if the OFTA were the Hong Kong Police Force for there would be anarchy in Hong Kong, thus forcing Hong Kong people to flee from this place. As such, with regard to telecommunication services, I could criticize the Government as extremely negligent and say that it has seriously disregarded its responsibilities. As a result of the Government's dereliction of duties in this area and continual ignorance of the seriousness of the situation, members of the public have suffered constantly on a daily basis due to its weakness in regulation and failures in supervision.

President, when we talk about issues relating to consumer interests, we could actually quote a countless number of cases, from those involving sums as small as several hundred dollars, over a thousand dollars or at most ten thousand-odd dollars in electricity bills, to those involving several tens of millions of dollars in property transactions, when we talk about inflated SA flats. Very often, such cases have occurred under misleading circumstances. We have talked about such issues for many years and asked the Government to regulate the situation by means of legislation. In fact, such legislation did exist back in Mr Dominic WONG's times, but the Government finally gave in to the despotic power of big consortiums and big real estate developers by withdrawing the relevant Ordinance, thus resulting in the absence of an appropriate Ordinance so far for the regulation of such property transactions.

A simpler incident is what happened to an elderly person in Tin Shiu Wai I saw yesterday, who only bought some electrical appliances. There are many electrical appliances stores in Hong Kong which have suddenly started operations in empty premises for selling cheap electrical appliances. And the tactics adopted by such stores could also be found at the outlets of certain larger chain stores, and that is, to start with, special offers were made for a certain commodity, which might be air-conditioners, refrigerators, washing machines or even furniture of a certain model, but when the customer wanted to buy the product, they would then be told that it was out of stock, and the sale of another commodity, which might be higher or lower in price, would then be promoted, but an inferior product would eventually be delivered. On some occasions, products that were specified as manufactured in 2009 would be rusty. However, when the case was reported to the police, it would not be accepted on the grounds that it was a civil dispute and there was no element of deception; and if the consumer lodged a complaint with the Consumer Council, the Council could only serve as a messenger by referring the problem to the relevant authorities. In the end, the people concerned could only seek justice through the Small Claims Tribunal. That was obviously a case of inferior products, but no government department would be able to enforce the law and help the people.

President, please allow me to tell you this. Such incidents, whether about buying electrical appliances and furniture, property transactions, subscribing to telecommunication or pay television services and so on, have repeatedly occurred every day, and the people of Hong Kong could only suffer in silence. Deceptive conduct could similarly be found in the purchase of stocks, bonds or in the case of mini-bonds. As such, traps are everywhere in Hong Kong. Some people say that Hong Kong is a cosmopolis, but President, Hong Kong is actually a cosmopolis of bandits, full of opportunities of "money-grabbing" for one who is evil, wicked and black-hearted enough. Those who suffer would be the honest man in the street and the officials would turn a blind eye to such situations. Do officials ever read the newspapers? How could they turn a blind eye to problems often reported in the newspapers and turn into "Eunuch LAM", the Secretary for Constitutional and Mainland Affairs and "human tape-recorders" when they came to answer Questions at the Legislative Council by keep repeating what they have said; something which they said three, five or ten years ago are still repeated; we are told that the Government would deal with the problems very seriously, would punish those who have violated the regulations and so on. This is also what the Secretary is going to say later. However, the problem is, the

officials already said such things three or five years ago and the problem still exists, in spite of what they have said. As such, the Government is only paying service lip ..... President .....

**PRESIDENT** (in Cantonese): paying lip service.

**MR ALBERT CHAN** (in Cantonese): Oh, should the correct term be paying lip service? I am sorry, President, unlike you, who are invigorated by love and have a wealth of ideas, I am suffering from a minor case of Alzheimer.

In this connection, if the Government continues to act in such a manner and that is, totally disregards the miseries of the people, then we must condemn it. The people may attack the Government because they are discontented with it, and if that happens, not only the "post-80s" but also the 80 year-olds would come and attack the Government.

Thank you, President.

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

**MR PAUL TSE** (in Cantonese): In principle, I absolutely agree that we should do more to protect consumers, and would just like to add one or two points with regard to my observations on individual Members' motion and amendments to the motion. Though, I agree with them on the whole, I would still like to say something.

The first point I would like to say is particularly directed at what Mr Fred LI has proposed, and that is, to criminally prosecute traders who do not provide services after receiving pre-paid service fees, for I have some reservations in this regard. We should not often lightly say that issues which were originally civil in nature should be criminalized. As there is already adequate disciplinary mechanism to take care of serious fraud cases, I do have some reservations about this.

In fact, many of pre-paid services do not only include beauty and weight-loss services which we have talked about in general. In fact, we have become accustomed to a consumption pattern, and that is, we would often pre-pay service fees under mutually beneficial circumstances in order to enjoy certain favourable terms. Even legal services are very often only provided after fees are pre-paid. Thus, we have to deal with each individual trade according to their own characteristics, instead of overreacting by taking "across-the-board" measures. This is my first point.

Secondly, as regards the tourist industry itself, many appropriate protective mechanisms are already in place. While we welcome the Government to do more work in respect of certain trades that have most often deceived people, we do not wish to see certain banks and finance companies resorting to applying generalized solutions to their problems by extending the settlement period of credit cards, just because the Government does not have any effective measure at the moment. This is very unfair to the tourist industry, for generally speaking, the tourist industry only makes a marginal profit, and most of its payments, such as those to airlines or hotels, have to be made within up to 15 days of the transaction. In fact, as a result of other problems which it has now encountered, the tourist industry has suffered great losses or is even unable to operate. Therefore, I would like to mention this point in particular.

Another point is that, while the Travel Industry Council of Hong Kong offers some stamp duty protection for customers who book plane tickets and hotels or plane tickets and other travel products through us, customers who only purchase plane tickets does not have any proper protection. Incidents that people think will never happen, such as closing down of airlines, unfortunately happened in Hong Kong a year ago, thus inflicting harm on small practitioners and consumers. In this regard, I am afraid that we have to review the situation to see whether it is necessary to extend the protection mechanism. However, I am afraid that there is still no consensus in the industry. As such, I am just adding this as a footnote, in the hope that in addition to looking into the issue of consumer protection, the Government would also conduct more studies in this area.

I once again stress that, on the whole, I agree that we need more protection for consumers, but would just like to make the above observations. Thank you, President.

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

(No other Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Ms Starry LEE, you may now speak on the four amendments. You have up to five minutes.

**MS STARRY LEE** (in Cantonese): President, I would like to thank Members who have spoken today and the four Members who have moved amendments to my original motion.

First of all, I would like to talk about Mr WONG Kwok-hing's amendment. The amendment of Mr WONG Kwok-hing has in fact perfected my original motion. He has specifically requested the Government to expeditiously amend the Pyramid Selling Prohibition Ordinance and I definitely support this point. Furthermore, he has added item (h), which proposed to further increase publicity and education on protection of consumer rights. This is also something which the Consumer Council and the general public would like to see, for as the saying goes, while the priest climbs a post, the devil climbs ten. Everyone understands that even if there is stringent legislation, businessmen would still try to find ways of marketing their products by taking advantage of the loopholes. Therefore, it is most important that consumers' alertness should be raised, and that they understand their own rights.

I am also very grateful to Dr Samson TAM for moving the second amendment. He has specifically mentioned that item (b) of my proposal — to issue written terms, conditions and confirmation — may not be practicable for certain trades. The written terms and conditions I referred to certainly include notices issued by electronic means. As such, there is no conflict between his understanding and mine. I welcome and am thankful for his amendment.

As regards Mr Fred LI's amendment, he has added two proposals, and that is, to expeditiously amend the Trade Descriptions Ordinance to extend its coverage to include services. In this connection, I have mentioned in my earlier speech that I fully support this proposal. However, as regards his second

proposal, while we understand that his motive is to offer greater protection for consumers, I could not fully agree with him on deleting item (b) in my original motion, and that is, "to require traders to issue in writing the terms and conditions within a specified period for any service agreement reached verbally through on-street promotion or over the telephone, and that the agreement will only be effective upon a signed confirmation by the consumer". Though Mr LI has said that all problems could be resolved if the cooling-off period for agreements become effective, as other Members have said earlier, more and more products which require verbal service agreements may have already emerged. In addition to beauty or other services which we could now think of, there may be more sales services, for which agreements would be reached verbally, as changes are introduced each passing day. As such, could all problems arising from verbally reached service agreements be completely resolved through the establishment of a cooling-off period? I am afraid that I could not fully agree to this point.

I also do have some reservations on Mr Vincent FANG's amendment. Though we understand that many of the misleading and deceptive cases were only brought about by some unscrupulous traders, we actually see that cases of fraud change with each passing day and Mr FANG's amendment has specifically toned down real-life situations. Let me quote another simple example. In relation to the regulation of membership, package tickets and other pre-paid services, Mr FANG proposed that a cooling-off period should only be provided for certain service agreements to allow consumers to terminate such agreements within a specified period after signing an agreement if it is fully justified and under reasonable circumstances, and he is also against adopting an "across-the-board" measure. We understand the worries of the business sector but the cooling-off period which we referred to is actually not a new proposal. In many countries, the cooling-off period does not only apply to service industries but also many products. Mr FANG and other friends of the business sector also said earlier that they are worried that consumers would take advantage of the loopholes in the cooling-period and have "free lunches ", but I personally think that this issue could be resolved when discussions are held on the establishment of the cooling-off period. For example, some Members said earlier that a consumer has signed an agreement and has already enjoyed two sessions of the services before they terminate the contract. I understand that the consumer could be required to assume responsibility for such fees and costs in many places and this is a reasonable arrangement.



As such, I hope that Mr FANG and friends of the business sector could think about this again. Honest traders actually do not have to worry about the cooling-off period for agreements, for consumers would not terminate agreements simply because there is a contract cooling-off period. The reason is that such traders have not adopted high-pressure, deceptive or misleading marketing practices. Thus, I think that contract cooling-off periods are not scourges and also hope that Mr FANG (*The buzzer sounded*) .....

**PRESIDENT** (in Cantonese): Ms LEE, speaking time is up.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I would like to thank Members for expressing valuable opinions on the consumer protection regime.

The Government shares a common goal with Members, that is, to crack down on unscrupulous marketing practices in an expeditious and precise manner, so as to ensure that consumer rights are fully protected. I undertake to step up our work of legislative review and to submit the general direction of our legislative amendment proposals to the relevant Panel, so that it can serve as a basis for consulting Members and various sectors of society.

Our direction is to introduce appropriate amendments based on our existing legislative framework, so that speedy improvements could be introduced. The existing Trade Descriptions Ordinance (the Ordinance) (Cap. 362) prohibits making false or misleading descriptions, including statements in advertisements in relation to goods and any person who commits such offence shall be liable to a fine or imprisonment. The Hong Kong Customs and Excise Department (Customs and Excise Department) shall be responsible for the work of law enforcement. We intend to extend the scope of the Ordinance to cover services industries. By doing so, we can crack down on false or misleading descriptions in the service industries while also tackling other unscrupulous marketing practices. This is in line with the amendment to the motion as proposed by Mr Fred LI and the views expressed by other Members. The focus of our current study is to lay down an appropriate definition on "services" and to specify what kind of statements made in relation to "services" should be included within the scope of the Ordinance.

Mr WONG Kwok-hing has mentioned the issue of rights to knowledge in his amendment to allow consumers to get relevant important information so that appropriate decisions could be made. While consumers should take the initiative to clarify matters if they have doubts in the course of purchasing a product or services, we agree that the Government should intervene under certain circumstances. Though the existing Ordinance has empowered the Government to stipulate that certain information must be listed or provided in relation to certain products, there would be practical difficulties in enacting legislation to stipulate that traders must provide specific information in relation to the sale of each and every product or service, since countless products and services are on sale in the market. We are now considering the arrangements adopted by places such as the European Union (EU) and Australia, to explore ways for dealing with the provision of information and omission of information.

Several Members have talked about the more common unscrupulous business practices in the market earlier, and I would also like to take this opportunity to state our views on and suggest solutions for dealing with some of those practices, including high-pressure marketing, failure to provide goods or services after receiving pre-paid fees, and baiting marketing practices.

High-pressure marketing practices refer to those in which undue influence or pressure has been applied to cause consumers to make wrong consumption decisions. A Member has proposed that a mandatory "across-the-board" legislation should be enacted to provide a cooling-off period for agreements involving pre-paid fees for goods or services, so as to crack down on such unscrupulous marketing practices. As mandatory legislation on the provision of a cooling-off period would involve intervention in agreements reached freely between the buyer and seller, the scope of its coverage would be very extensive if a "across-the board" approach were adopted in its enforcement and should thus be dealt with carefully. I would respond to the subject of the cooling-off period for agreements later. Let us come back to the issue of high-pressure marketing practices. I think that we should suit the remedy to the case by adopting a direct approach to crack down on such practices. I am inclined to refer to the practices of Australia and the EU on establishing that the application of undue influence or pressure in the course of sale as an offence under the Ordinance. As regards how "undue influence or pressure" should be defined, we would let members of the public and the industries give their opinions during the public consultation which would be conducted later.

I hope to take the opportunity of today's motion debate to call upon consumers to enhance their alertness, not to covet small advantages and not to hand over their personal identification documents or valuables easily. They should ask for the help of the police as soon as possible if they were detained from leaving or put under pressure after indicating that they do not want to patronize the shop.

Furthermore, we also plan to strengthen our regulation over the practice of failing to provide goods and services after receiving pre-paid fees, in the hope of offering extra protection, in addition to the option of launching civil proceedings, for consumers. We have considered the legal practices of Australia and the EU and are inclined to establish the acts of having no intention or ability to provide goods or services as offences. We are now conducting studies on how "no ability" or "no intention" to provide services or goods should be defined, and the relevant issues of whether traders who fail to provide goods or services as a result of closures due to poor management would be implicated.

In addition, some Members have talked about the practice which is commonly known as baiting marketing practices, and that is, marketing practices which seek to attract consumers first with low prices and then lure them into purchasing other high-priced goods or services. We hope to crack down expressly on such practices by introducing amendments to the Ordinance, so as to prohibit traders from claiming that goods or services are sold at concessionary prices, but actually do not have a reasonable stock of goods or services to meet the anticipated demand. In order to protect honest traders, we would consider listing certain exemption clauses in the Ordinance to ensure that traders who have genuinely underestimated consumer demands would not be mistakenly caught by the law.

In order to crack down on unscrupulous business practices, a faster way to produce positive results is to amend the Ordinance. As the Customs and Excise Department is now responsible for enforcing the provisions of the Ordinance, we intend to assign it with the work of enforcement, if the amendment proposals were passed by the Legislative Council. In addition to fully utilize the rich experience of the Customs and Excise Department in law enforcement, such arrangement has also taken into consideration that it would be a better and more practical for the law (particularly in relation to provisions on high-pressure practices) to be enforced by a disciplinary force.

In regard to the proposal on the provision of a cooling-off period, as I have mentioned earlier, we do have reservations on adopting "across-the-board" measures.

In fact, if a cooling-off period were to be established, we must take the overall situation into account, by first dealing with certain specific arrangements, such as the types of trades or form of agreements which the cooling-period should be applied to, the appropriate length of the cooling-off period, arrangements for dealing with products or services which have been used during the cooling-off period and for refunds, and whether traders could charge a reasonable administrative fee for making refund arrangements. What is most important is that we should take into account the rights and interests of honest traders and carefully consider how to avoid the cooling-off arrangement from being abused and resulted in honest traders bearing additional operation costs. We would make some proposals in this connection and would consult the Legislative Council and members of the public.

Some Members are particularly concerned about consumer agreements reached verbally through on-street promotion or over the telephone. Verbal agreements are equally legal binding as written agreements. False or misleading verbal statements made by a salesperson would also be monitored under the relevant Ordinance. In fact, since the majority of our consumption transactions are made verbally, the scope of the regulation is quite extensive. Both Ms Starry LEE's motion and Dr Samson TAM's amendment proposed that the supplier of services should issue the terms and conditions of the agreement in writing or electronically. I would like to point out that consumers actually have the right to request suppliers to issue terms and conditions before they decide whether or not to enter into the agreement, thus there is no need for mandatory legislation in this regard. Furthermore, sometimes it may cause consumers inconveniences, for example, they may want the agreement to come into immediate effect, if they are required to sign confirmation in regard to the terms and conditions before the agreement become effective. As such, we do not think that it is necessary to impose additional regulations on verbal agreements.

As regards to Members' concern over the recent billing disputes resulting from paid mobile content sent by certain internet content providers through the service platforms of telecommunication mobile network operators (TMNOs), the OFTA is aware of the situation and has taken the initiative to contact the TMNOs

as early as last November to discuss ways on taking appropriate measures. The OFTA has reached a consensus with the TMNOs that both parties would establish a voluntary code of practice, to ensure the transparency and clarity of charges information and arrangements of paid mobile content services. In this connection, we have submitted a paper on the plan for implementing the code of practice for discussion at the meeting of the Panel on Information Technology and Broadcasting (the Panel) to be held later, so I will not repeat.

We understand Members' concern over person-to-person commercial telemarketing calls. Though such call services are not yet regulated under the Unsolicited Electronic Messages Ordinance, the relevant authorities are closely monitoring such situations. The OFTA has conducted two opinion surveys to assess the views of the public and the industry on such calls. The findings of the surveys were briefly reported to the Panel on 9 November and discussions on follow-up actions to be taken in relation to the findings were held.

As regards whether such calls should be regulated by means of legislation, the findings did not show any one-sided views. Some respondents indicated that they would not immediately reject person-to-person telemarketing calls and would continue the conversation if they were interested in the relevant information. The findings have, to a certain extent, show that some people may find person-to-person telemarketing calls to be a useful source of information instead of completely useless. Furthermore, such telemarketing calls may generate business for companies which market their products or services through such channels and would also create job opportunities for the call centre industry. However, I think that it is necessary to enhance measures for dealing with problems caused by such calls.

We are now working with members of the industry, including the four industries namely, finance, telecommunication services, call centres and insurance, which are responsible for making 90% of the total number of person-to-person telemarketing calls, in formulating a voluntary code of practice (code of practice). The provisions of the code include the compilation of an in-house unsubscribe list, requesting the callers to identify themselves and their motives, restricting the time for making such calls and that the caller should terminate the conversation or hang up as soon as possible if they learn that the message recipient is overseas. Members of the industry have agreed to formulate a code of practice for enhancing self-disciplines. Our objective is to implement the code of practice in the first half of this year and we would also

closely monitor its effectiveness. We would actively explore further measures, including regulation by legislation through expanding the coverage of the Unsolicited Electronic Messages Ordinance, with a view to regulate person-to-person telemarketing calls, if required.

In addition, pyramid marketing schemes is also one of the areas which we are concerned about. We have already started work on reviewing the Pyramid Selling Prohibition Ordinance and is taking into consideration the measures and law model adopted by other countries and places. Upon completion of our study, we would consult the relevant Panel of the Legislative Council and the public.

Mr Vincent FANG's amendment proposes to perfect the mechanism of publicizing the list of unscrupulous traders. Currently, the Council Consumer would alert the public by publicizing the list of unrepentant traders who operate in an unscrupulous manner. This measure does have a certain deterrent effect on such traders.

The Consumer Council's decision on whether or not and how the list of unscrupulous traders should be publicized is based on a set of established guidelines and procedures. Such considerations include the number of complaints received against the trader, the amount of money involved in the transaction under complaint, whether the case has raised public concern, whether people at different levels would be affected and whether such practices are common. Once the Consumer Council has sufficient evidences to establish that the trader in question has operated in an unscrupulous manner, it would first meet with the person-in-charge of the relevant shop and ask them to cease the unscrupulous practices and issue a warning. If the person-in-charge is unrepentant after receiving repeated warnings, then the name of the trader would be publicized. As the act of publicizing the name of the trader would seriously affect its reputation, the Consumer Council must deal with such issues in a cautious, fair and reasonable manner. This would not only protect the interests of the public and honest traders, but is also very essential to consolidating the creditability of the Consumer Council. I would like to thank Mr Vincent FANG for his views and would take follow-up actions in co-ordination with the Consumer Council and give due consideration to his proposal on perfecting the mechanism.

In addition to cracking down on unscrupulous practices, the Government should also provide appropriate legal channels for consumers to seek reasonable compensation. Both the original motion and Mr Fred LI's amendment to the motion proposed that the Consumer Council should be empowered to act as the proctor for consumers. Currently, the Consumer Legal Action Fund (Action Fund) for which the Consumer Council is acting as the trustee, has offered legal aid services to justified consumers, (in particular to those with similar experiences). The scope of support offered by the Action Fund includes assisting consumers who are involved in common legal or factual issues in relation to a transaction or transactions to make joint claims or group them together for making suitable hearing arrangements. In other words, though the Council Consumer does not act as the proctor for consumers, it has already assumed a similar role through the Action Fund.

Since its establishment in 1994, the Action Fund has offered assistance to 814 persons involved in 34 groups of cases involving common intent, out of which 11 groups ceased to proceed after their applications were approved. Such situations may be resulted from withdrawal of applications by the applicants; the hearing for another four groups is now in progress; the defendants for two groups subsequently closed down or winded down their businesses; and the remaining 17 groups of cases (involving 193 persons) have either reached a settlement, were found in favour by the court or were awarded compensations. The Government would allocate additional funds to the Action Fund in the year of 2010-2011, so as to ensure that the Consumer Council would have sufficient resources for continuing to offer legal assistance to qualified applicants. The Consumer Council is now conducting a review on the operations of the Action Fund, in the hope that appropriate improvements could be made on offering better assistance to aggrieved consumers.

Furthermore, the enhancement of the provision of information, education and publicity for consumers is also equally indispensable. The Consumer Council has been our partner for many years in providing all sorts of market information, including the properties of products, shopping tips and pricing information. We would continue to work with the Consumer Council on increasing the transparency of consumer information.

We have also done a lot of work in stepping up publicity and education efforts, in the hope of providing information to consumers, raising their alertness

and enhancing their self-protection ability. We would launch television promotion videos and radio advertisements; publish newspaper articles and put up posters on different subjects. "The Police Report" would also broadcast simulation cases on unscrupulous marketing practices in relation to slimming companies, pyramid marketing practices and door-to-door marketing of high definition television set-top boxes, to remind consumers to avoid falling into traps. We would continue to work together with the Consumer Council, the Police and other organizations (including major chambers of commerce, schools and the media), to step up our efforts on publicity and educating consumers

President, I would like to thank Members for putting forward their views on enhancing consumer protection. We would certainly consider their views carefully and would submit the direction of our proposed legislative amendments to the relevant Panel of the Legislative, so as to consult Members, members of the industry and the public

Thank you, President.

**PRESIDENT** (in Cantonese): I now call upon Mr WONG Kwok-hing to move his amendment to the motion.

**MR WONG KWOK-HING** (in Cantonese): President, I move to amend Ms Starry LEE's motion.

**Mr WONG Kwok-hing moved the following amendment: (Translation)**

"To add "to safeguard Hong Kong's international reputation as a shopping paradise, the SAR Government must face squarely the fact that" after "That,"; to add "certain" after "incidents of"; to add "and unjust" after "other unfair"; to add "to enhance consumers' rights to knowledge, choice and protection" after "consumer protection regime"; to delete "and fair" after "transparent" and substitute with ", fair and just"; to delete "to introduce legislative amendments to enhance the regulation of multi-level marketing" after "(e)" and substitute with "while stepping up supervision, publicity and education to promote legal and proper marketing, to expeditiously amend the Pyramid Selling Prohibition Ordinance (Cap. 355) to combat and eliminate all types of fraudulent multi-level



marketing practices"; to delete "and" after "unscrupulous traders when required;"; to add "and unjust" after "regulate unfair"; and to add "; and (h) to further increase publicity and education on protection of consumers' rights to raise consumers' alertness; to foster transparency of information on sales of commodities and services on all fronts, so as to enhance consumers' rights to knowledge, choice and protection" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Ms Starry LEE's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Dr Samson TAM rose to claim a division.

**PRESIDENT** (in Cantonese): Dr Samson TAM has claimed a division. The division bell will ring for three 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:

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr WONG Yung-kan, Dr Joseph LEE, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Mrs Sophie LEUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, and Dr Samson TAM voted against the amendment.

Mr Timothy FOK abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG, and Mr WONG Sing-chi voted for the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 13 were in favour of the amendment, 10 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present and 23 were in favour of the amendment. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

**PRESIDENT** (in Cantonese): Members have been informed that Dr Samson TAM and Mr Vincent FANG will withdraw their amendments if Mr WONG Kwok-hing's amendment is passed. As Mr WONG Kwok-hing's amendment has now been passed, Dr Samson TAM and Mr Vincent FANG have therefore withdrawn their amendments.

**PRESIDENT** (in Cantonese): Mr Fred LI, as Mr WONG Kwok-hing's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you moved your revised amendment, you may speak up to three minutes to explain the revised terms in your amendment. You may now move your revised amendment.

**MR FRED LI** (in Cantonese): President, I move that Ms Starry LEE's motion as amended by Mr WONG Kwok-hing, be further amended by my revised amendment. In short, the further amendment is to maintain two points, and that is, firstly, to expeditiously amend the Trade Descriptions Ordinance to extend its scope to services; and secondly, to enact legislation which stipulates that traders who do not provide services after receiving pre-paid service fees will be subject to criminal prosecution, so as to protect consumers' interests. I have only added these two points.

**Mr Fred LI moved the following further amendment to the motion as amended by Mr WONG Kwok-hing: (Translation)**

"To add "; (i) to expeditiously amend the Trade Descriptions Ordinance to extend the prohibition of making false or misleading descriptions in the course of trade to services; and (j) to enact legislation which stipulates that traders who do not provide services after receiving prepaid service fees will be subject to criminal prosecution, so as to protect consumers' interests" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Fred LI's amendment to Ms Starry LEE's motion as amended by Mr WONG Kwok-hing 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 Fred LI rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three 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:

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr WONG Yung-kan, Mr Timothy FOK, Dr Joseph LEE, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Mrs Sophie LEUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, and Dr Samson TAM voted against the amendment.

Mr Andrew LEUNG abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG, and Mr WONG Sing-chi voted for the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 14 were in favour of the amendment, nine against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present and 24 were in favour of the amendment. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

**PRESIDENT** (in Cantonese): Ms Starry LEE, you may now reply and you have still got three minutes and 45 seconds.

**MS STARRY LEE** (in Cantonese): President, I would like to thank Members for speaking on my motion today and for supporting all the amendments.

With regard to the Secretary's earlier speech, I would like to thank her for undertaking to expeditiously extend the scope of the Trade Descriptions Ordinance to cover services and hope that she could soon submit the relevant Bill to this Council. In particular, I hope that the Secretary could conduct consultation on the contract cooling-off period and the scope of unscrupulous marketing practices as soon as possible. We hope that issues in regard to the

cooling-off period and unscrupulous marketing practices could soon be resolved through the enactment of legislation. However, as deceptive practices change with each passing day, the public really could not afford to wait any longer; our foremost concern is speed and I hope that the Secretary could strive to submit the relevant legislation to this Council, at the earliest possible opportunity.

Several Members mentioned earlier that the protection of consumers' rights and interests do not only involve areas such as membership, travel membership subscriptions and so on. Transactions in areas such as finance and property are the biggest made by consumers. However, we understand that it would not be possible to enact a legislation which would cover all areas including financial and property transactions within a short period of time. I also understand that the Financial Services and Treasury Bureau have considered establishing the post of Financial Commissioner and hope that the Secretary could convey our concerns over the regulation of property transactions to the relevant authorities again.

As the motion will now be put to final vote, here I would like to make a last-ditch effort to call upon Members to continue to support the motion, for the spirit of the motion is to establish a comprehensive protection regime for consumers. One of the greatest controversies over the motion is what Mr FANG and other friends of the business sector have mentioned earlier, and that is, they have reservations on the provision of a cooling-off period. They are worried that the contract cooling-off period may not be effective against certain unscrupulous traders. However, here, I would like to reiterate that the contract cooling-off period is not a scourge and many advanced countries, such as the US, UK and Europe, have not adopted such a system not only for the services industry but also commodities.

Some Members said earlier that they are worried that some people may have "free lunches", or situations which the Hong Kong Hair and Beauty Merchants Association, are worried about would occur. I hope that members of the industry and Members would express their opinions at the time when the Government issued the consultation document. We do not wish to see so many unscrupulous traders deceiving consumers again through adopting high-pressure practices and cause consumers to make wrong decisions and that no cooling-off period would be available for them to choose whether or not to fulfil their contractual commitments.

President, Hong Kong is a shoppers' paradise, but I often hear about cases in which tourists are deceived in Hong Kong, such as situations which everyone know about, buses full of tourists being brought into a room and detained to be lobbied over and over again. We do not wish to see such high-pressure practices being adopted in Hong Kong again. As such, it is essential that we should consider how a comprehensive consumer regime could be established.

Apart from adopting short-term measures, I also hope that the Secretary could consider the requests put forward in the motion today, and that is, to formulate a comprehensive consumer protection regime by integrating seriously fragmented and incomplete legislation, so that Hong Kong would become a real shoppers' paradise.

I recall investors telling me sadly that they had really believed that Hong Kong was a financial centre but were now very disappointed after the Lehman Brothers mini-bond incident, for our so-called financial centre only cares about how foreign investors could be attracted to come and set up listed companies in Hong Kong, but disregards the protection of consumers' interests. *(The buzzer sounded)* I hope .....

**PRESIDENT** (in Cantonese): Ms Starry LEE, reply time is up.

**PRESIDENT** (in Cantonese): I now put the question to you and that is, That the motion, moved by Ms Starry LEE, as amended by Mr WONG Kwok-hing, be passed.

**PRESIDENT** (in Cantonese): We shall now proceed to vote. Will those in favour, please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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

**PRESIDENT** (in Cantonese): Second Motion: Promoting the sports development in Hong Kong.

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

I now call upon Mr IP Kwok-him to speak and move his motion.

### **PROMOTING THE SPORTS DEVELOPMENT IN HONG KONG**

**MR IP KWOK-HIM** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Over 2000 years ago, Eastern and Western societies already knew the importance of sports. Not only did Confucius know archery and charioteering, he also listed these two sports together with rites, music, calligraphy and mathematics as the Six Arts. He even taught his disciples these arts himself. At the same period of time, in Greece of the Western world, the ancient Olympic Games were held every four years in order to promote the development of sports.

After some 2000 years, the importance of sports is ever increasing. In the policy address for 2006-2007, the SAR Government clearly pointed out that it was the Government's strategy in sports development "to promote sports in the community, to develop elite sports, and to make Hong Kong a major location for international sports events." In the East Asian Games just taken place, the Hong Kong team made history by getting the best-ever results and ranked fourth in the medal table, just after the three strong rivals of China, Japan and Korea. Not only does it demonstrate the potential of local sports development to the public, but has also caught the attention of society again on how to further enhance the level of local sports. This is an issue which has drawn much public attention.



As we all know, in order to achieve good results in sports, we definitely cannot rely on things done on the spur of the moment or simply by luck. By the same token, in order to boost sports developments of a place and to enhance the overall level, there must be policy support or input of resources and time.

In order to increase the chances of Hong Kong winning in international sports events, it is understandable that elite training should be carried out. However, since the scoring method of elite sports is more favourable to individual sports, while a team sport can only be scored after it has achieved some results in two major events within one year, it has now led to a situation where all elite sports are individual sports.

Under the principle of substantial support follows the winning of medals, for the non-elite sports, there are restrictions no matter in coaching, sports science, sports medicine, training facilities and overseas training. They are put in a very disadvantageous situation and a vicious cycle is hence formed. For instance, after football is taken out of the key sports for development in the Hong Kong Sports Institute (HKSI) due to the same reason, there is nothing to keep the entire football training going and our football performance has been going downhill ever since.

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has just conducted a public survey. It showed that over 77% of the respondents reckoned that there should have a better mechanism so that team sports can be included in elite training. I hope that the Administration can sincerely and deeply consider this finding from opinion polls.

When the athletes dedicate their most precious youth to a sports career, their living and prospects should also be reasonably taken care of. Otherwise, how can we ask the athletes to participate in training and competitions whole-heartedly? However, the existing amount of subsidy given to full-time athletes is very limited in Hong Kong. Each elite athlete of the first division can only receive a subsidy of \$20,000 to \$30,000, which is less than the remuneration of a junior management officer in the Leisure and Cultural Services Department. The situations of some professional footballers are even worse. Not a few footballers switch to another profession to become football commentators, apply for the positions of firemen or work as part-time delivery drivers. These situations are not anything new already.

Promoting subsidy from enterprises in sports development through tax concessions is a common way adopted by many countries and areas nowadays. For example in Spain, its sports law stipulates that if there are statutory contractual relations between a sports company and a professional sport, that company can apply for tax remissions for the expenses used on the promotion and development of these activities. The Ministry of Finance in Taiwan also provides that a company can enjoy tax concessions for its expenses used on the investment in the research and manpower training of the sports industry. Besides, an enterprise, in the calculation of its expenditure, can enjoy an unlimited amount of concessions for its expenses on subsidizing professional sports groups in procuring sports equipment and on organizing sports activities for its employees. In respect of the Beijing 2008 Olympic Games which we are so familiar with, one of the tax concession policies is that tax can be waived for the revenue generated by the market in this regard, as well as the revenue generated after the Games from the management of materials sponsored and donated. The above measures are worth studying by the SAR Government for adoption so as to promote sports in the whole territory.

Of course, we still should not forget the significance of popularizing sports in the community, and this is related to the important question of how to enhance the overall physical quality of the general public. According to statistics, the current sporting population in Hong Kong of people who exercise at least three times per week and at least 30 minutes each time, that is of a medium level of exercise — not a high level, but a medium level — accounts for only 27%, which is a far cry from the 60% to 70% of the population in Europe, the United States and Japan who exercise regularly. The Government should regularly conduct territory-wide surveys on physical fitness activities of the public so as to raise the awareness of the community in physical quality.

In fact, the Government should also encourage enterprises or government departments to organize sports teams. Currently in the primary and secondary schools in Hong Kong, there are in general two physical education (PE) sessions per week and each session lasts for 35 to 40 minutes. Under these circumstances, the Government should encourage the schools to add more time for PE activities. It should also provide family coupons of certain sports venues to some inactive members of the public, such as middle-aged people or female, in order to encourage them to have exercise regularly.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

The development of sports is inextricably linked to the input of resources. However, the resources for non-elite sports are meagre. For instance, there was a special episode in the television programme "Hong Kong Connection" on the sport of shooting. The athletes concerned have to find their own way without any guidance from coaches. They sighed that their treatment could not even compare with those in Macao. This is saddening indeed. Before karate was included as an elite sport, the training needed to be conducted on separate days, and the athletes had to practise on their own at their respective dojos. Take the football team as another example, during the three years from 2006 to 2008, the total amount of funding as subsidy from various District Councils was only around \$6 million. On average, each district could obtain less than \$120,000 of subsidy each year.

As far as resources are concerned, the Hong Kong Jockey Club (HKJC) should not be neglected here. At present, the HKJC has already taken up a considerable number of charitable and sports events. Nevertheless, in terms of resources, the HKJC still has more room to provide more support to local football. For instance, in regard to the football academy at Tseung Kwan O being planned, the HKJC, the Government and the Hong Kong Football Association should study the scale and the mode of operation of the academy, especially its financial viability, to ensure that the academy can operate stably and soundly in the long run. In youth training and district football teams, we should also consider measures like providing scholarships to football players as a kind of encouragement.

With regard to the sports hardware, according to rating of the Asian Football Confederation on individual events of the first division football in Hong Kong in 2008, in terms of football pitches, what is the score of Hong Kong out of a full score of 20? The answer is one point. At present, quite a number of football pitches in Hong Kong are hard surfaced. There is also a very large gap between the basketball courts in Hong Kong and the Wukesong Indoor Stadium of the Beijing Olympic Games or the CotaiArena. For the badminton courts which are very popular among the public, the supply lags far behind the demand. The DAB suggests that the Government should positively consider opening up part of the appropriate sports facilities of schools for public use, so that the resources can be effectively used.

In fact, under the Southeast Kowloon Development Project, there will be a large-scale sports stadium complex which originally should be able to provide a world-class and landmark sports venue for Hong Kong. This includes a main stadium with a seating capacity of 45 000 spectators, a secondary stadium with a seating capacity of 5 000 spectators, and an indoor sports centre with a seating capacity of 4 000 spectators. However, as far as I know, the planning concerned is still on paper. According to the plan of the Administration, this belongs to a works item under Stage 3 of the Kai Tak Development Project. It is estimated that the works will only commence in 2013 and will finish in 2018. In fact, as a metropolis in the world, Hong Kong has long been lacking an iconic and world-class sports arena with a large capacity. Therefore, the works concerned should commence as quickly as possible.

Deputy President, after the East Asian Games are over, there are a lot of voices in the community discussing whether Hong Kong should bid to host the Asian Games in 2019. The public survey just conducted by the DAB showed that more than 54% of respondents were in support of Hong Kong in organizing more large-scale international sports events. Besides, after the East Asian Games, more than half of the respondents stated that their confidence in the local development of sports had strengthened. The survey conducted earlier by Ming Pao Daily News has also found that nearly 65% of the respondents were in support of Hong Kong in bidding to host the 2019 Asian Games. A public survey recently conducted by the Hong Kong University also showed that owing to Hong Kong's hosting of the East Asian Games, the percentage of Hong Kong people who identify themselves as "Hongkongers" had increased to 38%, which was a jump of 13 percentage points compared with the survey conducted half a year ago. This is also a record high since April 2000. The person in charge of that survey project pointed out that the greater recognition of the people's identity as "Hongkongers" was very likely to be related to the hosting of the East Asian Games by Hong Kong.

As a matter of fact, with the commissioning of the Hong Kong-Macao-Zhuhai Bridge in 2016, and together with the opening of the Deep Bay Link between Hong Kong and Shenzhen, travel between Macao, Zhuhai and Shenzhen will be faster and more convenient. In response to this, the Government can draw reference from the mode of organizing the Beijing Olympic Games and study co-hosting the Asian Games with the neighbouring places such as Zhuhai, Macao and Shenzhen, while Hong Kong will remain as the

main organizer. While this can fully utilize the facilities of the four places and help reduce our cost of organizing the Games, this can also strengthen regional ties. By co-hosting the Asian Games, further development of the economy of various cities can also be promoted. Therefore, the DAB hopes that the Government can actively consider bidding to host the 18th Asian Games in 2019.

Deputy President, I so submit.

**Mr IP Kwok-him moved the following motion: (Translation)**

"That the East Asian Games has been successfully completed, and with the support of the community as well as the strenuous effort of the athletes, Hong Kong players have achieved outstanding performance and won high praise; in order to further enhance the standard of local sports and promote the sports development in Hong Kong, this Council urges the Government to:

- (a) review the existing scoring mechanism for the elite training programmes, and actively consider including team sports with development potentials in such programmes;
- (b) encourage the Hong Kong Jockey Club to put in more resources to support the development of local football;
- (c) examine the effectiveness of the various existing funding schemes, and increase the funding amounts according to actual needs;
- (d) improve the hardware facilities for various sports activities and expeditiously carry out the multi-purpose stadium complex project in the Kai Tak Development Area, so as to provide better support for sports development;
- (e) formulate a specific policy to improve the treatment of athletes and their career development after retirement;
- (f) draw reference from the Mainland and overseas experience to encourage the business sector to take part in the funding of sports;

- (g) step up effort in motivating schools, the general public and enterprises to attach importance to sports, promote sports for all, and create a competition atmosphere among district sports teams, so as to increase public participation and community cohesion;
- (h) strengthen collaboration and exchanges with the Mainland to enhance the standard of local sports; and
- (i) actively consider bidding to host the 18th Asian Games in 2019."

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

**DEPUTY PRESIDENT** (in Cantonese): Three Members intend to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the three amendments.

I will call upon Mr LEE Wing-tat to speak first, to be followed by Miss Tanya CHAN and Mr Paul CHAN; but no amendments are to be moved at this stage.

**MR LEE WING-TAT** (in Cantonese): Deputy President, today is the best timing for discussing the promotion of sports development in Hong Kong. The scope of discussion is indeed very wide, including promoting sports for all, the provision of venues, elite training programmes, the issue of full-time athletes, their livelihood and further education, the modernization and adequacy of sports bodies, as well as the so-called subvention policy of the Government. As I do not have enough time to cover all my views on these six areas, I will focus on three of them.

Firstly, I want to talk about the subvention policy of the Government. In most countries and regions, some popular sports programmes would be subsidized by their government. Even the J League in Japan — one of the football leagues I watch from time to time — required a start-up fund of US\$20 million from the government for a period as long as 10 years, before it

could develop into a sizable and popular soccer event in Japan. If no subvention was given as a start-up, the sport could not be promoted in a considerable scale.

I did some research, but I do not know if the information I have got is accurate. According to my secretary, in the year 2009-2010, the Hong Kong Football Association (HKFA) only got a subsidy of as small as \$7.5 million. It is indeed a very small sum. I have no intention to make any comparison here, yet at times, we need to do so. As far as I know, the subventions received by the Hong Kong Philharmonic Orchestra — I sometimes go to its concerts, but I always pay my own tickets and these tickets are subsidized — is in the region of \$20 to \$30 million per year. As there are a few hundred thousand people in Hong Kong who enjoy playing football and football games attract as many as 2 million spectators, why a funding of only \$7.5 million is allocated to the sports? Does the Government find it inconsistent with the public's expectations? Will the public feel disappointed? For a sporting activity that is so popular, the Government should not have given it so little subvention. I am a subscriber of i-CABLE and NOW pay TV, which enables me to watch practically every football match. I do not mind paying a few hundred dollars every month. However, my expenses on football are not the same thing as those of the Government. Among the yearly public expenditure of some \$200 billion, only \$7.5 million is put in the HKFA, the subvention is truly far from adequate. The level of subvention must be increased to substantially in order that enough impetus is given.

According to a survey, if the HKFA or a sports federation wants to develop a certain sport, a start-up fund would be necessary. Otherwise, the sport concerned cannot grow even after a long time. Football is one of the most popular sports well-attended, participated and enjoyed by Hong Kong people. I feel the Government while boosting elite training programmes and other sporting activities, should also exert more efforts on promoting football.

Secondly, the livelihood of the athletes is another issue. I watched the play of "18m" last week. It was about the cyclist HUNG Chung-fun. It seemed that the Secretary and Permanent Secretary were not there ..... it should be HUNG Chung-yam — I am sorry, HUNG Chung-fun is in fact one of my party members — although it was about something that happened 20 years ago, we see no improvement in the situation after a lapse of 20 years. Twenty years ago, HUNG Chung-yam had to take up part-time jobs such as casual worker and construction worker to earn a monthly wage of a few thousand dollars. At

present, our so-called professional football players can hardly make ends meet if they are not well-known players. Many of them are part-time players with an average salary of — let me ask LAM Tai-fai, he is one of those managers, if he is generous enough to offer them \$20,000 to \$30,000 a month? I believe very few can get paid like this. My secretary told me most of them were earning a monthly salary of \$10,000, and some of them earned even less. As such, will their parents let them play football with the prospect of earning \$10,000 per month? How are they going to support their families? Not every one of them is CHAN Siu-ki who received a medal and scored with a header. This would be discouraging to professional players, not only football players, but also those in other sporting activities.

This is not only a problem of the Government, but a lack of atmosphere in Hong Kong to encourage large organizations and listed companies to employ these athletes. In the 1970s and 1980s, most football players and volleyball players in Japan were employed by local listed companies or industrial organizations as professional players or even employees. There are so many listed companies in Hong Kong, why do they not employ these renowned athletes to take up work in their public relations or customer service department? They only need to spend a little money for this great honour, but I fail to see many athletes getting employed.

Besides, I also heard that some athletes gave up their career for another job, while some discontinued schooling for a couple of years to receive training and participate in competitions before going back to study in the university. However, as only a few universities would make such special arrangement for them, so they would be blamed by their parents for wasting their time on playing football, only to end up in a job earning only \$10,000. When they do not have a university education, it is difficult for them to have any future. It is something really heart-breaking.

Many athletes in other sports, even if they are elite athletes in badminton, athletics, cycling, fencing and judo, they are not necessarily offered a university place. For them, it is life. What do their peers see in them? Even the Government ..... our tertiary institutions are subsidized by the Government, would they also encourage these athletes to go on studying and be admitted into a university? In the United States of America, basketball and American football players, as long as they are famous, they will be sought after by universities. But no such policy can be found in Hong Kong.



They have difficulties in earning a living, in training and in their career. Over the past 10 to 20 years or so, it was not until the last couple of years did I pay for tickets out of my pocket to watch football matches at the Hong Kong Stadium. From the matches of Manchester United and Chelsea which I watched five or six years ago to the final on this occasion, I took the trouble of purchasing tickets on-line two months in advance instead of getting a favour from the Secretary. I spent money to buy my own tickets because I have a passion for football.

However, from what I see, apart from the dissatisfaction of the football fans, I really have to tell LAM Tai-fai and those engaging in sponsoring football, such as Sophie, that the management of organizations for football and other sporting activities in Hong Kong is indeed disappointing. Their management is far from modern. I do not know how a review of that should be conducted. Some people even suggest not giving them too much subvention for they are incapable of achieving anything. For those organizations, it is not that I do not appreciate the efforts they have made, however, over these years, their management has not at all been modernized. Some people bearing the title of Chairman would attend some ribbon-cutting ceremonies, to put it bluntly ..... it may not be the same as chasing fame, but it is kind of showing off. We really do not know if they want to get the job done. Over the past 10 to 20 years or so, which one of these sports organizations indeed makes us feel that it is managed all-rounded and it is training up talents while at the same time promoting and fostering elites? I may be ignorant, but I do not see many of them do. If they can not do a good job even in that, despite the Government's willingness to put in resources, the problem will still be there.

Deputy President, with respect to sports policy development, the Government should take a leading role. I hope that the Secretary would not be too complacent about a few medals gained in the East Asian Games. If we do not work hard, we will lose everything in two or three years. As I recall, CHEUNG Man-kwong and I ..... is he not present? I am not a member of the Panel on Home Affairs, but I attended its meeting once to talk about football development, a Deputy Permanent Secretary received severe criticism from me and CHEUNG Man-kwong. We became quite heated in the argument. CHEUNG Man-kwong and I share two views in common. The first thing is, as we all know, both of us resent the fact that there is no democracy in China and Hong Kong. The second thing is, though the population in countries such as

Denmark, Norway and Sweden is only six or seven million, they are quite successful in their sports and football. They are not particularly wealthy, yet they are able to advance into the last 16 teams in the World Cup. Our motherland — China, except once, is usually unable to advance to the final round. Despite Hong Kong's efforts on this occasion, it still has a long way to go. It is a very sad thing.

Hong Kong is an affluent place and we have a population of 7 million. Yet, we are not frequently ahead of other countries in the Asia and South-east Asia. Therefore, I wish to ask the Secretary, is the Government truly dedicated to promoting sports activities? Now that we have won quite a number of medals in the East Asian Games, does it follow that we should consider bidding to host the Asian Games? In this regard, I think we can give it a thought. However, I remember I told the Secretary that we could not support him yet. Why? It is because there is still a lot to be done. Only making a fine show is inadequate in accomplishing our tasks in promoting sports for all, fostering elites, organization and subvention, not to mention the manifold problems involving the livelihood, further education and learning of professional football players. Otherwise, we are just like getting a shot in the arm. It makes us feel so excited in a few months or a year to bid for hosting the Asian Games. We still not know if we can really do it.

As such, I hope the Secretary can at least conduct a comprehensive review of the few issues I have just mentioned, to show the public that the Government does have a commitment and put in efforts to its sports policies, and one of them is to greatly enhance its leading role, as well as to adjust its policy to increase substantially the level of subsidy to various sporting activities. Apart from elite training programmes, it should put in more resources to support the development of football and other sports.

Thank you, Deputy President.

**MISS TANYA CHAN** (in Cantonese): Let me first state the stance of the Civic Party. Having studied the contents of the motion and the amendments, I believe Members will know that in fact, the Civic Party is in general very supportive of the contents of the amendments and the original motion, apart from item (i) of the

original motion which says, "actively consider bidding to host the 18th Asian Games in 2019", to which we have great reservation. Therefore, when it comes to voting on the motion later on, we will abstain from voting. Nonetheless, we are very supportive of many of the suggestions. We realize that this is a chance for us to pool our wisdom together. It provides a good opportunity for us to reflect, or even for the Government to find out the direction it should follow so that there can be a clearer future for the development of sports in Hong Kong.

It was already a decade ago when Hong Kong last bid for the hosting of the Asian Games — no, it should be 11 years ago in 1999 — we lost to Doha then. At that time, many people felt that Hong Kong did not yet have adequate hardware facilities, and the level of the athletes might also vary. But now, we would like to see what the situation is like 11 years later, and how the sporting culture has developed in recent years. Actually, if Hong Kong again bids for the hosting of the Asian Games, I will really be worried because given the last two Asian Games held in Guangzhou and South Korea, if Hong Kong again bids for hosting the Asian Games in 2019, is there a chance for the Asian Games to be held again in the Southeast Asian region? I understand it will not involve a handsome amount to bid for the hosting of the Asian Games — the expenses for the last time were \$15 million, but if that \$15 million is to be spent on sports development, I believe the resources can be better utilized.

Let me first talk about the hardware facilities. Earlier, Mr IP Kwok-him said a sports ground which could accommodate scores of thousands of spectators would be completed in the Kai Tak area, and I also know that the Secretary pays great attention to it. However, in order to host the Asian Games, apart from a sports ground, I believe we also need an athletes' village. For this East Asian Games (EAG), athletes can check into a hotel but the Asian Games will see the participation of as many as 45 countries, which is different from just having nine participating countries this time. If all athletes are to stay in hotels, what about the foreign guests then? Are we asking them to camp on the sports ground? That is why there must be an athletes' village. But where should it be built? Do we have the planning and the site for this purpose? When the Asian Games is over, what will it be used for? These are all very important issues.

Furthermore, what other competition venues do we have? All decoration for the venues for this EAG is carried out hurriedly, with a lot of patching up works. Luckily, the competition venue for the BMX race was ready in time for WONG Steven Patrick Marie Josee to snatch a medal for Hong Kong. On the other hand, we should not forget that training grounds are also needed. We must

have the training grounds, otherwise, soccer training will again have to take place in the basketball court next to the C. C. Wu Building, which is far from ideal. However, what will the training grounds be used for after the competition? How they are to be sustained is of utmost importance.

Then, there is the issue of software. Excuse me, I must say that in this EAG, all the athletes won gold medals because they have been making great efforts over the years under very limited resources. As against the numerous mistakes made by the Government and the organizer before the opening of the EAG, this is really a stark contrast, completely overshadowing the Government and the organizer. I have prepared this — please do not be offended — "The Death Note of the East Asian Games", recording the flaws during the EAG, which include the incident of an "aborted" shooting range which took place at the end of December 2008, resulting in the competition venue having to be changed to the South China Athletic Association, not to mention the hoisting of the national flag which should be hoisted to the ceiling but could only be hoisted chest-high. Moreover, Hong Kong athletes were not able to defend their titles because the relevant competition had to be cancelled. Then, there was the leaking ceiling at the Kowloon Park swimming pool, and the bumpy running track at the Tseung Kwan O sports ground which turned the race into a steeple chase. Not only was the ceiling leaking, but also, it fell afterwards. Originally, some players wanted to have the training at the BMX venue, but since the works were not yet finished, no training could therefore be carried out there. Then, there was also the Hong Kong Alliance of the Victims in Sports because for events like judo, cycling and field and track, some athletes who were originally qualified were unable to compete. Worse still, many people who wanted to get the tickets were unable to do so at the venues. Luckily, improvements were made on the first day. As for the day for the opening of the EAG, ticket holders were only able to view one-quarter of the stage, and there were also people who had to go a long way before tickets could be bought. As for whole-day tickets, some events had unsold tickets but no spectators, while some had untaken seats, giving a very deserted scene. Of course, the torch relay cannot be left out because it was originally intended for the last leg to finish in a television station. One major point is that this was arranged by volunteers. Be it for the political parties or the Government, volunteers are "treasures" who can offer the greatest support to the whole event and can also assist in bringing about cohesion, but the arrangement on this occasion seems to be less than satisfactory.

I remember officials explained the reasons for the numerous flaws. For example, on the sale of tickets, the excuse was that this was the first time Hong Kong hosted the EAG. Nonetheless, to be frank, all cities are hosting the EAG for the first time, right? I think they have to think it over clearly before making such an excuse. They also have to bear in mind that the authorities just outsourced the services, not the responsibilities. It is not that Hong Kong cannot accomplish the job, on the contrary, we are very good in holding international sporting events. Every year, we hold a lot of competitions, including marathon, soccer, volleyball, rugby, tennis, badminton, beach volleyball, squash, cricket and dancing, why is it that we got screwed up this time because there are just some more events in the EAG? Why did it turn out to be the case? Before a review is conducted, the Government quickly gives out the news that it will bid for the hosting of the Asian Games. I think it really has to think twice. This EAG seems to have broken even, but for the Asian Games to break even, it will be extremely difficult. If my information is correct, when we bid for the hosting of the Asian Games in 1999, a loss of \$900 million was projected. Now, when we have to calculate the loss to be incurred two decades later, we must be very clear.

The core purpose of holding large-scale sports events is in fact promoting the sports culture. It has to have mass participation and it should also be sports for the elites. Just as what the Government says, it must be for all and for the elites, and it must be popular and with hardware available. In terms of sports ground, out of the 18 districts, the Central and Western district and the Yau Tsim Mong district have none, and for some places which we used to refer to as satellite towns when we were young, for example, Yuen Long, the population is in fact fast expanding but their resources are meagre, with perhaps only one swimming pool or an ordinary sports ground for a big population. Regarding swimming pool, both the Southern district and the Central and Western district have just one, but their population is 300 000 and 250 000 respectively. Moreover, the nurturing of spectators is also very important, and this forms a part of the sports culture. On the day the Hong Kong football team played against the national football team of Japan, there were 30 000 spectators, but for a local football match held a few days later, although the soccer star "Chan Seven" was playing, only some 500 spectators watched the match. Why is it that just after a few days, the number of spectators dwindled that much? I think this is also something we must consider. In my opinion, apart from the Hong Kong Jockey Club — it has actually provided many subsidies — other organizations should also be encouraged to donate or provide other forms of support.

I would also like to touch on the training of elite athletes. Many Honourable colleagues have mentioned subsidy. There is in fact a substantial difference between subsidies for popular and unpopular sports, but the amounts are small. Earlier, I have mentioned "Chan Seven". We all know that he once worked as a worker in a goods van, and he has to take on part-time jobs to make a living. We also know there is a male squash player who after much struggle gave up being a full-time sportsman. There is also Mr HUNG Chung-yam who was mentioned earlier.

As regards sports policy for disabled persons, I have previously written to the Secretary and he has also replied. I know the Government will increase the resources for disabled athletes. However, there is one point which I cannot but wish that Members will pay attention to, and that relates to the amount of the incentive awards. The amount of incentive award given by the authorities to an Olympic gold medalist was \$3 million, but only \$300,000 was given to a Paralympics gold medalist. Why is it that one LEE Lai-shan is equivalent to 10 SO Wa-wai? I fail to understand. Is this real discrimination? Asian Games gold medalists each receive an award of \$400,000 whereas their counterparts in the Asian Paralympic Games only each receive \$40,000. The ratio is again 10:1. I do not believe that the efforts, toil, hard work and time spent by paralympic athletes will be less than those of the able-bodied athletes, why then are the awards and recognition given to them so much less? They are 90% less.

A very fine bond between the general public and the elite athletes is the various sports associations mentioned earlier. Whether it is popularizing sports or developing elite athletes, the sports associations do play a very important part. Recently, an audit report criticized the governance confusion of public-funded sports associations, wishing that there could be greater transparency and improvement in this regard. Meanwhile, it is also hoped that assistance can be extended to the Sports Federation and Olympic Committee of Hong Kong, China and its affiliated sports association to improve the standard of governance and enhance their transparency, so as to avoid the possibility of conflict of interests or "black box" operation.

Finally, I would like to explain why we insist that now is not the right time to bid for the hosting of the Asian Games, for I consider the move to be putting the cart before the horse. We should first focus our strength, resources, money and everything on the overall planning for sports in Hong Kong and the development of software, before considering the next move. After all, the key to holding large-scale sports events is to promote the participation of all in sports,

rather than regarding it as a short-term impetus, in much the same way as an outburst of a pyrotechnics display, or the fleeting sensation of the taking of ketamine or other stimulants.

Thank you, Deputy President.

**MR PAUL CHAN** (in Cantonese): Deputy President, in the East Asian Games which was completed not long ago, Hong Kong players have achieved outstanding performance by winning 26 gold medals. Hong Kong people are particularly excited about the performance and achievement of our soccer team, and this demonstrates the strong sense of belonging and pride shared by members of the public when the Hong Kong team performs well in large-scale international competitions.

Whenever Hong Kong players have outstanding performance and won top honours in the international arena, we will join in one accord to openly call on the Government to deploy more resources so as to better develop local sports. Similar requests were made in 1997 when our "Windsurfing Queen" LEE Lai-shan won the first-ever Olympic gold medal for Hong Kong, and today again when our soccer team became the Champion in the East Asian Games. It can be seen that the resources deployed by the Government to promote sports are inadequate, and the problem does not emerge only today. Even elite athletes selected for focused training have time and again expressed in public their dissatisfaction.

While one of the important objectives of my proposing today's amendment is to address the issue of insufficient resource input in sports by the Government, the other is to address the issue of whether the funding for sports programmes is fair, just and reasonable, and whether public money has been used properly and effectively. The Director of Audit released Report No. 53 at the end of last year, the first chapter of which is about "Administration of the Sports Subvention Scheme". It discloses the deficiencies of different national sports associations (NSAs) in the deployment of resources allocated, corporate governance, accounting and compliance with rules and regulations, as well as the Government's inadequate monitoring. These are issues of wide public concern and the Government should therefore tackle them in a practicable manner. Rectifying the situation is the only approach that the Government should take that will not let members of the public and the athletes down.

Deputy President, concerning the Director of Audit's report, as the Public Accounts Committee (PAC) is still preparing the relevant report, so in the following speech, I will only substantiate the concerns highlighted in my amendment with points from the Director of Audit's report and the concerns raised during the PAC public hearings.

In recent years, there have been criticisms from the sports sector that the criteria of funding for the NSAs lacks transparency, and it is worried that funding will be provided automatically to the subvented organizations year on year, thereby jeopardizing the development of new sports programmes and new NSAs. Furthermore, the Director of Audit's report also pointed out that while the Leisure and Cultural Services Department (LCSD) has adopted two different approaches in determining the funding amount, it failed to explain specifically why different approaches have been adopted to determine the funding amount for various sports programmes. These are worthy of consideration by the authorities with a view to ensuring that funding applications for sports programmes organized by different NSAs would be approved equally in a fair and just manner.

The Director of Audit's report also reveals the NSAs' lack of an awareness of compliance with rules and regulations, hence resulting in deficient internal control. For example, the budget submitted by the LCSD for the new financial year has failed to list the actual expenditure of the same programme for the preceding year, which has therefore become an unspent expenditure. And yet, funding was again provided to the LCSD.

Another example is the massive delay in the submission of quarterly and assessment reports by some NSAs over an extended period of time. Flaws and non-compliances were also found in the reports. What is more, unspent subvention of cancelled sports programmes was not reported, leaving the money in the pockets of the NSAs concerned. Furthermore, the NSAs did not submit their annual accounts on time. While some have not complied with the required procurement procedures, some failed to properly manage their fixed assets, not to mention cases of expenditure claims ineligible for subvention, as well as expenditures exceeding the spending limits and omissions in reporting income. Such a chaotic and messy situation is really disappointing and should be rectified.

Being the department responsible for controlling subvention, I think that the LCSD should better perform its role as a controller. Apart from enhancing



the transparency of the funding policy and the funding approval process, it should also assist various NSAs in enhancing their discipline in corporate governance, accounting and compliance with rules and regulations, so as to ensure that the resources allocated to them are utilized in an appropriate and effective manner.

Deputy President, I suggest that in case the same NSA applies again to the LCSD for subvention for a similar programme, even though the expenditure and income accounts for the previous programme have yet to be finalized, it should be required to provide a reasonable estimate to serve as reference for the authorities before the funding amounts are determined. Furthermore, instead of allowing the NSAs to identify or develop computer software to process financial accounting information on their own, the LCSD should assume the co-ordinating role in identifying or developing suitable software for the application of the NSAs. Not only is this cost-effective, but would also facilitate the LCSD to carry out on-site inspections of various NSAs in the future. In other words, we can kill two birds with one stone.

Deputy President, as the Government has laid down three objectives for the development of local sports, namely promoting sports for all, cultivating elite athletes and organizing large-scale sports events, it should examine various NSAs' funding applications for the new financial year to see if their performance in the preceding year was up to the standard. There must be carrots and sticks to show that resources are properly and effectively allocated, through which the transparency of the funding policy and the funding approval process can be enhanced.

On the other hand, the Government should also promote in the schools the importance of sports, so that students will understand that participation in any kind of sports is good for their health and fun. There is no need for every student to become an athlete. What is more important is that they should learn the spirit of sportsmanship, that is, "fair play and strive for excellence", be able "to get back on one's feet" and "never give up".

I noted that as advised by the Director of Leisure and Cultural Services Mrs Betty FUNG in a public hearing, a working group would be formed within this month to comprehensively review the Sports Subvention Scheme. I hope that the working group concerned will consider my abovementioned views.

I support the original motion and amendment moved by Mr IP Kwok-him and Mr LEE Wing-tat respectively. As for the amendment moved by Miss Tanya CHAN, it proposes to review the structure and management mechanism of the Sports Federation and Olympic Committee of Hong Kong, China (SF & OC) and various NSAs, so as to further improve the governance standard of these organizations. According to a paper previously submitted by the Home Affairs Bureau, the SF & OC is responsible for the co-ordination of local sports organizations and the development of sports in Hong Kong, whereas the NSAs are responsible for governing sports groups in their respective sports. It is only reasonable that Miss Tanya CHAN proposes a review to enhance the governance of those organizations, which I believe would be welcomed by the Government and members of the public.

Nonetheless, I have reservation about Miss CHAN's amendment in respect of the proposed deletion of the words "actively consider bidding to host the 18th Asian Games in 2019" from the original motion. I think that the original motion merely proposes to "actively consider bidding to host the 18th Asian Games in 2019", rather than calling on the Legislative Council to support the hosting of the Asian Games at this point in time. We should give the Government and the sports sector some margin to make careful consideration, with a view to providing more detailed information and analysis before a decision is made, instead of flatly rejecting it at this stage.

While I support Miss CHAN's proposal on a review, I do not agree with the deletion of the part that is intended for our consideration. Therefore, I would abstain from voting on her amendment. In the same vein, I will withdraw my amendment if her amendment is passed.

Deputy President, I so submit.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, I would like to thank Mr IP Kwok-him for proposing a motion on "Promoting the sports development in Hong Kong" and Members' concern about the development of sports in Hong Kong.

The 2009 East Asian Games (EAG), just held last month, was the first ever large-scale international multi-sports games held in Hong Kong. With the support of the community, the EAG has been successfully completed in a safe

and orderly manner. We are proud that Hong Kong athletes have even achieved unprecedentedly good results in the competitions.

Since the reunification of Hong Kong, the SAR Government has adjusted its sports administrative structure with the establishment of the Sports Commission and the formulation of three clear strategic directions for sports development, namely to assist elite athletes in achieving excellence; to develop a vibrant sporting culture in the community; and to elevate Hong Kong to an international sports events capital. In order to fully implement its development strategies, the Commission has established three committees, namely the Elite Sports Committee, the Community Sports Committee, and the Major Sports Events Committee. The Sports Commission and its three committees have representatives from sports associations for athletes with a disability and disabled athletes sit on them. We will promote the sustainable development of sports in Hong Kong at different levels through consulting the sports sector and relevant persons, formulating specific policies and initiatives, and increasing resources year on year.

In the area of elite sports, we have progressively increased funding support for elite athletes and implemented an in-and-out screening mechanism for elite sports to pool resources, so as to enhance the effectiveness of training athletes. Every year, the Home Affairs Bureau provides recurrent funding of approximately \$160 million to the Hong Kong Sports Institute (HKSI) for the training of elite athletes, including providing direct subsidy to athletes and funding support on the education and vocational fronts. In the light of the needs of retired athletes, the Sports Federation and Olympic Committee of Hong Kong, China and the HKSI launched the Hong Kong Athletes Career and Education Programme in 2008 to enable elite athletes to alleviate their anxieties, so that they can concentrate on training in pursuit of the best results.

In order to effectively identify and train up young athletes with good potentials, we have earmarked \$10 million this fiscal year for assisting 21 national sports associations (NSAs) and two sports associations for athletes with a disability in developing their feeder systems. An additional \$3 million has also been allocated to the HKSI to enhance junior squad training on a recurrent basis. We have also set aside special funding for Hong Kong athletes to get ready for major competitions.

Thanks to the successive implementation of various training and support measures, Hong Kong athletes won a total of 110 medals, including 26 gold, 31 silver and 53 bronze, in the 5th EAG held earlier, as opposed to only 13 medals, including two gold, two silver and nine bronze, received in the 4th EAG held in Macao. As pointed out by Mr IP Kwok-him just now, the increase in the number of medals from 13 to 110 was definitely not pure luck. In the National Games held in October last year, Hong Kong athletes won an unprecedented number of seven medals. Today's news have it that a Hong Kong squash athlete, WONG Wai-hang, who won a men's double silver medal in the EAG, has been recruited by the Chinese national squash team as its national coach upon retirement and will go to Shanghai to train national players. This employment offer demonstrates a recognition of the achievements of Hong Kong athletes.

With regard to sport in the community, we have rolled out events in the community to encourage public participation in sports and advocate the establishment of sports culture. Apart from introducing sports to the public, the Leisure and Cultural Services Department (LCSD) will also design a diversity of sports activities to meet the needs of different groups. Last year, more than 39 500 sports and recreational activities were held in the community, attracting an attendance of 2.13 million. With the promotion efforts of 18 District Councils, the number of participants at the 2nd Hong Kong Games held in the same year nearly doubled over the first Games. More than \$300 million will be spent annually on the sports activities organized by the LCSD and the funding allocated to various NSAs under the Sports Subvention Scheme.

In the area of promoting major sports events, a total of 11 sports events have been designated as "M" Mark events, and some, such as the Hong Kong Marathon, Hong Kong Rugby Sevens and Hong Kong Cricket Sixes, have become landmark events not just in Hong Kong, but also internationally.

To tie in with the promotion of our sports policy, we will continue to build new sports facilities, such as the Multi-purpose Stadium Complex in Kai Tak, and upgrade the levels of existing facilities, such as redeveloping the swimming pool at Victoria Park and upgrading facilities at the Mongkok Stadium.

The successful hosting of the EAG in Hong Kong will not only promote the building of a local sports culture, but also facilitate further promotion of sports development in Hong Kong. This is why I welcome the motion debate

today very much and hope to heed Members' views on sports development in Hong Kong. I will respond again later in the meeting.

Thank you, Deputy President.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, last month, Hong Kong successfully staged the East Asian Games 2009. As an elected Member of the Legislative Council, I think I should pay tribute to people from three quarters in this solemn Chamber. First, I would like to pay tribute to Hong Kong athletes participating in the East Asian Games for their strenuous efforts. Second, I have to pay homage to the Amateur Sports Federation & Olympic Committee of Hong Kong (SF & OC) headed by Mr Timothy FOK, and also the various sports association in the community for their contribution. Finally, I think I should express my gratitude to Secretary TSANG Tak-sing and his colleagues for their hardwork.

Deputy President, undoubtedly, after this East Asian Games, the SAR Government has to conclude the experience and lessons learned in a serious and holistic manner, so that it can scale new heights and make improvement.

Deputy President, to promote the development of sports in Hong Kong, the Government must first draw up a comprehensive blueprint in this respect. The Government and society at large must understand that sports development is a long-term investment, and that good sports development in Hong Kong means more than obtaining good results in international competitions. This is exactly the shortcoming of the sports development in Hong Kong at present. When Hong Kong athletes obtain good results in certain sports activities, the Government will regard those sports activities as elite sports and provide more resources for their further development. Sports like windsurfing and cycling are elite sports. But if sports with no outstanding results will receive less support, and that additional subsidies will only be provided to sports with good results, how will sports with no outstanding results have the opportunity to develop into elite sports given the small amount of resources available? The Chief Executive claimed that his happiest day in 2009 was the day the Hong Kong football team won the championship. Since no outstanding results have been obtained in international competitions in recent years, football has been removed from the elite sports category, and its development is impeded by insufficient resources. Is this a very good lesson to be learned?

Deputy President, the East Asian Games makes us know that football players in Hong Kong have been working very hard and have achieved good results. We should never look down on ourselves. However, at interviews conducted after the competition, a number of football players and members in the football circles hoped that the Government could reinforce the training for young players and provide support on venues. Training of young athletes is the cornerstone for sports development. To achieve good results in the training of young athletes, training must start at schools and at district level, and followed by the development for professional athletes. At present, the efforts made in these aspects are less than satisfactory. Take football as an example. Many football clubs participating in league matches of various divisions do not have their own football pitches or training grounds in the community. Though they may rent venues provided by the Leisure and Cultural Services Department, the maximum time available everyday is limited to 90 minutes. How can football be developed into a professional sport under such circumstances? How can sports be made a career? Venues rented and used by football clubs of the first division for 90 minutes will be used by other groups and the public, if so, how can the quality of these venues be maintained? Deputy President, I wonder if you know that, according to my rough estimation, of the six hard-surface football pitches at the Victoria Park nearest to us, more than half of the time in a year, they are used for other activities like the staging of the flower show, the Lunar New Year fair, the lantern fair and the Exhibition of Hong Kong Products, but not football activities. In that case, how can football activities be further developed? As in the case of the Yuen Long Stadium in New Territories West, the Government is still unwilling to grant additional resources for the conversion work. How can any development result? Recently, I have read an interview of an owner of a local football club. He said that he once invited a local football player playing in the China Premier League to return to Hong Kong. The owner said that he even asked the football player to state the remuneration he wanted, for the owner only wanted the player to return to Hong Kong. However, the football player gave this answer, "I only want to play football well. Since Mainland football clubs can provide better training grounds, which I cannot get in Hong Kong, why should I return to Hong Kong?" I wonder how the Secretary feels upon hearing this. Indeed, his request is simple. Nonetheless, the Government fails to put in place a comprehensive supporting policy to address the problem.

Regarding the proposal in the original motion that Hong Kong should actively consider bidding to host the 18th Asian Games in 2019, I think the proposal should be handled with great caution. Though I support the motion,

this proposal must be dealt with prudently. I recall that as early as 2000, Hong Kong bid to host the 2006 Asian Games, but was defeated by Doha of Qatar. One of the reasons was that Hong Kong did not have a well-equipped sports complex and the relevant supporting facilities required for the staging of large scale international integrated games. At present, the Guangzhou Asian Games Town has been built in Guangzhou in our vicinity to prepare for the 2010 Asian Games. The Asian Games Town covers an area of 273 hectares. The Asian Games Town consists of seven major parts, including the Athletes' Town, the Technical Officials' Town, the Media Town, the Main Media Center, the Logistics Area, the Gymnasium and the Asian Games Park. If Hong Kong is to host the Asian Games, will the Government be willing to invest such an enormous amount of resource in facilities alone as support? The staging of the East Asian Games this time around has highlighted the inadequacy of venues in Hong Kong, particularly the absence of a sports complex. On the day LIU Xiang, the Chinese champion hurdler, attended the final race, he had to travel 40 minutes from his hotel to the Tseung Kwan O Sports Ground, and he felt the journey tiring. Honestly, in view of the conditions mentioned above, we have to consider cautiously whether Hong Kong should bid to host the 18th Asian Games in 2019 as proposed in the original motion. I therefore hope the Government will consider this carefully. Last month, Hong Kong undoubtedly staged the East Asian Games successfully and the achievement should be recognized. We should say what is right as right, and denounce what is wrong as wrong (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**MR CHAN HAK-KAN** (in Cantonese): Deputy President, I am fond of playing football, and I grew up watching a very uplifting cartoon series called "Captain Tsubasa". This cartoon series reflects the passion for sports among young people and also the pursuit of their dream.

Before I come to my speech proper, I would like to introduce to Members three characters in this cartoon. The first is the protagonist, Tsubasa OZORA, a talented football-player whose dream is to lead the national team to win the World Cup.

The second character is Tsubasa's good friend, Taro MISAKI, who travelled around with his father. Playing football becomes the only channel for him to make friends and has enabled him to win many true friendships.

The third is Kojiro HYUGA whose family has financial difficulties. His mother is sick and he has to take care of his siblings. Playing football has become an important way for him to make ends meet and obtain scholarships to pay for his education.

If our young people are devoted to sports, these three characters and the cartoon series itself can inspire them to set goals for their life and nurture a team spirit in them, while strengthening their sense of belonging to the nation and country. This is more pragmatic and easily comprehensible to young people than the teaching of the values of life through the general civic education lessons.

Although what I have just said is about the story of a cartoon series, in this place of Hong Kong where we live, there is also a group of these young people. If they want to be wholeheartedly committed to sports, they must make a lot of sacrifices (such as in their living, finance and career). In order to make good achievements in sports, they must put in a lot of efforts and there will be a lot of worries too. Here, I would like to explain my view with the story of a group of young friends of mine — the New Territories Realty Wofoo Tai Po Football Team (Wofoo Tai Po Football Team).

The Wofoo Tai Po Football Team is a football team which has developed very rapidly in recent years. Within a short period of six to seven years, they have been promoted from the Third District Division to the First Division, and they even won the championship of the Hong Kong FA Cup in the last season, being the first district football team winning this championship.

But behind all the applause, the football players have actually sacrificed a lot. One of the players, "Ah Chi", is a graduate of the Hong Kong University of Science and Technology. He became a full-time football player after graduation but his income cannot make ends meet. So, he once worked on a part-time basis in a non-government organization under my charge. He had also worked as a real estate agent. From each part-time job he may earn only some \$3,000 to \$4,000 to help meet the expenses and he has lived in straitened circumstances. He works in the morning, and he practises and plays in football matches in the



afternoon and at night. His case is not unique, because this is also the case of his other teammates. As Mr IP Kwok-him has said earlier, some football players have to work as drivers cum delivery workers during daytime and they sometimes cannot play in the matches due to injuries sustained when delivering goods. All these examples are saddening.

Deputy President, some people have criticized young people in Hong Kong for not having goals and dreams. But these young football players in the Wofoo Tai Po Football Team have fully shown to me their devotion in pursuit of their life goals and dreams, and this is worthy of our support and encouragement.

Deputy President, speaking of support, the most direct way to provide support is obviously to inject more resources into these sports. But in recent years, many national sports associations and athletes have been telling us that they do not have sufficient resources and that this has affected their training and preparations. Of course, this has something to do with the economic downturn in recent years and the Government's ban on sports sponsorship by tobacco companies. But in making this point, I am not asking the Government to lift the ban, so as to allow tobacco companies to provide sponsorship for sports again. Rather, I just wish to point out that if the Government wants the horse to run fast but does not want to feed it, this is simply impossible.

In order to maintain the standard of athletes and organize spectacular competitions, the provision of more resources is a must. As Secretary TSANG Tak-shing has said earlier, there is a very successful marathon race in Hong Kong and behind this event there is sponsorship from a major bank which has injected many resources to provide a stable source of income that enables this spectacular event to be held in Hong Kong year after year.

Deputy President, even though adequate resources can be provided, the distribution of resources is also a key factor. As the Government hopes to ensure fairness and impartiality in the allocation of resources, a scoring system has been put in place since 2005 for assessing which sports should be selected as elite sports. It is no doubt a more objective and quantifiable method of assessment and yet, it still has inadequacies. An example is football teams or basketball teams that I have been talking about. It is because they take part in international competitions on a team basis, and they are affected by objective factors in more areas and so, they cannot win medals as easily as athletes

competing on an individual basis. Such being the case, they are in a rather disadvantageous position under the existing scoring system and will therefore tend to be excluded from the list of subvented elite sports.

I personally think that football and basketball are sports which many people in Hong Kong would support and take part. The Government should conduct a review so as to improve the existing scoring system. For example, two separate queues can be arranged, one for applications from teams and the other for applications by individual athletes. This will be much fairer.

Deputy President, in the East Asian Games, many athletes have won gold medals for Hong Kong. This has given a boost to sports development and created a legend. It is difficult to create a legend, but it is even more difficult to carry on with the legend. That said, I trust that if the athletes, the public, and the Government are of one mind (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Time is up.

**MR CHAN HAK-KAN** (in Cantonese): the East Asian Games can continue to be a legend and this legend can be carried on and on.

**DR LAM TAI-FAI** (in Cantonese): Deputy President, I remember that during the preparatory stage of the East Asian Games (EAG), it was criticized and dismissed by many people. The Secretary had also been given a dressing-down many times. Some people even said that I was silly and asked me why I had sponsored the EAG and asked whether I did so in order to put myself in the limelight. My view is that the EAG is, in fact, the first multi-sports games of such a large scale ever held in the history of Hong Kong, and as Hong Kong people, we should indeed take concrete steps to stand up for it and support it.

Hong Kong has put up a good show this time around, because in the EAG, with favourable climate and geographical conditions as well as popular support, Hong Kong athletes put on a remarkable performance and achieved the best ever results, winning 26 gold, 31 silver and 53 bronze. The sensation felt by the entire city was indeed unforgettable, and praises were heard everywhere. However, I feel that some people were then trimming the sail to the wind, and I

wonder if the Secretary shares my feeling. Because many people subsequently came forward to urge the Government to address squarely the development of sports in Hong Kong. Some people even pleaded in tears with the Government to act more quickly to bid for the hosting of the 2019 Asian Games. This indeed shows us what it means by "he who knows the trend of the times is a wise man".

In fact, a moment of success does not last forever. As a matter of fact, sports has never been an important issue of public attention in Hong Kong. The sports sector has put forward many constructive suggestions and various demands to the Government over the years but regrettably, the Government has always attached little importance to them and even neglected them. It is only after a large-scale sports competition was over and when the athletes had achieved outstanding results, just as they did in the EAG, or performed very badly, just as what happened in the 2008 Olympics Games, that sports will have a chance to attract the Government's attention and be put up for serious discussions.

Deputy President, what has made me feel most exhilarating is that graduates of Lam Tai Fai College achieved brilliant results by winning two gold, one silver and three bronze in the EAG. I wonder if the Secretary is aware of their remarkable achievements. They include KWAN Ning-wai, gold medalist in women's Wushu; "Ah Yat" — LAU Nim-yat, gold medalist in Football; WONG Jing, who won a silver and a bronze in Women's Quadruple Sculls and Women's Double Sculls in Rowing respectively; and KWOK Ho-ting, who won two bronze in Men's Individual Road Race and Road Time Trial (Men's Team) in Cycling.

Frankly speaking, their success has not only won honour for Hong Kong. It is also proof that I have chosen the right path in deciding to run a Direct Subsidy Scheme secondary school not bound by the traditional framework to provide a curriculum with special characteristics. I hope that Mr CHEUNG Man-kwong would also support this path that I am taking. In fact, many of our students with different potentials can give play to their talents and have made achievements, and this will help nurture a diversified pool of talents for society.

Being a member of the local football circles myself, I am very glad to see such an outstanding performance made by the Hong Kong football team in this EAG. However, I would like to draw Members' attention to the fact that the football medal is just one of the 110 medals won by our athletes in the EAG. I

hope Members will bear in mind that we actually have a team of close to 400 athletes representing Hong Kong in this EAG. Many medalists have worked equally hard with so much toil and sweat on the sports ground and they have taken part in training and competition with perseverance and an unyielding will. Among them are YIP Pui-yin in badminton, TSAI Hui-wai in swimming, and CHIU Wing-yin in squash. Moreover, we must not forget a team of 6 000 volunteers, who also command our praises and respect.

Many members of the community have been calling on the Government to bid for the hosting of the 2019 Asian Games. Personally, I do have great reservations about bidding to host the 2019 Asian Games, and I hope that we can think twice about it. The EAG and the Asian Games are totally different and absolutely cannot be mentioned in the same breath in terms of scale. The EAG only has nine participating countries and places and 22 sports items. However, the Asian Games has over 40 participating countries and places and 40-odd sports items, the scale of which is comparable to the Olympics. What we should actually think about now is whether Hong Kong, under the current conditions, has sufficient software and hardware to support such an event? For instance, do we have the resources to build and complete before 2019 a sizable village to accommodate the athletes? Because there is no reason for us to accommodate all the athletes participating in the Asian Games in hotels. Do we have enough sports stadiums for competitions to be held? Do we have adequate sports professionals? For the time being, it is actually most important for us to review the effectiveness of the EAG and seriously analyse what will need to be done for hosting the Asian Games and also what we are lacking and what preparations we will need to make before proceeding to make long-term and feasible plans and deployment. Otherwise, even if Hong Kong can succeed in bidding to host the Asian Games, the results may still be unsatisfactory despite the immense efforts made. If such being the case, it might as well be better to bid for hosting this event only when the time is ripe in future.

Item (i) of Mr IP Kwok-him's original motion today urges the Government to actively consider bidding to host the Asian Games. In fact, with regard to bidding to host the Asian Games, it has to be initiated and led by the Sports Federation & Olympic Committee of Hong Kong, China (SF&OC), which is already a member of the Olympic Council of Asia. The SAR Government can only play a supporting role in bidding to host the Asian Games. I hope that

Members do not have the misconception that the Government can be the bidder. If the SF&OC does not bid for it, the Government still cannot do so even if it so wishes.

Moreover, I propose that a sports bureau be set up expeditiously to co-ordinate the development of the sports sector, formulate the policy on sports development, set up a funding mechanism and a scoring system for elite athletes, draw up a scheme for promoting sports for all and provide a clear delineation between sports and recreation. However, this sports bureau must be led by members of the sector, and it must be tasked to study ways to enhance hardware support, so that athletes do not have to compete with the public in the use of sports venues. The existing Community Sports Committee can only give advice but it cannot formulate policies.

Deputy President, as the saying goes, it takes 10 years to grow a tree and 100 years to nurture a man. It takes at least a decade or eight years to nurture an athlete and so, we must draw up a comprehensive training scheme for young athletes or else, there is not going to be any new blood in the sports sector of Hong Kong. The Government must upgrade the status of athletes, so that they will have confidence in pursuing a sports career. It is also necessary to provide protection for full-time athletes after their retirement by, among others, ensuring that they can continue to study and seek career development, so that they will not give up halfway because of a concern about making ends meet and their living after retirement.

Lastly, I must say that we absolutely cannot allow the development of coaches to remain in an amateur stage. We must enhance the training for coaches, sports administrators and relevant personnel, and also upgrade their standards.

Most importantly, I hope that the Government will clearly lay down the objectives of sports development as early as possible, including a plan on the amount of resources to be ploughed into sports development in the coming decade, so that various national sports associations can formulate their development plans accordingly. Under the principle of developing elite sports and achieving sports for all, the Government must take the lead to encourage participation from the business sector in supporting national sports associations in

Hong Kong to organize more international competitions, thereby building a good sports culture and developing Hong Kong into a city of sports in Asia.

Deputy President, I so submit.

**MR TAM YIU-CHUNG** (in Cantonese): Deputy President, Hong Kong has made outstanding achievements in the East Asian Games (EAG), winning medals far exceeding the total number of medals won in the past four EAG. The courage and perseverance demonstrated by Hong Kong athletes during the competitions were very moving, and their toils and sweats have testified to the promising prospects for sports development in Hong Kong. After the successful completion of the EAG, Mr IP Kwok-him of the Democratic Alliance for the Betterment and Progress of Hong Kong has proposed this motion today with the objective of urging the Government to vigorously promote the sports development in Hong Kong, in order to further enhance the standard of local sports. He made nine proposals in the original motion. I trust that there should not be any great contentions among Members on items (a) to (h), as Members are in support of the directions.

However, with regard to item (i) which urges the Government to "actively consider bidding to host the 18th Asian Games in 2019", from what I have heard earlier on, Miss Tanya CHAN of the Civic Party as well as Dr LAM Tai-fai, who has just spoken, both have great reservations about it. However, I think Miss Tanya CHAN has expressed her reservations from the angle of the imperfections in this EAG which she had ferociously criticized. But I think the problems she has raised are not big problems at all, for these are things like rooftop leakage, slight uneven surface on the track, the problem of not being able to buy tickets, the problem that some venues were occupied to their full seating capacity while admission was low at some other venues, and so on. I think these are not major problems at all.

However, Dr LAM Tai-fai has mentioned that hosting the EAG and hosting the Asian Games are two different matters, as the Asian Games is much larger in scale and he has questioned whether we have the ability to make it successful. This is why he has reservations. What he has said is true. No doubt the EAG had only nine participating countries and some 2 000 participating athletes. But hosting the Asian Games is very much different in scale, as there will be 40-odd

participating countries and 35 major sports items. Can we really make it? Indeed, this does warrant serious consideration. This is why we propose that the Government should "actively consider" it, rather than making a decision immediately. Why do we bring this up at this point in time? We are not trimming the sail to the wind; nor do we get carried away by victory. This is not the case, and it is not the case that we want to go all out for it after making some slight achievements. No, this is not true. Then why do we make this suggestion? Because there is the time factor to consider if we wish to bid for the hosting of the Asian Games. If we wish to bid for hosting the Asian Games in 2019, it is now time to make consideration. If consideration is made at a later time, we might be able to host it only after 2019. Is it too hasty for us to suggest bidding for hosting the Asian Games in 2019? There are nine years from now and during this period, Hong Kong should have undergone great changes, and it is unlikely the case that we will remain stagnant without making any progress. This is unlikely to happen. In the course of nine years, we can at least see the completion of the multi-purpose stadium on the sports site in Kowloon East, rather than seeing it being used for growing grass as it is now.

Moreover, we should also be seeing many other developments during this period, such as the development in West Kowloon. The Express Rail Link, if endorsed, should have been commissioned, and the Hong Kong-Zhuhai-Macao Bridge should also have been commissioned by then. As Mr IP Kwok-him has also mentioned earlier, in our consideration we have considered not only Hong Kong, but also the possibility of working with other places, such as Macao, since we will become very close to each other because of the Bridge and by then, we can drive to the stadiums in Macao. At present, Macao also has good hardware as it is willing to spend money on it because it is rolling in money. And, there are also Zhuhai and Shenzhen, and if the four places can work together, that is, if consideration is given to all four places, there will be many choices of hardware available. In that case, it would be much different. This can also foster co-operation among these four places and consolidate their development. Should this option not warrant our consideration? Is it possible for us not to confine to Hong Kong in our consideration?

In fact, when bidding to host the EAG back then, we were all worried about Hong Kong not being able to complete it successfully, for we do not have a huge stadium with a seating capacity of tens of thousands for organizing the opening ceremony. But after watching the Opening of the EAG on that night — in fact, I did not have much participation in the EAG and I only watched the opening

ceremony — To me, we always talk about creative culture and the programmes during the opening ceremony were full of creativity. We made use of the Victoria Harbour, putting a huge barge there, and assistance was sought even from the partners of Mr WONG Yung-kan as dozens of fishing boats and small pleasure boats also took part in it. The entire Victoria Harbour was used to produce a three-dimensional effect. The design was marvelous and I think it was very creative. Although we do not have a gigantic stadium like those on the Mainland with a seating capacity of 100 000, and we do not have a massive performance with the participation of many people, we could still do very well with our own style. The state leaders, after watching the ceremony, highly praised that the performance really had the characteristics of Hong Kong, that it could demonstrate the spirit of Hong Kong, and that it had shown before people's eyes the uniqueness of Hong Kong. So, if we are truly committed to doing a job, many problems can be resolved. As for the provision of a village for accommodating the athletes, this is actually not the most important part. We now have many vacant flats and Home Ownership Scheme flats which can provide accommodation for the athletes after some minor renovations. All the problems can be tackled one by one. Of course, we may think that many problems are difficult to be tackled now, but if we are truly committed to resolving them and really study them one by one to identify solutions, such as looking into whether this can be done in concert with the neighbouring places, and if it is found to be feasible, it may be greatly beneficial to the international status and significance of Hong Kong, to strengthening co-operation with other places, and also to the local sports development.

Therefore, I think this indeed warrants our serious studies. Having said that, we should not make a decision rashly. Judging from the present circumstances, public sentiments and public opinions have shown quite a lot of support for bidding to host the Asian Games, as it is generally considered a good thing. If this is supported by public opinions, and if the Government can seriously consider the feasibility of all options, I think we would be able to succeed in the end.

**MR CHAN KIN-POR** (in Cantonese): Deputy President, sports and physical exercise do not only contribute to our physical and psychological well-being, they can actually perform various social functions when analysed from various angles.



From a health care angle, the benefits of regular physical activity have been documented in many surveys. These benefits include a longer life expectancy and reduced chances of contracting heart disease, strokes, diabetes, colon cancer, hypertension, osteoporosis, obesity, anxiety and depression. As the population ages, the Government should take the lead to encourage "sports for all" and as a next step, encourage "sports for life", with a view to improving public health both physically and psychologically while at the same time easing the pressure of health care expenses on the public and the Government.

From an education angle, physical exercise is not only a means of physical training. It also helps develop the various basic abilities of human beings, such as the spirit of working arduously to achieve goals, and the ability of independent thinking to solve problems. And, taking part in sports, such as football and basketball that require co-operation among the players, is also conducive to communication and exchanges among people and in the process, one learns to respect and care for others, and to work with others in a team.

Many in the young generation of Hong Kong are indulged in the cyber world. They can just sit in front of the computer and do everything from playing games to making friends. The young generation often lives in a virtual world, and this is why there are more and more "hidden" youths commonly known as "train men" or "home-stayers" who always hide themselves away and never go out. Surfing the Internet for an excessively long time will inevitably affect their physical and psychological development. Surfing the Internet has now become even more popular in society than doing physical exercise. One of the reasons for its popularity is that Hong Kong lags far behind of other countries such as Denmark, Sweden and even the neighbouring Singapore in terms of the opportunities and convenience for people to do physical exercise. I wish to point out that the development of software and hardware for local sports has remained far from adequate.

In fact, many countries or cities already noticed as early as in the 1980s or 1990s or even earlier the importance of sports and physical exercise to the physical and mental health of the people as well as to the health development of a nation. This is why they have drawn up various policies and even established dedicated working groups to promote "sports for all" and "elite sports" in full swing.

If we draw reference from the practices adopted by various countries, we will see that whatever sports framework and administrative structure it is in these

countries, and disregarding whether it is an executive-led model or one led by voluntary agencies, an overriding principle is that in the overall policy on sports, the government has played an irreplaceable leading role and that is, to lay down a clear direction for the development of a national sports policy, which includes providing a clear and feasible roadmap and timetable.

(THE PRESIDENT resumed the Chair)

Take Singapore as an example. Singapore launched "Sports for Life" many years ago to encourage the people to choose a sport for practising at a young age, with a view to developing a habit of doing physical exercise. The programme sets out special strategic targets to increase the percentage of active sports participants in the population of Singapore within a specified period of time — from 24% in 1992 to 40% in 2000 and to 50% in 2005.

The Australian Government conducts regular surveys on the level of public participation in sports. When findings show a decline in the sports participation rate, the Australian Government will immediately take steps to promote sports on a nation-wide basis to encourage public participation in sports.

In fact, the Government conducted a review of the sports policy in Hong Kong as early as in 2002, hoping to draw up a detailed strategic policy for sports development in Hong Kong over the next five to 10 years. But eight years have lapsed, and there are still a lot of inadequacies in respect of "mass participation in sports" and "elite sports" in Hong Kong. I think the Government certainly has the duty to take the lead to conduct a review again and draw up a clear, feasible and creative policy on sports.

In March last year, I proposed a motion on "Promoting medical check-up for the whole community" in the Legislative Council, urging the Government to promote healthy living and health education to encourage the public on all fronts to do more exercise, so as to enable Hong Kong to develop into a genuinely healthy city. The objective is to call on the Government to further the development of sports in Hong Kong.

I said at the time that large-scale public sports activities could indeed promote public participation. The most successful example is obviously the

Standard Chartered Hong Kong Marathon which draws a lot of participants each year and has become a vogue. I always hold that as long as the Government and the relevant organizations are willing to persistently organize these sports activities and make them a long-term policy, it can obviously encourage a large number of people to take part in and share the joy of physical exercise and naturally, the public will become healthier and healthier.

I support the original motion and most of the amendments today. I hope that the Government can attach importance to them and take concrete actions to promote the sports development in Hong Kong, so that the public will be attracted to doing sports, rather than indulging in the cyber world, thus enabling them to enjoy the health benefits brought by physical exercise and rekindle their interest in doing physical exercise.

President, I so submit.

**MR TIMOTHY FOK** (in Cantonese): President, in the Fifth East Asian Games which have just come to a close, Hong Kong as the host had the most wonderful experiences. Although people initially had doubts, a miracle was subsequently worked, causing a great fervour for sports. Athletes won gold and silver medals and repeatedly achieved outstanding results. More than 30 000 people applauded and shouted loudly at the Hong Kong Stadium, the Chief Executive Mr TSANG enthusiastically cheered up the athletes, and the heated discussions are found in the Legislative Council today. All these serve as a shot in the arm for sports development in Hong Kong. This also affirms the achievements of Hong Kong athletes and proves that local sports has a foothold in the world. This unprecedented glory for local sports demonstrates the ultimate effects of successfully hosting an integrated sports meet.

Hong Kong people love sports fervently. Quite a few people would stay up all night to watch live football broadcasts, and people from different age groups fill up the football pitches and stadiums of various sizes in various districts. However, sports have all along been regarded as leisure activities after work or school, and the positive energy of sports has never been taken seriously. LEE Lai-shan has once proclaimed, "Hong Kong athletes are not rubbish!" And I would like to add, "sports are not the same as playing". Tiger WOODS who just announced that he would take a break had a total income of US\$100 million last year; English Premier League star Wayne ROONEY had a weekly salary of

£170,000, equivalent to HK\$2.17 million. Taking athletes of our country as an example, badminton player LIN Dan earned more than \$30 million last year.

Hong Kong is a world city that is full of confidence and vigour, and it has a very high ranking in the world in many areas. Nevertheless, it lacks confidence in sports and it even displays an attitude of self-abandonment. In schools, physical education lessons have always been regarded as not essential; as to sports facilities, few stadiums meet international standards; and the public view on sports is still behind the times. They think that athletes do not have any promising prospects and Hong Kong does not have the ability to host international integrated sports meets. I must say that Rome was not built in one day and we must accumulate experiences and learn from them. As we start from scratch in the course of exploration, and especially under the circumstances like when even the cleverest housewife cannot cook a meal without rice, we cannot do without any single one of these conditions, namely, experiences, resources, encouragement and patience. If we complain when errors are made and shrink when there is a setback, we can never have growth and development. This is also inconsistent with our core values of becoming stronger when facing strong opponents and never giving up.

President, Hong Kong athletes achieved brilliant results at the East Asian Games; they won people's applause, promoted social cohesion and recognition, and aroused all Hong Kong people's concern for sports development. After these dazzling moments, we should seriously examine the prospects and directions of sports development in Hong Kong, and comprehensively promote sports development so that the legend of Hong Kong will go on.

First of all, the Government must formulate long-term sports policies and provide more resources and support to allow various sports activities to have a proper positioning and direction. On this basis, various national sports associations can determine the directions of development and make different development plans in light of the different levels of competition and targets of various sports.

Second, the Government should take this opportunity of a fervour for sports to build a territory-wide sports culture. In my opinion, the Education Bureau should co-ordinate and collaborate with the Home Affairs Bureau in enhancing and encouraging in the community the physical education activities in schools and the recreation and cultural programmes organized by the Leisure and

Cultural Services Department through the technical assistance and support of the national sports associations. A more important point is to work in the mindset of the people by conveying the positive messages and importance of sports to people so as to encourage them to throw themselves into and more readily accept sports activities.

Third, athletes spend a lot of time and efforts on sports and they can hardly pay attention to academic studies or work at the same time. If the Government, enterprises and tertiary institutions can make appropriate arrangements to help athletes solve the problems concerning their employment, they can then concentrate on training and competitions, and parents will feel at ease when their children become athletes. Also, the Government should have a system for the support and care of injured and sick athletes so that young people participating in sports will be free of worries.

Fourth, as there are not enough suitable training and competition venues, the athletes do not have any chance to use their skills. The Government should comprehensively review, plan and upgrade the distribution of existing venues. These are basic facilities for a modern international city with a population of more than 7 million. Even if Hong Kong is not going to host large sports meets, it cannot afford to allow any glaring gap to exist in this connection.

Fifth, there are talents only when there are people who identify them. The professionalization of coaches and coaching as a career are the most important, or else, talented athletes may go no further than participating in inter-school sports meets.

Sports are the undertakings of all people and a right enjoyed by all. After Hong Kong has gained the experience in co-hosting the equestrian events of the 2008 Olympic Games and in hosting the 2009 East Asian Games, it should comprehensively plan and promote the development of sports from a new starting point and contribute more to world sports.

With these remarks, President, I support the original motion.

**MR CHEUNG HOK-MING** (in Cantonese): President, as quite a number of Honourable colleagues have just mentioned, the Hong Kong team achieved the best ever results in the East Asian Games which have just come to a close. Hong Kong athletes broke the record by winning 26 gold medals, which is really

heartening. In particular, the football team comprising young players in Hong Kong eyed the targets and grasped the opportunities at the decisive moment of the penalty shoot-out, and they finally won by a score of 5-3 against the Japanese team. The Chief Executive highly appraised and commended the performance of the Hong Kong football team, and he even indicated that the football match showed the essence of the Hong Kong spirit in the way Hong Kong players faced changes and became stronger under adverse circumstances. He also called upon Hong Kong people to go all out just like what these football players did and embrace the new year's challenges. I hope that the authorities concerned are not just enthusiastic and attach great importance to football at this moment; I hope that they would also show their support for the sport in the long run.

The Hong Kong football team had glorious achievements in the last century; in particular, it got the reputation as the best football team in Asia in the 1950s and 1960s, and it was the champion in the Asian Games in 1954 and 1958 respectively. As Honourable colleagues may recall, in the Asian region Group A Preliminaries in 1986, the Hong Kong team was one goal behind the Beijing team at first but it ultimately won 2-1 against the Beijing team and became the champion. And, all the seats in the stadium were occupied whenever there were local football matches at that time. Nevertheless, for unknown reasons, probably due to the banning of tobacco advertisements at the stadiums in the past 20 years, there was a shortage of funds, and local football teams ran into serious difficulties. Thus, it was like a bleak winter for the football circle in Hong Kong and there was stagnation for a certain period of time. President, it can be said that the achievements we had at the East Asian Games are the fruits produced by all the players and all those who put themselves into football with unswerving determination under difficult circumstances.

On this occasion, the fact that the Hong Kong team could turn the tide and won the gold medal was undoubtedly a shot in the arm for people with expectations for football. It should be mentioned that some players of the football team who took part in the East Asian Games are from district football teams. In recent years, the Government nurtured quite a number of Hong Kong Youth Squad players with potentials through the District Football Teams Training Scheme. The Wofoo Tai Po team mentioned by Mr CHAN Hak-kan a while ago was a Third Division team which has fought its way to the First Division after a few years, and it was the Hong Kong Football Association (HKFA) Cup champion last year. Of course, such teams as Shatin and TSW Pegasus also have outstanding results as well.

President, from 2005 to 2008, the Government subsidized these district football teams through 18 District Councils but the total subsidy amount was just \$6 million, so, each district was only allocated some \$100,000 on average. Funds had to be raised for the basic operation of district football teams; if sponsors could not be found, the teams had to bow a graceful exit. President, let me cite an example: the Wofoo Tai Po team was the HKFA Cup champion last year and theoretically it could represent Hong Kong in the Asian Football Confederation (AFC) Champions League. Nevertheless, it has received a pitifully small amount of government subsidies for participation in the AFC Champions League, and it still has insufficient funds now. That is really sad and I hope that the Secretary would be aware of the situation.

To better promote football in the districts, the issue of the operating funds of district football clubs must first be addressed. Besides encouraging the business sector to sponsor football teams, there is still plenty of room for football betting offered by the Hong Kong Jockey Club (HKJC) to subsidize the local football development. I hope that the Government can consider encouraging the HKJC to put in more resources for football development. Furthermore, before local football can become a market, can the Government consider examining with the HKFA the provision of tiered prize money based on the scale of events to enhance the competition atmosphere of football matches in the districts?

Concerning venues in particular, though the Leisure and Cultural Services Department currently manages quite a number of football pitches that is, more than 300, how many of them can meet international standards? Also, as these pitches are often open to the public, football teams who need to practise have to queue up for their turn, and they can only try their luck elsewhere when it is not their turn.

President, professional football players have only a meagre income. As other Honourable colleagues have just said, quite a few players need to work part-time to support themselves, and they can hardly throw themselves fully into sports. Apart from football players, athletes in other sports do not have favourable treatment as well, they often have insufficient funds for participating in competitions overseas and they need to bear some of the expenses themselves, and their career development after retirement is uncertain and without any protection. If the Government does not review the current treatment and

subsidies for athletes and make comprehensive arrangements for them after retirement, it will actually be very hard for new blood to be attracted to participate in sports.

Sports development requires perseverance and devotion over a long period of time, and results cannot be achieved within a short time. The Government should first consider the positioning of sports and encourage the business sector to put in more resources to support sports development, give athletes better treatment, and secure their career development after retirement. To better develop sports and enable our athletes and teams to win honour for Hong Kong, the Government must devise plans after thorough consideration, and athletes must do their best to show their worth.

With these remarks, President, I support the original motion.

**MS MIRIAM LAU** (in Cantonese): President, the Government has recently launched a television Announcement on Public Interest thanking our athletes for making the legend come true. It is a pity that although the legend is made and the Government has made some gains and obtained some honour, specific undertakings have not been made for local sports development. The Liberal Party is of the view that, now that the East Asian Games have come to a close and the unprecedented outstanding achievements of Hong Kong athletes made all of us in Hong Kong leap with joy, it is worth discussing how people will continue to have this fervour for sports.

Taking football which is Hong Kong people's favourite as an example, quite a few people within the football circle said long ago that they were not asking for considerable financial subsidies from the Government, and they only hoped that the Government would provide more assistance in venues. It is too bad that the Government has so far only promised to build nine more football pitches in the next five years, and only three of them will be 11-a-side standard pitches, and the rest are just unofficial mini pitches. It seems that the Government is doing just enough to satisfy the public.

Therefore, the Liberal Party urges the Government to undertake to provide more support to football development in the study report that is about to be published, for example, increasing the number of football pitches in the districts; and have more training sessions specifically arranged for football clubs; allocate more resources for Youth Squad training; and expeditiously implement the



Tseung Kwan O football training centre project which has been delayed for 10 years, and we have just heard about it but not seen it.

Moreover, now the Government focuses excessively on material gains when it comes to sports development. For instance, under the Elite Training Programme, only those who have won enough medals in major international tournaments are elite athletes and they will be allocated more resources for development. But, the case is similar to that about whether the chicken or the egg comes first. Should the Government provide athletes with adequate resources to create a better environment that will facilitate their achieving better results? Or, should athletes win medals in major international tournaments before receiving better treatment? I am afraid that not all athletes can endure extreme hardship. Will this smother local sports development easily?

Thus, it is essential to conduct a comprehensive review of the existing merit point system, in particular, the practice of only allocating resources after medals have been won should be changed. Instead, the Government should consider more carefully the development potentials of the sports and provide athletes with suitable resources for development. For example, CHAN King-yin who represented Hong Kong and won a windsurfing gold medal at the 2006 Doha Asian Games does not mind saying that he is actually poor and if he is not given more subsidies, he can no longer be a full-time athlete as he needs to work for a living. CHAN King-yin's case is just the tip of the iceberg, and many other committed athletes have eventually been forced to quit because of livelihood considerations. This illustrates precisely why quite a few parents think that there will not be promising prospects for athletes, and they would ask their children to study more in order to make more money rather than encourage them to become athletes.

For this reason, the Government should consider allocating more resources for giving athletes better treatment to enable them to concentrate on training and learning and be free from worries. Also, it should provide athletes with more comprehensive employment and continuing education programmes, focusing especially on the support for retired athletes so that they would have better prospects.

On the other hand, the Government can also make reference to the practices of foreign countries and provide tax breaks to enterprises that sponsor national sports associations or invest in football clubs. This can provide the

business sector with a brand new publicity platform and can also inject new capital into football clubs, thereby killing two birds with one stone.

President, having elite athletes and the concept of sports for all are both essential to sports development. For instance, football development in the districts in recent years has been satisfactory. The Tai Po team which became a First Division team for the first time in 2006 and TSW Pegasus in the match against South China Athletic Association which ended in a draw last Sunday receive strong support from football fans in the districts. For example, the Government can encourage District Councils to do more and allocate funds to District Councils for organizing matches between districts and implementing athlete training programmes in the districts in order to identify athletes with potentials in the districts and pave the way for training them to become elite athletes. Certainly, the Government must carefully examine the supply and demand of sports facilities in various districts.

Finally, the Liberal Party strongly supports improving facilities for local sports development in the original motion and the amendments, and we agree that the Government should actively consider bidding to host the Asian Games in 2019 after summing up its experience in the East Asian Games. A newspaper survey also indicates that 65% of the respondents support Hong Kong's bid to host the Asian Games. Therefore, Miss Tanya CHAN's amendment which deletes "actively consider bidding to host the 18th Asian Games in 2019", that is, item (i) in the original motion, may have gone a bit too far as she thinks that even active consideration should not be made. Hence, the Liberal Party cannot support Miss Tanya CHAN's amendment.

I so submit, President.

**MS AUDREY EU** (in Cantonese): President, looking back at the past 12 and a half years since the reunification of the Hong Kong Special Administrative Region (SAR), some motion debates in the Legislative Council were repeatedly proposed, and they were proposed almost every term or every year. However, a debate about sports was proposed on 3 July 2002 by Mr IP Kwok-him and it was on the Report of the Sports Policy Review Team. A more recent debate was proposed by Mrs Sophie LEUNG on 4 June 2008 and it was on promoting the development of local football. Indeed, the Legislative Council rarely debate issues related to sports, especially sports policies. Although an Honourable

colleague from a functional constituency should take charge of the issues in this area, as far as I remember, he has never proposed motion debates of this nature.

President, this actually reflects that the community as a whole and the Legislative Council should express greater concern for sports development. Therefore, though Miss Tanya CHAN is saying that the Government should not actively consider bidding to host the Asian Games, she actually wants us to be more concerned about the training and development of athletes rather than merely focused on medals or imaging works. As we have observed, over a long period of time, the Government has regarded sports policies as associated with arts, cultural and recreation activities for leisure or related to it. As we all know, if athletes win medals in the Olympic Games or Asian games, the Government will allocate more resources to the related sports events as athletes have medal-winning abilities. The Government only looks after top athletes and it has not done enough for middle-level athletes and promoting sports among the people. Such a medal-oriented development is really unhealthy for sports development as a whole. After all, these are just work to save face and work to enhance image, as a result of which various cities in the Greater China region scramble to host large integrated activities one after another. Even Ms Miriam LAU said a short while ago that the latest medal-winning sports events allowed the Government to make some gains and obtain some honour; but we must subsequently review how we can help develop local sports. If the Government only constructs a few stadiums but it does not have comprehensive policies, its measures will just be utterly inadequate. In that case, if it still wants to host larger sports events, it may put more resources in imaging works rather than sports training.

President, we do not want Hong Kong to follow the example of the Soviet Union in the past or China at present and nationalize and privatize all sports activities. Our proposal is that the Government should promote the development of professional sports through improving venues, training young players and enhancing publicity and promotion. Taking football as example, how many venues in Hong Kong can meet the standards for international matches? There are certainly other football pitches in various districts, but, professional football clubs do not have their own venues for professional training, so, they would change from venue to venue during training sessions. How can Hong Kong athletes have good performance this way? Although the Hong Kong Football Association and the Hong Kong Jockey Club planned in 2006 to build a football training school at the Tseung Kwan O landfill, President, let us read a recent

newspaper report — this is the front page of a newspaper in December last year and it is reported that there is no training base for football development in Hong Kong because of the Government's indifference and procrastination, and the entire site is still covered with wild grass. The site is still covered with wild grass from 2006 till now, even after the East Asian Games have come to a close.

A lot of local experts concerned about sports have expressed that we should not only focus on medal-winning athletes, and we should start training young people from childhood. President, we have recently found many books studying what genius is and the conclusion is that there is no such thing as a genius. Let us consider those who are commonly regarded as geniuses: for example, Tiger WOODS or Bill GATES from Microsoft. They were given a lot of opportunities by their parents or schools during childhood, and it took countless hours or almost 10 years for them to develop into geniuses. Let us imagine this: an athlete may reach the peak when he is 19 to 29 years old. If that is the case, we should start training these athletes when they are in primary schools, and we will then be able to train up genuine top athletes. There are many examples in foreign countries: for example, tennis player Maria SHARAPOVA started playing tennis when she was four years old. In fact, these star players rely on opportunities that continually arise since childhood. Similarly, about local sports development — let us take a look at the sports grounds in many schools; I remember that my school had a triangular sports ground, and it has certainly become much prettier today — we should really consider starting at schools and launching complementary publicity campaigns. Taking the Radio Television Hong Kong as example, can we consider resuming the live coverage of major local sports events?

President, in a word, the Civic Party supports the development of desirable sports policies in Hong Kong. We do not object to the hosting of large sporting events but we hope that money should first be spent on training young players, venues and facilities, especially on disabled athletes as Miss Tanya CHAN has just mentioned.

**MR CHAN KAM-LAM** (in Cantonese): President, Ms Audrey EU has just said that a few Honourable Members except Mr Timothy FOK have proposed motions related to local sports development. It seems that she is secretly criticizing Mr Timothy FOK for not doing his best. However, I disagree with her because we have noticed that Mr Timothy FOK has done a lot for sports development in

Hong Kong, and what he has achieved is perfectly obvious. The success of the East Asian Games is one of his most important achievements.

The success of the East Asian Games is a great encouragement to Hong Kong people. It is an unprecedented achievement for the Hong Kong team won a large number of medals. The medals won are a bit fewer than those won by the three strong teams from China, Japan and Korea, and the number of medals won also shows the actual strength of a country or region in sports. These three East Asian countries hosted the East Asian Games and also the Olympic Games before. As an international city and the fourth strongest participant in the Fifth East Asian Games, Hong Kong should set a higher target for local sports development and attain a higher position in the international sports circle. Therefore, hosting the Asian Games should be our next target. Hosting the East Asian Games is a test in advance on our abilities to host large international sports events, and the results reveal that we are fully capable of hosting the Asian Games. Hong Kong should regard hosting the Asian Games as its target and continue to improve its sports facilities and promote sports for all.

The Hong Kong football team courageously won the East Asian Games championship and this was heartening news for Hong Kong people. However, who can imagine the bitterness which this football team has gone through? We have always failed to notice that this football team representing Hong Kong does not have a training base. As reported on a Hong Kong Connection programme on 13 December, when the Hong Kong football team prepared for the competitions in November, the 12 training sessions and two friendly matches were respectively held in four different football pitches in Hong Kong. We can say that they had played football in all parts of the territory as though they were taking part in guerrilla warfare. Under such adverse circumstances, the Hong Kong team still managed to win a gold medal and it is worth praising. On the contrary, we should also consider whether we have put inadequate resources into sports. Hence, we suggest that the Government should put more resources to develop sports facilities in Hong Kong and encourage the relevant bodies such as the Hong Kong Jockey Club or the business sector to fund sports development.

Furthermore, we propose stepping up co-operation and exchanges with Mainland sports bodies. There are a limited number of sports professionals in Hong Kong after all and sports activities were neglected in the past; conversely, our motherland has been recognized worldwide as a super-power in sports with first-rate sports facilities and training bases. Why should we not fully utilize the

resources of our motherland to enhance the quality of local athletes? Apart from having friendly matches and exchanges with Mainland sports teams, we can arrange for Hong Kong athletes to undergo regimented training on the Mainland. I believe this will help elevate the levels of professional teams in Hong Kong.

President, sports development is not only about the development of professional teams, and it is also about promoting sports for all. We suggest encouraging community organizations to organize games and promote matches among schools, companies and government departments. Then, people will have stronger physiques, the concept of sports for all will be established, community cohesion will be increased, and team spirit will be fostered.

To elevate the level of sports in Hong Kong, we think that we should start with the adolescents. Primary and secondary school students should not spend time attending tuition classes after school, and the adolescents should be encouraged to participate in sports. Primary and secondary school should organize more sports activities so that the adolescents would become physically strong and uphold the qualities of sportsmanship of never becoming discouraged and never admitting defeat. Furthermore, we should encourage the adolescents to engage in sports such as softball, handball and Sepak Takraw that are not so popular in order to enrich their understanding of sports. The Hong Kong Sports Institute and national sports associations can offer sports training classes for the adolescents so as to provide professional training to those with a love for sports. In addition, students with talents in sports should be selected from various schools and be given good training so that we will have a reserve of sports talent in Hong Kong.

Sports are suitable for both the old and the young, and we should encourage both the adolescents and the elderly to take part. We suggest that the Leisure and Cultural Services Department (LCSD) should offer free admission of the public swimming pools it manages to the elderly, and the Government should also consider allowing the elderly to use other sports facilities free of charge during non-peak hours. On one hand, this can encourage the elderly to undergo physical training; on the other hand, this can encourage the elderly to go out and move about more often, and do exercises with their friends and so the elderly would be less estranged in the district where they live. The recreation and sports classes currently organized by the LCSD are always full and the elderly are often unable to participate, so, the Democratic Alliance for the Betterment and Progress of Hong Kong suggests that the Government should organize more suitable

activities for the elderly. For example, it can consider introducing "recreation and sports vouchers for the elderly" so that the elderly can join tai chi and aerobic dance classes, or use the leisure facilities in the districts upon presentation of the vouchers. Promoting sports for all through "recreation and sports vouchers for the elderly" can take care of the elderly physically and mentally and also create healthier communities.

I so submit. Thank you, President.

**PROF PATRICK LAU** (in Cantonese): President, many Honourable colleagues have mentioned that achievements made by Hong Kong in hosting the East Asian Games this time are obvious to all. In particular, the football final had caused a commotion in the whole community. Every one of us was excited to see the Hong Kong team win the gold medal. President, I was so lucky to have a chance to watch the two matches, including the semi-final and the final, on that day. I fully experienced the spirit of solidarity demonstrated by several ten thousand people when we all cheered on the Hong Kong team together, especially at the moments when the championship of the two matches had to be decided by a penalty shootout. In fact, the victory of the Hong Kong team was attributed to the presence of so many Hong Kong people in the stadium who supported them. At that time, each Hong Kong person watching the match fostered such cohesion for the same objective. At the moment of victory, the seven million people in Hong Kong immediately felt proud of our football team.

President, sports is not only a matter of personal honour, but it is also a force that binds the whole city together. We always talk about the deeply entrenched conflicts in society now. If more sports events can be organized to motivate everyone in the community to pursue the same goal, a lot of grievances can be relieved. The Chief Executive cheered on the Hong Kong team with the audience in the stadium on that day — and the Secretary was also there — I found that their popularity rating had risen by several points at once! Therefore, I agree that sports can serve as a tool to reinforce politics. Talking about MANDELA, President of South Africa, he had proposed the idea of "One Team, One Country", making the blacks and the whites in his nation put aside their differences and foster harmony between them. Eventually, they won the championship of the Rugby World Cup. As we all know also, South Africa will host the FIFA World Cup.

During the past Christmas and New Year holidays, I attended and watched a number of matches in the United States live — of course, I am a fan of various kinds of ball games. I have watched a lot of matches such as NBA, NFL and NHA. I find that many families in the United States attend and watch matches with their family members to cheer on their favorite teams. This can not only serve as a kind of entertainment and leisure activity, but can also maintain harmony in their families. I have talked so much on this point as I wish to prove that it is worthwhile to make investments and put in more resources in sports. As in other countries, they promote social harmony, improve community health and even achieve a balanced development of body and mind by means of sports. As such, they can accomplish twice as much as the expenses spent on health care, education and social welfare.

I cannot omit Mr Timothy FOK here (as some Honourable Members have implicated on Mr FOK's work earlier). In fact, I am deeply impressed by his dedication to sports, as he suggested that I should support the East Asian Games. I also understand that he has spent a lot of time in this regard. As such, in order to support this motion, I have specially consulted a number of elite athletes, namely KWOK Ka-ming, CHAN Lim-chee and CHAN Siu-ki (several Honourable Members have also mentioned this person, who is nicknamed "CHAN Seven", just now). They are also very concerned about the lack of venues and resources, the bridging of the three-tier training and the need of additional support by team sports.

First of all, CHAN Siu-ki, a serving football player, considers that the greatest obstacle is the lack of venues — Mr CHAN has also mentioned this point just now — as training venues specially designed for football teams are limited and maintenance is not so satisfactory at present, players are forced to have training on muddy pitches and may get hurt easily during rainy days. In the absence of any permanent venue, football teams are forced to seek venues in various districts in Hong Kong, Kowloon and the New Territories. They even have to scramble for venues with the public (though I have not heard of that). They are forced to leave after each session of training which lasts 90 minutes. Such a situation is very undesirable.

Although CHAN Siu-ki is also identified through a district football team, he considers that if the Hong Kong Sports Institute (HKSI) can resume the provision of football training — I do not know that no football training is



provided by the HKSI at present — the quality of training can be further enhanced because the HKSI has better training venues and facilities. And most importantly, youngsters can have a chance to receive comprehensive professional training earlier.

Let me talk about my old friend, KWOK Ka-ming. In the football semi-final of the East Asian Games, I was sitting next to him for the whole night. He had once been the coach of the Hong Kong team. He was very accurate and could point out how a shot should be made and whether it could score a goal. He had shared his views with me at that time. Having been engaged in sports for more than 40 years, he pointed out that the crux of the question laid in the mismatch of resources. He proposed that the existing resources should be fully utilized. Turf pitches currently located in various districts should be renovated into man-made turf pitches, so as to shorten the time of closure for maintenance. This can also allow more local residents to use pitches in their districts. Moreover, it is necessary to retain some turf pitches in the four districts in Hong Kong, Kowloon, the New Territories East and the New Territories West for those football teams need to use them. As such, there would be no need for them to scramble for venues with the public. He also mentioned the concept of three-tier training. The most salient point was that it could solve the existing problem of the gap between young players at the district level and professional players. Given that many problems on the football academy in Tseung Kwan O had yet to be resolved, he considered that the Hong Kong Jockey Club should put in more resources so as to honour its commitment made on the legalization of soccer gambling and at the same time, the HKSI could provide middle level training to bridge the gap immediately.

KWOK Ka-ming and CHAN Lim-chee have particularly mentioned that under the existing elite training programmes, in both individual or team sports, the same requirement is adopted, under which only those who have attained certain achievements in international events can receive training subsidies. However, it is relatively difficult for team matches to meet such a requirement. As a matter of fact, team matches can foster cohesion in the community and bring about social benefits. Therefore, I also consider that the existing system should be reviewed and more support should be provided for team sports.

Lastly, I agree with many Members that sports training should be provided at a young age. Schools should put emphasis on the moral, intellectual,

physical, social and aesthetic development in a balanced manner, this will encourage more students to take part in sports.

I so submit.

**MR KAM NAI-WAI** (in Cantonese): President, Prof LAU has mentioned the football final of the East Asian Games just now. I was also there at that time. Like the other 30 000 fans, I was very excited and delighted to witness the brilliant achievement of Hong Kong football. Of course, the Chief Executive said that it was the happiest day for him. But after listening to various difficulties faced by the Hong Kong football team which Members have just mentioned, I believe that he, being the leader of Hong Kong, should in no way be the happiest person on that day. Rather, he should be the one who should feel most ashamed. Under such a harsh situation, our football team ..... As pointed out by several Honorable colleagues just now, it has subsidies of only some \$7 million a year and has to scramble for training venues and be constantly "on the run". As mentioned by Prof LAU, if he is really concerned about football, he should be well aware of the fact that training in football was formerly provided at the Jubilee Sports Centre. It was then provided at the HKSI but was cancelled later. No football training is provided at the HKSI now. With such a lack of resources, our football players can still become the champion. In my opinion, our leader should ponder over this and feel very ashamed.

Talking about the sport of football, I am not a super fan at all. Prof Patrick LAU has mentioned KWOK Ka-ming just now. I had also been trained by him before. At that time, I worked as a welfare worker at a children's centre under a voluntary organization. In fact, this was something happened 20 odd years ago. At that time, the Jubilee Sports Centre had already trained up workers at children's centres to act as coaches for those children. Twenty odd years ago, training was already provided for the children there. At present, there are of course various kinds of programmes such as training for young players. But very regrettably, the effectiveness is lagging for behind. Being a District Council member, I know that District Councils will only allocate some tens of thousand dollars each year. Take the Central and Western District to which I belong as an example. We only allocate some tens of thousand dollars to subsidize the football team of the Central and Western District. I paid them a visit before and noticed that they had to travel to the Wong Chuk Hang football pitch in the Southern District to play football. The situation is like this. With

such limited resources, I wonder how our leader can keep on blowing his own trumpet.

Earlier on, I have heard from our Secretary that with the allocation of a certain amount of resources, athletes won two gold medals in the Fourth East Asian Games. But in the fifth East Asian Games, with the allocation of a certain amount of resources, they won 26 gold medals. I wish to tell the Secretary that the legend is not created by the Hong Kong Government. Rather, it is created by our athletes, who can still win gold medals even under such a harsh situation. I think that the Hong Kong Government has only created the most disgraceful moment itself. As mentioned by some Honourable colleagues, there were numerous blunders in the East Asian Games. Even tickets were not sold at the venues, which is really a laughing stock. Is there any sports meet in which tickets are not sold at the venues? It is so surprising that we can come up with such an idea. I do not wish to talk about details like these.

What I wish to talk about is the part on football mentioned by Members just now. I notice that Mr IP Kwok-him encourages the Hong Kong Jockey Club (HKJC) to put in more resources in his motion. I hope that he is not just referring to the HKJC. Several Honourable colleagues have already mentioned this point and I will not repeat here, that is, not only the HKJC, but also Hong Kong as a whole, and even the business sector should put in more resources. In particular, the Government should examine how this can be achieved in its policies. I will not repeat this point. Rather, I would like to say a few words on the Asian Games.

First of all, the Democratic Party supports that we should actively consider bidding to host the 18th Asian Games in 2019. This does not mean that we have decided to support the preparations made for the Asian Games. Therefore, we will at the same time support Miss Tanya CHAN's amendment to delete the wordings "actively consider". Why? It is because in order to bid to host the Asian Games, there are still a lot of considerations. If we really bid to host it in future, I hope the Government can consider several aspects.

Earlier on, several Honourable colleagues have queried if the development of a sports policy is just like what the Secretary has said that we have already done a good job. But after listening to the speeches made by several Honourable colleagues, we will know the drawbacks in the sports policy currently adopted by the Government and the problems involved sports for the public as

well as training for elite athletes. Regarding training for elite athletes, we have talked about their future prospects and the respect for them in society. All these are related to the development of a sports policy which should be developed in a persistent manner. I hope the Government will conduct a comprehensive review of that.

Secondly, how will the infrastructures for the Asian Games be constructed? This is the hardware. We are very worried that they will relegate into white elephant projects. If we take a look at Beijing, we will notice that some knotty problems have been generated by the Bird's Nest now. Merely talking about its annual maintenance fee, they simply have no idea how to cope with it. We all understand this point. If these white elephant projects are created, how can we handle them by that time?

The third point, which is the most salient one, is the financial consideration. Recently, some scholars have estimated that it may cost as much as \$20 billion for us to bid to host the Asian Games. Can Hong Kong afford to do so? When the Government bid to host the East Asian Games, which was nearly a decade ago, the Democratic Party had conducted a survey. At that time, the public opposed the use of a substantial amount of money to organize such a big event. Therefore, finance is a crucial factor to be considered.

If the Government really wants to bid to host the Asian Games, it has to consider afresh several points I have proposed, including its sports policy, the utilization of infrastructures in future as well as the financial consideration. I hope by the time when the Government really proceeds with the bidding process to host the Asian Games, the Democratic Party will conduct a detailed research on that.

Thank you, President.

**DR PAN PEY-CHYOU** (in Cantonese): President, from the very beginning that venues and facilities were challenged and criticized and confusion was caused on the ticketing arrangement, to the end that the Hong Kong team achieved best-ever results on the medal tally, the whole community was delighted to see the performance of Hong Kong athletes, especially the gold medal won by the Hong Kong soccer team. The East Asian Games was then drawn to an end.

This was the first time for Hong Kong to host a formal sports game and ridicule was almost incurred. Fortunately, at last Hong Kong athletes made a good show and achieved brilliant results with their tremendous efforts. So people forget about various inadequacies in the whole Games for the time being.

Recently, we always see the Announcement of Public Interest on television which sums up the exciting moments made by Hong Kong athletes in the East Asian Games this time. Each shot is memorable. Among the medal-winning events, as mentioned by several Honourable colleagues, Hong Kong people are mostly impressed by the gold medal in football. With their unsurpassed determination to win, coupled with cheers by more than 30 000 fans at the pitch, they managed to win a gold medal for Hong Kong at last.

After winning this gold medal, the Chief Executive and senior public officers were all very excited. However, when being interviewed after the match, players immediately urged the Government to put in more resources to develop football. Such opinion could be regarded as a timely warning for the Government.

The Chief Executive asked Hong Kong people to learn from young players in the Hong Kong team that we should never give up. That is right. It is worthwhile for us to learn from their will power and determination to win. However, as for the development of football or sports as a whole, what efforts have been made by our Government?

As far as pitches are concerned, our facilities are really shoddy and substantial. Earlier on, a professional league team from Japan coming to have a match in Hong Kong has mistaken the Mong Kok Stadium, which is generally used for holding first division football matches, as a pitch of a school. President, it is a true story. They think that the pitch, which is most frequently used for holding league games apart from the Hong Kong Stadium, is only a pitch of a school. The Secretary is not here right now. I wonder if he has ever heard of such an embarrassing incident.

In order to make sports a success, the hardware is indispensable. Regrettably, the Government will only use the land in Hong Kong to develop real estate. Sometimes, we find it really a false hope to expect that the Government will allocate land to construct venues for training and competition. Professional

teams in overseas countries generally have their own pitches, training venues and various kinds of facilities. As for professional teams in Hong Kong, they have to scramble for venues with the general public. Is it not very ridiculous?

Matches are seldom held at night. Why? It is because full rentals will be charged by government venues, even for using the spot-lights. In order to save the rental on spot-lights, football clubs seldom play at night as they want to save every single cent.

In Hong Kong, there is a lack of formal venues even for training and competition. If one wants to organize football teams here, he is simply doing something despite the full knowledge of the impossibility of making any success. I think our Honourable colleague, Dr LAM Tai-fai, should have such feelings. Recently, it is reported that as proposed by a consultancy commissioned by the Government, we should construct a football academy in Tseung Kwan O and develop it into a "five-star football centre", which can even attract international football teams in overseas countries to come over here for training. First of all, I will say that we should wait and see. Secondly, we hope that the Government can really do it, rather than just giving us some empty talks as what it has done previously, such as developing Hong Kong into certain kinds of ports.

The lack of venues and facilities is a very serious problem. As a matter of fact, even football has encountered such a problem, not to mention those sports which are less popular, such as playing skateboards and BMX cycling. Perhaps, the Government does not find anything wrong at all. It is because we have all along had an impression that the Government simply adopts a utilitarian approach to promoting sports. Subsidies will be provided for those sports which can win medals and fame overseas. Such a utilitarian approach is fully reflected in the existing assessment mechanism under the elite training programmes.

According to the existing mechanism, those sports which have won medals can get scores and be included as elite sports. However, such a scoring mechanism is in fact not so appropriate for some team sports, such as football. Therefore, quite a number of people have proposed that another mechanism should be set up for team sports, so as to enhance their chance of being included as elite sports and receiving subsidies for training.

The prospect of athletes is also an important issue. In general, will parents prefer to allow their children to become athletes? As we all know, the career of athletes is very short and so is their youth, and in Hong Kong, it is even impossible for athletes to make big money. It seems that it is so enviable for them to represent Hong Kong and take part in overseas competitions. But after all this glamour, these athletes have to earn for their living. How can they maintain their living after retirement? Shall we ask them to attend some retraining programmes?

The Government attaches great importance to athletes when they have achieved brilliant results in competitions. However, after sharing the glory and splendour, has it ever cherished these athletes at all? Hong Kong has developed its sports for some 10 to 20 years. The Government has yet drawn up any concrete policy on the prospect of athletes after their retirement. How can we request parents to encourage their children to become athletes, or simply not to prevent their children from becoming athletes?

Moreover, in addition to direct subsidies, the Government can also encourage commercial organizations to sponsor the development of sports. In overseas countries, many brands will put in resources to set up their own teams. Hong Kong can further develop in this regard. Therefore, I hope the Government can take concrete steps and make more efforts, so as to support the development of sports in Hong Kong.

I so submit.

**MR JEFFREY LAM** (in Cantonese): President, in the East Asian Games hosted by Hong Kong, our teams achieved the best-ever results by winning 26 gold and 110 medals in total. Moreover, we won our first gold medal in football events in an integrated sports meet. This shows that there are a lot of sports talents in Hong Kong with potential. The Government should review its existing sports policy and put in more resources to promote the development of local sports, so as to lay a good foundation for bidding to host more big international competitions in future. Moreover, it should also consider bidding to host more major international competitions in Hong Kong.

We propose that the Government should allocate \$1 billion to set up a Sports Development Fund. We believe that with this fund, more subsidies can be provided for the training of elite athletes, developing team sports and

promoting school sports in the coming five to 10 years. Moreover, the Government should also review its existing funding policy on sports, promote full participation in sports by the public and enhance sports at all levels, including those of the professionals, students and the general public in a comprehensive manner.

The Hong Kong Sports Institute (HKSI) receives about \$160 million for training elite athletes each year. Such a programme has adopted a scoring mechanism, under which two of the best award results will be selected among international competitions for adults and youngsters each year. This has indirectly made it difficult for team sports which are popular among the public, such as football and basketball, to be selected. At present, all the 14 elite events are individual events. We propose that different selection criteria should be drawn up for elite sports for individuals and teams respectively, so as to train up more elite athletes.

The BMX cycling event, which was Hong Kong's first gold medal in the East Asian Games this time, is not listed as an elite sport under the HKSI. This shows that a lot of potential athletes are yet to be identified in the local sports circle. We propose that more support and resources should be provided for these events, such as enhancing training for youngsters, providing venues and subsidies and so on. Moreover, selection can be conducted through schools, the HKSI and territory-wide competitions to identify potential athletes. As such, we can foster the growth of more elite sports, boost our achievements in international events and continue to create legends for Hong Kong.

Moreover, there are about 130 000 primary and secondary school students taking part in various inter-school sports competitions organized by the Hong Kong Schools Sports Federation each year, representing less than 15% of the total number of 900 000 primary and secondary school students. We propose that the authorities can make use of the fund to provide subsidies for inter-school competitions and training, which include organizing more diversified competitions, providing coaches and training support for schools, setting up award schemes, encouraging more students to take part in sports, enhancing the standard of school sports and nurturing more elite athletes for Hong Kong in future.

Apart from this, Hong Kong should also improve the support system for both serving and retired athletes. The Sports Federation and Olympic



Committee of Hong Kong, China launched the Hong Kong Athletes Career and Education Programme in 2008, with a view to providing athletes with subsidies to pursue their studies and support their living expenses, training allowances and support for coaching internship. However, emphasis was put on elite athletes only.

We urge the Government to review and improve this support system. As for serving athletes, subsidies and support should be provided for those non-professional or non-elite serving athletes. And as for retired athletes, policies should be formulated to support them to pursue studies or seek employment. This should include those athletes who have made outstanding achievements in non-elite events. It is only when athletes can remain focused on sports development and have no worries about future that they can continue to make outstanding achievements for Hong Kong.

I so submit.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, it was curtains down for the East Asian Games. Hong Kong achieved its best-ever results by winning 26 gold medals. While all people in Hong Kong are still resting on our laurels in the East Asian Games, I consider that the Government should make good use of this opportunity to upgrade the standard of local sports, enhance the training of elite athletes, and at the same time, promote the development of sports. As such, sports can become more popular and the outstanding performance achieved in the East Asian Games can be further extended.

First of all, I wish to talk about the training and funding for elite athletes. Although the Government had just raised the amount of award for elite athletes who won in major international events and that of funding for training elite athletes and young athletes last year, such reward and funding was still relatively small as compared with other regions in South Asia.

Let us take a look at the funding for elite athletes. To our surprise, the funding provided by Hong Kong and Macao is the same, only amounting to about \$100 million a year. Worse still, part of the funding provided by Hong Kong comes from the Hong Kong Jockey Club, rather than being fully subsidized by the Hong Kong Government. Regarding the award for winners of gold medals in the Olympic Games, Hong Kong offers \$3 million. But how much does

Singapore offer? It offers HK\$5.5 million. The Government should consider enhancing the incentives, so that our athletes can get more subsidies. This is very important.

As for sports policy, some academics have criticized the lack of co-operation between government departments earlier on. Take cycling competitions as an example. There are road races and cross-country races. Regrettably, road construction is not under the purview of the Leisure and Cultural Services Department (LCSD). Moreover, the selection of sports talents is very important. As such, the Home Affairs Bureau and the Education Bureau, which are in charge of sports, should enhance their communication, so that those young athletes with potentials can be identified from schools as soon as possible.

Of course, I do not hope that the Government develops sports merely for winning medals. It is because enhancing public interest and participation in sports is of the same importance as promoting sports. As a matter of fact, Hong Kong people simply regard sports as doing something just for fun. In particular, parents consider that children play ball games, only for fun, which will even hinder their studies. However, if their child is determined to become an athlete, they will consider that he has no prospect at all.

Therefore, the Education Bureau and the Home Affairs Bureau should actively promote more sports courses in primary and secondary schools. Coupled with the technical assistance and support by the national sports associations, it will give people an impression that sports is a profession, rather than doing something just for fun.

Moreover, the LCSD has launched a programme called "Healthy Exercise for All Campaign" since 2000, with a view to raising public interest in doing exercise. But obviously, its promotional efforts are inadequate. I think very few people are aware of this programme. More surprisingly, with the programme being implemented for nine years, only 10 000 odd sports promotional activities have been organized under this programme so far. The number of participants is about 660 000 only. When calculated on the basis of a population of seven million in the territory, it will take 90 years for each of us to take part in one of these activities once.

I think it is necessary for the Government to review the effectiveness of this programme seriously. Otherwise, it will become just another promotional

activity with slogans being chanted. If the Government can adopt a two-pronged approach, we believe that given sufficient time, the sports culture, which has all along been overlooked by the public, can eventually be established.

Undoubtedly, the Hong Kong team did achieve very outstanding results in the East Asian Games this time. However, good results does not mean that the Games was held successfully. As we can see, confusion was caused as no tickets were available for sale at the Games venues; a wrong flag of Guam was hoisted at the Hong Kong Coliseum and this created an international laughing stock, a scandal appeared as athletes protested against the unfair selection at the Games venues. All these have revealed that the East Asian Games this time was organized in a hasty and non-professional manner.

Frankly speaking, hosting major sports meets can really help raise public awareness of sports, which can in turn enhance a sense of belonging in the public. Therefore, if the Government intends to host a sports meet of a larger scale again, it is necessary for it to draw lessons from the East Asian Games this time. It should not be contented with the achievements made in the Games. More importantly, it should formulate a long-term sports policy in a pragmatic manner. Otherwise, we will only create more scandals and become a laughing stock in the international community at the end.

President, I so submit.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I do not know how many of us in this Chamber have watched the match of the East Asian Games in which the Hong Kong football team won the gold medal. I was not there, for I did not have the tickets. Surely, many people got the tickets. However, when Donald TSANG's image of shouting excitingly to celebrate the victory of the Hong Kong team was shown on the large screen at the Hong Kong Stadium, hoorays at the Stadium immediately changed to "curses". I do not fabricate this. President, you may view this from the YouTube. Actually, the same scene was seen on the street. Many people of Hong Kong query the role he plays in the victory of the Hong Kong football team. Why does he come forward now to steal the limelight? We all know how much the Chief Executive loves sports.

Thanks to him, guests accompanying him were also greeted with this special treatment — boos. The only award-presenting guest being greeted with thunderous applause was SANTOS. Who is SANTOS? SANTOS is a famous football player. He has contributed his entire youth to football, sustained injuries all over his body, and he is still working hard like a cattle in his football career.

The people of Hong Kong know full well that though Hong Kong athletes obtain outstanding results in various competitions, they are fighting a lone battle and can only pray that they are lucky. What has the Hong Kong Government done? It is generous to sports associations but mean to athletes. In other words, when there is the opportunity to offer flattery, or when the Government wants a political booster, they will stage some programmes. In the East Asian Games held this time, certain competitions were cancelled due to the stupid blunders made by the organizers. This has become a laughing stock. The sports policy of the Hong Kong SAR Government is: medals and achievements come first, whereas hardwork and athletes can be ignored. What is its policy? Anything that can hog the limelight, it will do it, and that is its policy.

In the television programme "Hong Kong Connection" shown on 13 December last year, athletes of the following four sports, namely, shooting, weight lifting, Tae Kwon Do and dance sport, were interviewed. They have to bear all the cost involved. In the absence of support on venues, equipment, coaches and medical care, they make an all-out effort to ride over their difficult times. On the closing day of the East Asian Games, a group of people and I staged a demonstration opposite to Donald TSANG's limousine. Who were these people? They came from the Hong Kong Alliance of the Victims in Sports. Who are they? They are the victims of the sports policy adopted by the Government. Most of the national sports associations in Hong Kong are registered companies — this is a characteristic of Hong Kong, for even political parties have to register as companies. Nonetheless, these national sports associations collaborate with community groups, and as a result, they are reduced to organizations engaging in commercial activities. When national sports associations have obtained the recognition of the Amateur Sports Federation, the Olympic Committee of Hong Kong and the Leisure and Cultural Services Department, they can monopolize the sports activities concerned, for they will receive subsidies and venue support from the Government.

The system will only let the small number of beneficiaries enjoy endless benefits. However, to the many young athletes with the determination and passion to engage in sports and undergo tough training, this is a complete black-box operation. Not only are individual sports associations suspected of carrying out black box operations, but also our sports association — the Olympic Committee — has become the fief or private kingdom of the heir of the Fok family. Hence, regarding the proposal stated in Ms Tanya CHAN's amendment, and I quote, "review the structure and management mechanism of the Sports Federation and Olympic Committee of Hong Kong, China and various national sports associations, so as to further improve the governance standard of these organizations" (end of quote), I very much agree with it.

Under the existing policy on sports, the Sports Commission is the highest advisory framework, which is looked after and led by the Secretary. The commission comprises 18 members, including Albert HUNG, Victor HUI, TONG Wai-lun and Mr Tony YUE, who are all members of the Selection Committee (SC) representing the sports group and they declare themselves as businessmen. Herman HU is a SC member representing the Employers' Federation of Hong Kong. Timothy FOK is a Member of the Legislative Council. Eric LI is a SC member of the accounting sector. Dr David FANG is a SC member representing the medical sector. Mr Stephen TAN is a SC member of the financial sector and he declares himself to be an executive director. Roy CHUNG is a SC member representing the industrial sector who declares himself to be the managing director of a corporation. Ann CHIANG is a representative of the Chinese People's Political Consultative Conference, and she declares to be a businesswoman. CHAU How-chen is a SC member representing the District Councils and he declares to be a businessman. Buddy, the development and resource allocation of the sports sector are controlled by this group of people. Where are the representatives of the sports sector and athletes? Athletes in Hong Kong have to cower and shiver behind the Bauhinia Medals. What kind of a system is it? This is the dire consequence of the coterie election system left unchecked. Fairness is the essence of sportsmanship as well as that of the Olympic Games (*The buzzer sounded*) ..... What we say now is entirely perfunctory.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, your speaking time is up.

**MR RONNY TONG** (in Cantonese): President, the SAR Government has always been result-oriented and disregards hardwork.

In the recent East Asian Games, I recall seeing the Chief Executive's deeply moved expression when the Hong Kong football team won the gold medal. However, I wonder why he can remain indifferent to the repeated doleful sighs given by Hong Kong athletes in the past because the Government had completely ignored their grievances about the training environment.

In his earlier speech, the Secretary mentions proudly of the 110 medals won this time, but does the Secretary feel ashamed of the absence of a comprehensive sports policy in Hong Kong?

President, many Honourable colleagues have mentioned today that despite the brilliant results obtained in the East Asian Games this time, a lot of Hong Kong athletes come forward to sever their ties with the SAR Government. They make it clear that the results achieved by the athletes should not be attributed to the support given by the Government for sports development but the arduous efforts made by them under extremely difficult circumstances. These athletes have to overcome all kinds of difficulties and work extremely hard to achieve these results.

President, the Chef de Mission of the Hong Kong Delegation at the East Asian Games, Vivien LAU, criticized the Government severely at the closing meeting after the East Asian Games for its short-sighted and materialistic mindset in sports development. Players of the Hong Kong football team also urged the authorities to put in additional resources to promote football in Hong Kong, hoping that football would no longer be regarded as a "second-class" sport.

President, on last Christmas Eve, local springboard diving athletes chose to celebrate their marriage by diving to urge the people of Hong Kong to attach more importance to sports development in Hong Kong. After the East Asian Games, athletes of elite sports criticized the SAR Government in succession. But neither the SAR Government nor the Secretary has responded to these criticisms, they just turn a blind eye to them, why?

President, what is wrong in the sports sector? Why do the many elite sports athletes, who after obtaining outstanding results, still have loads of complaints and criticize the SAR Government so severely?

President, I would like to share a good example with Members. I am not sure if other Honourable colleagues have mentioned the experience of YAPP Hung Fai, the goalkeeper of Hong Kong soccer champion team, which is the typical experience of many Hong Kong athletes. He loves football. He chooses to give up the opportunity to study in Secondary Six and takes up football as his career. He becomes a full-time football player, but regrettably, his salary is only \$5,000. Though he has changed football clubs twice, he is only earning a monthly salary of \$10,000. YAPP Hung Fai has made outstanding achievement at the East Asian Games. Hence, his football club has helped him liaise with the authorities to let him have the opportunity to receive university education. He also got a pay rise as a reward. However, football is no sport for individuals. YAPP Hung Fai has the chance to further his studies at a university, but how about other players? Their salaries are lower than those of a general clerk, or even a messenger. How can we ensure outstanding athletes will have the determination and ability to continue bringing their strengths to full play in the sports arena?

President, the female bowler, CHE Kuk-hung, winning the first gold medal for Hong Kong in the Asian Games in South Korea back in 1986, strongly opposed her extremely talented daughter to take up bowling as a career out of the concern for the pay offered.

President, it is an undeniable fact that the pay of Hong Kong athletes is low, and hardware support poses another problem. Everyone says that they are proud of football activities in Hong Kong. But when YAPP Hung-fai requested Secretary TSANG Tak-sing to attach more importance to football sports after the East Asian Games, the Secretary replied that nine additional football pitches would be built. Nonetheless, this is a perfunctory reply. If Members know about the facts clearly, they will find out that the Secretary is actually deceiving the public. For among the nine football pitches claimed to be built, only three of them are 11-a-side football pitches, the remaining pitches are built in the proportion of the population according to the requirements of the Hong Kong Planning Standards and Guidelines. These are mini-football pitches, which are "public pitches" available to the public for recreational purpose. Since these "public pitches" are built in proportion to the increase in population, it means they are not additional football pitches at all. Moreover, these venues can in no way help promote football sports and support its development.

I recall one typical scene during the East Asian Games. The national football team of Japan had to practise at a "public pitch" in the vicinity of a hotel in Wan Chai because of the shortage of practising venues. They should have the feeling of a dragon being trapped in shallow water. Do we not feel ashamed about this? How dare we say we want to stage the Asian Games? Do we still rely on these mini-football pitches to train our elite athletes when the Asian Games is staged? About our venues, the Hong Kong Sports Institute was simply demolished in 2007, but no remedial action was taken after the demolition? What have been done in replacement? At present, though sports development in Hong Kong adopts the elite approach, it fails to nurture elite athletes; though it promotes sports for all, sports are in no way accessible to all. All these should be attributed to the lack of resources from the Government and the existence of a comprehensive sports policy to promote sports development in Hong Kong.

President, when I rose to speak earlier, I said that it was the adverse consequence of the Government's result-oriented mindset and its disregard for hardwork. I hope the Government will stop stealing the limelight, but put in more resources to train up our young people, so that they can have the determination to take up sports. Thank you, President.

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

**MR ALBERT CHAN** (in Cantonese): President, I speak to pay tribute to the elite athletes of Hong Kong. They are facing great difficulties. Though the Government ignores them and society leaves them alone, many athletes, out of their love of sports, have made every effort to continue with the demanding training and live in poverty or even abject poverty. The indomitable will demonstrated by the athletes under the objective unfavourable circumstances should be commended, which is comparable to a baby born in a slum but still manages to grow into maturity. We are really proud of them. A majority of elite athletes in Hong Kong can be likened to unwanted babies in the slums, but they can grow into maturity.

President, in this Chamber, I have been criticizing the sports system of Hong Kong in the past decade or so of its seven vices, and these are: black-box operation, specialists led by laymen, underhand dealings, fossilized and bureaucratic practices, and so on. There are continuous criticisms made about these.



In 2004, or five years ago, I submitted my proposal on sports development to the Government, Secretary "Hexie" (river crabs) definitely has not read this, for this was submitted many years ago. I pointed out the many problems related to the system, the framework and the operation of the sports sector, and put forth reform proposals. But now the East Asian Games is over. I put forth those proposals at the time because the East Asian Games would soon be staged, though I opposed the staging of the East Asian Games. Time flies, five years have passed. The proposals I put forth at the time for the relevant problems have not yet been accepted.

At that time, I pointed out that the framework of the sports sector must be democratic, professional and regionalized. The Hong Kong Football Association Limited has made some efforts in this respect, but in general, no improvement has been made in the sports sector, particularly in the government framework concerned, as compared to the situation five years ago. Most of the seven vices I criticized previously are still there, including fossilized and bureaucratic practices, specialists led by laymen, black-box operations and underhand dealings and so on.

Hence, during the East Asian Games, the Hong Kong Alliance of the Victims in Sports was found. Over the past few years, I received complaints time and again about those problems from a number of national sports associations and many elite athletes. This is ridiculous. Before the East Asian Games, an open competition was held in Hong Kong, but the champion of the competition could not represent Hong Kong to take part in the competition of that sport. What a shame! Our shameless Government brings shame on Hong Kong. Take the sport of shooting as an example. Hong Kong does have the venue required, but due to the maladministration of the Hong Kong Rifle Association (HKRA) ..... Earlier on, I met with the Director and the members of the relevant associations. I have also invited Timothy FOK to meet with them. But many problems on operation have not been improved. During the discussion of this subject, Timothy FOK is not in the Chamber. It is shameless and outrageous.

Hence, President, under the sports framework, problems related to national sports associations will continue occurring. For instance, the person-in-charge of the HKRA is a member of the Hong Kong Police Force at the senior levels, so to speak, and there is no trace of the investigation on the lost of firearms and the issue is left unsettled. This is collusion. Though the case was reported to the

police eventually, it was said that the evidence was insufficient. Obviously, the pistol was stolen.

There are a lot of problems. The relationship between government departments and various national sports associations is intriguing. Irregularities and practices violating the law are numerous. Even though it is obvious that certain requirements under the registration ordinance concerned are violated, due to certain personal connections, these associations continue with their "Hexie" (river crab) style of tyrannical operation, similar to that of the Secretary.

Secretaries of Departments and Directors of Bureaux are acting improperly and abusing their power. A social worker was dismissed because of a remark by the Secretary. Similarly, under the governance of the Secretary, persons of certain national sports associations act tyrannically. Since they are backed by influential persons, they can play the tyrant at will. The bad example of leaders will surely be followed by their subordinates. President, these problems will never come to an end.

I love sports. I have many friends and many football partners. Actually, many of them are very capable and they can further their career in sports and represent Hong Kong, but they eventually choose not to take up sports as their career. Some Members have mentioned the plights of football players, for instance, Mr Ronny TONG — he has mentioned another athlete, who should be CHE Kuk-hung, if my memory has not failed me. He may have mispronounced the word or read the wrong word. We should be proud of our athletes. However, many people with potentials are not willing to take up sports as their profession, which is a very serious problem.

Hence, if the Secretary is interested — though he will not listen to me, nor will he read the reports written by me — I can submit again the proposal I submitted five years ago. In the proposal, I mentioned ways to revitalize the sports sector, so that sports in Hong Kong, particularly the development of football, can be put back on the right track. I think if the issue is brought up again 10 years later, things will still be at a standstill, for the Government fails to introduce a reform and address completely the seven vices I have pointed out. It should never allow underhand dealings, like those found in politics, to take place in the sports sector. If everything is linked to personal connections and cronyism, and if all organizations and groups are headed by some people's protégés, and if all persons-in-charge are "yes men", then sports development in Hong Kong will definitely go downhill, remaining at an inferior level in the

international community. This should be attributed to the failure of the Government's policy and the dereliction of duty of the officials concerned. What a shame! The sports development in Hong Kong is inhibited by the dereliction of duty on the part of the Government. It is shameful. It must be condemned.

**MRS SOPHIE LEUNG** (in Cantonese): President, in particular when we have made such achievements in the East Asian Games, we may be a bit surprised. We should not be over-excited, neither should we stretch the matter too far, as if all of us knew how to manage a football team or even promote the development of football or sports. I think although this is the Chamber where only "empty talk" is done — except for throwing bananas, which should not be done — as a representative of seven million people, each one of us is one of the 60 Members representing the people of Hong Kong, and it is actually better for us to take more concrete actions than only do the talking here. Just now a number of Members have criticized Mr Timothy FOK for not having moved any motion on the subject, but he has actually done a lot. If not for his promoting the East Asian Games, we would not be standing here today talking about these achievements. He and I have known each other for years. He likes acting more than talking. He seldom talks.

Let us get back to our subject. President, I moved a motion debate here in 2008 specifically on the development of football. I found that some of the items in it have rarely been discussed, and one of them is developing football training schemes for local youngsters and enhancing the training for young football players with potential so as to lay a good foundation for the development of local football. President, many Members have requested the Government to provide more funding and resources for certain tasks, but we do not get football players simply by putting in heaps of money. President, we have to make lots of efforts on their physical fitness training throughout the years, and we also have to make lots of efforts to bring our coaches on a par with international standards. We are very grateful to those Honourable colleagues in this Council who have shown keen concern about football development for working together on a number of tasks after the last motion debate. With the time of a motion debate just being three to four hours, we can do much more promotional work outside than in this Chamber. I believe Mr CHEUNG Man-kwong is one of them. We have done a lot.

President, we would also like to urge the Government to take concrete actions to implement the recommendations made in the consultancy report. I believe the consultancy report will soon be released, and I expect that our proposals, especially those concerning developing football training schemes for local youngsters and providing support to promote the professionalization of local football ..... the so-called football players are not those who are done after playing football. They should obtain experience in managing a football team and enhancing the standard of the team and acquire more knowledge on sports to increase their understanding in this field. Actually, many leaders or coaches of football teams all over the world were once football players. Why cannot we do the same here? We should be able to do so.

Besides, the consultancy report will be released soon, and there is one more thing we can promote together, and that is the construction of the Tseung Kwan O Sports Ground. I believe we will hear some good news at the beginning of this year, and I expect the Government to implement this project expeditiously. We should not undermine the importance of the construction of the Tseung Kwan O Sports Ground. There are various comments about the Sports Ground not facing the east, or the west, or whatsoever, but many North American countries with excellent football development are looking forward to a venue in a warmer place where they can conduct pre-season training for their world-class teams, that is, training in winter. In their countries with all the snow and cold weather, they are unable to conduct any training. If they can lease our venues, not only will we be able to obtain some revenue, but we can also arrange for some friendly matches with them to exchange experience and learn the skills from each other. What is there to lose? Therefore, we are looking forward to the expeditious construction of the Tseung Kwan O Sports Ground so that our dream can come true and support will be provided to football teams in conducting overseas training and participating in overseas matches. Certainly, Members have also mentioned the shortage of venues just now. As Hong Kong is a small place with a huge population, it is not easy to identify a site. However, I believe the Government can make improvement on various aspects, particularly after the release of the consultancy report.

President, I think we should look ahead today instead of making a scene out of trivial matters. Mr LEUNG Kwok-hung said earlier that all the people were booed when they came out in the stadium that day. I think this was not true because I was there on the spot. I do not know from where he saw or heard

of this, or whether he just took some of the biased comments on YouTube as fact. We should keep our eyes wide open, look further ahead, listen more and try to understand more all the time instead of viewing thing with narrow-mindedness and restraining ourselves from progress by attending only to a couple of details.

That our athletes can have such achievements is because of their interest, and that was developed from an early age, and a suitable environment is required for this. I agree that our athletes are not motivated by money. If they are, they will not be able to stand any blow. I think we should be very careful with this point. I am looking forward to the release of the consultancy report and I also hope each Member in this Chamber, where talking more than anything else is done, will act more than talk outside this Chamber. I believe better outcomes may be achieved in this way.

President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, you may now speak on the three amendments. You may speak for up to five minutes.

**MR IP KWOK-HIM** (in Cantonese): President, from Mr LEE Wing-tat's amendment, I can see rather clearly that he is indeed a football fan, because his proposals are all about how to improve and promote the sport of football. He has proposed that the Government should first allocate additional resources on football. I agree that this can serve as a good example for the Hong Kong Jockey Club (HKJC) or the business sector to follow. The authorities have allocated a site for constructing the Football Academy in Tseung Kwan O and the HKJC will provide most of the funding required for the construction, however, the sound and sustainable operation of the Academy is subject to many constraints and uncertainties. Therefore, we support enlisting the Government's assistance. As for providing sufficient training venues for various First Division football clubs and waiving their venue rental, this is a view shared by quite a

number of people in the football sector. I think the Government should give consideration to it. Therefore, I support this amendment.

As for Miss Tanya CHAN's amendment, actually it proposes to review and improve the governance structure and standard of the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) and various national sports associations. In this regard, I think all organizations need improvements. However, it seems the SF&OC is not part of the government structure because it is quite an independent organization.

As for the policy for disabled persons mentioned, we are not opposed to it because the prize money system mentioned just now indeed warrants a review of its various aspects. However, this amendment mainly seeks to delete the wording "actively consider bidding to host the 18th Asian Games in 2019" in the original motion. Many Members have mentioned just now that we find it hardly acceptable if even "actively consider bidding" is regarded as unacceptable and has to be deleted.

I have also listened very carefully to Miss Tanya CHAN's arguments and concerns just now. She expressed views related to the ceiling and other views which are not necessarily significant, and some of the more reasonable ones are similar to the concerns of Dr LAM Tai-fai. Regarding concerns about venues, that is, whether there are adequate facilities and complementary amenities in neighbouring areas, I have actually raised this point in my original motion. I also mentioned that we should consider organizing major sports events, such as the 2019 Asian Games, in collaboration with neighbouring areas. We think this can relieve Members' of their concern in this respect.

Actually, there is a strong interactive relationship between staging major sports events and promoting sports. This is confirmed by the findings of our survey. It is considered that major events can promote public concern and support for sports. For this reason, I cannot agree with Miss Tanya CHAN when she compares staging major sports events to taking a dose of ketamine. Therefore, we would oppose her amendment.

Regarding Mr Paul CHAN's amendment, we support it because he has mentioned the issue of resources and proposed enhancing the transparency of the approval process and the governance capability of national sports associations. We strongly support these points.

Therefore, regarding the amendments of the three Members, we support the amendments of Mr Paul CHAN and Mr LEE Wing-tat and oppose the amendment of Miss Tanya CHAN. Thank you, President.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, I thank Members for expressing their views on sports development, and I would like to say a few words about them.

A number of Members have proposed that the Government should put in more resources to further promote the development of sports in Hong Kong; and some Members have also proposed that the Government should encourage the business sector and statutory organizations to put in more resources for funding sports.

At present, the Government of the Hong Kong Special Administrative Region (SAR) is providing different forms of subsidies to the sports sector through the Home Affairs Bureau (HAB) and the Leisure and Cultural Services Department (LCSD). Generally speaking, the amount of funding has maintained a rising trend. For example, the number of elite athletes receiving direct financial support from the Hong Kong Sports Institute (HKSI) has increased from 510 in 2007 to 582 at present. The total annual subsidy for national sports associations (NSAs) and sports organizations provided by the LCSD has gradually increased from about \$128 million in 2004-2005 to about \$186 million in 2009-2010. In 2010-2011, the LCSD will consider, in the light of the annual plans submitted by NSAs, increasing its subsidy according to actual needs, mainly for establishing a more effective feeder system, strengthening the training of representative teams, supporting athletes' participation in overseas matches and promoting community and team sports.

As for encouraging the business sector to take a more active part in the funding of sports, we agree with this very much. Actually, members of the business sector have all along been generously sponsoring and supporting sports in Hong Kong. For example, there were a number of sponsors for the East Asian Games. Our "M" Mark major sports events are also sponsored by business organizations. Sponsors can build a positive image for their enterprises through these mega sports events.

It is considered that the Government should provide more incentives for enterprises to support sports. We are more than willing to heed sound advice.

As for encouraging sponsorship from enterprises by providing tax deductions, given the already very low tax rates in Hong Kong, coupled with the fact that the amount spent by enterprises on promoting their brands through sponsoring sports activities is generally recognized as expenses and is tax deductible, we therefore consider that it may not be practicable to adopt tax concessions as a means to achieve this.

As to the question of whether the Hong Kong Jockey Club (HKJC) can put in more resources to support the development of local football, we indeed have this expectation and we will actively discuss this with the HKJC. The HKJC has all along been supporting local sports development. Apart from making donations for the construction of the Victoria Park and one of the swimming pools there, public riding schools and public golf courses in the early years, it also made donations for the construction of the International BMX Park in Gin Drinkers Bay, which served as one of the competition venues for the East Asian Games. We will continue to explore the deployment of social resources and work together to promote sports development.

Mr IP Kwok-him and a few other Members were concerned about whether there was a need to review the scoring mechanism for elite sports, and Mr LEE Wing-tat also proposed a corresponding amendment. At present, an "in-and-out" mechanism for the selection of elite sports is in place. It was implemented by the Sports Commission in 2005 and put into practice by the HKSI, upon consultation with various stakeholders of the sports sector, including experts and academics specializing in sports. During the four-year funding cycle from 2009 to 2013, a total of 14 sports have obtained enough scores for receiving funding support for elite sports from the HKSI. The relevant mechanism has already laid down clear criteria which are widely-accepted by the sports sector for selecting elite sports. We consider it inappropriate to revise it casually, and as the second funding cycle under this mechanism has only begun, we think we should continue to observe its implementation outcomes before considering whether a review is needed. As for Members' views on the development of football or other sports, we think it should be considered separately without affecting the existing selection mechanism as much as possible. In response to Members' proposals, we will examine the feasibility of providing more support for team sports.

Mr Paul CHAN proposed assisting NSAs in enhancing their discipline in corporate governance, accounting and compliance with rules and regulations.



NSAs are non-profit-making organizations as well as registered legal persons. Many of them are limited companies while the rest are societies under the Societies Ordinance. These organizations have to deal with their own internal business in accordance with their memorandum and articles of association. If they are publicly-funded, they certainly must carry out appropriate internal control in compliance with the subvention agreement they have entered into with the Government to ensure that the subvention is used in a cost-effective and responsible manner.

The LCSD conducts annual meetings with NSAs every year to review the subsidization and the effectiveness of their programmes, and determine the subvention amount in the light of their financial positions and future development plans. The LCSD will make reference to reports submitted by NSAs and examine whether they have achieved the targets set in the previous financial year and assess the effectiveness of the NSAs in using the subvention.

To improve the Sports Subvention Scheme, the LCSD will set up a working group at the beginning of this year to conduct a comprehensive review of the existing subvention scheme, improve its efficiency and enhance the transparency of the funding policy and the funding approval process in order to improve the existing governance and accountability mechanism of NSAs.

A number of Members have expressed support for the Government to increase and upgrade sports facilities. The LCSD will continue to improve the facilities in existing sports grounds. It has all along been committed to seeking to construct new sports grounds at suitable sites and it is now actively planning to provide sports facilities under more than 30 capital works projects, such as town park and indoor velodrome-cum-sports centre in Area 45, Tseung Kwan O, Tin Shui Wai Public Library cum Indoor Recreation Centre and Swimming Pool Complex Area 2, Tung Chung, Lantau. It is expected that these works projects will gradually be completed in the coming five years. As for the Multi-purpose Stadium Complex at Kai Tak Development, its feasibility study will soon be completed. We will commence the next stage of work as soon as possible, including commissioning a consultancy firm to conduct an assessment in order to decide on the mode of operation of the stadium in the future.

A number of Members were concerned about the treatment of athletes and their career development after retirement, to which we attach great importance as

well. Just take the rowing athlete in the East Asian Games mentioned in press reports yesterday as an example. He became an athlete holding a HKSI scholarship in 2006 and is now a non-full time elite athlete who is entitled to a monthly training grant of about \$9,000. As he had outstanding achievements and won a gold medal and a silver medal at the East Asian Games, he could receive prize money amounting to over \$80,000. He will complete his higher diploma programme this year and the HKSI will assist him in applying for admission to undergraduate programmes. Since 2008, the Government has been providing subsidies to the HKSI for implementing the Enhanced Athletes Educational and Vocational Development Programmes to provide diversified support in educational and vocational development for athletes. The HKSI also offers tailor-made coach training programmes for elite athletes through the Elite Coaching Apprenticeship Programme to help athletes take up coaching jobs after retirement. Besides, we allocated \$8.5 million to the Sports Federation & Olympic Committee of Hong Kong, China (SF&OC) in July 2008 so that it could establish the Hong Kong Athletes Career and Education Programme with the aim of providing comprehensive support for serving and retired athletes in educational and career development. To date, 10 corporations have implemented measures to offer vocational opportunities to retired athletes and some athletes have secured long-term employment under the Programme.

We also have plans to cater for the need of outstanding athletes in pursuing further studies after retirement. University Grants Committee-funded institutions have indicated that they will recognize the applications for admission from elite athletes nominated by the SF&OC or the HKSI and introduce a system similar to that of the Principal Recommendation Scheme under the Joint Universities Programmes Admissions System in vetting the relevant applications.

Mr CHAN Kin-por reiterated the need to promote sports for all. Actually, the LCSD and the Department of Health have launched the "Healthy Exercise For All Campaign" since 2000 and enlisted the co-operation of relevant NSAs and professional bodies in advocating the slogan of "Daily exercise keeps us fit, people of all ages can do it", which aims at raising the public's interest in exercising. Recreational and sports activities under the "Healthy Exercise For All Campaign" include fitness programmes for children, senior citizens and people with disabilities offered throughout the 18 districts in the territory on an on-going basis to facilitate neighbourhood participation so that people of different ages and interests can understand the benefits of regular exercising to health.

The LCSD is now stepping up its public education efforts to introduce the findings of the consultancy study entitled "Sport for All — Participation Patterns of Hong Kong People in Physical Activities", including the introduction of the findings to the relevant committees of the 18 District Councils (DCs) and inviting the DCs to support the promotion of community sports. At the school level, the Education Bureau will introduce the results of the consultancy study to kindergartens and primary and secondary schools throughout Hong Kong, in addition to encouraging schools to attach greater importance to sports through the Student Sports Activities Co-ordinating Sub-committee.

Since 2001, the LCSD has been, through subsidizing and co-ordinating the School Sports Programme (SSP) organized by various NSAs, providing various sports training programmes for students of primary, secondary and special schools throughout the territory in collaboration with the Education Bureau. The SSP activities, which are organized in line with the daily schedule of schools and taught by coaches of NSAs, aim at enhancing students' understanding of and interests in individual sports so as to encourage active participation in sports.

Regarding collaboration and exchanges with the Mainland, the SAR Government has all along been making efforts in this respect. The HAB has signed numerous agreements on sports exchange and co-operation with the State Sports General Administration of China and relevant authorities of various provinces and municipalities. The scope of exchange and co-operation includes areas such as competitive sports, community sports, exchange and training of sports personnel, scientific studies and academic exchange on sports and co-operation in the sports sector. After the signing of the agreements on co-operation, Hong Kong has implemented together with the Mainland a variety of sports exchange and co-operation programmes, including the international sporting goods shows, rallies, tour of Hong Kong Shanghai and youth football and basketball competitions.

The HKSI has signed a memorandum of collaboration with five training and research institutes on the Mainland for elite athletes. This will not only provide greater training support for local elite athletes in scientific researches but will also lay a sound foundation for the long-term collaborative partnership between the two places.

Regarding whether Hong Kong will bid to host the 2019 Asian Games, according to the requirements of the Olympic Council of Asia (OCA), in order to

bid to host the Asian Games, a city has to be named by the National Olympic Committee in its own country or area, which is a member of the OCA, as candidate to host the Asian Games. I know the SF&OC is seriously and carefully examining whether or not to bid to host the Asian Games. If the SF&OC officially seeks the support of the SAR Government for bidding to host the 2019 Asian Games, we will certainly give active consideration to it and examine various factors. If the SAR Government agrees with the relevant bid, it will definitely make every effort to take complementary measures in the bidding process.

As what we are talking about is the 2019 Asian Games, we should have a sense of vision. Looking ahead for the nine years to come, Hong Kong and the Pearl River Delta (PRD) Region will develop closer ties and have more convenient channels of communication. By then, the metropolitan glamour of Hong Kong will indeed complement the cluster of cities in the PRD Region. Therefore, Mr IP Kwok-him has a reason to suggest that Hong Kong should adopt the approach of the Beijing Olympic Games and allow Zhuhai and Macao to co-organize some of the events. However, under "one country, two systems", the Olympic Committee of Hong Kong, China, that is, the SF&OC, is a member of the International Olympic Committee, and it may make its own decisions on sports matters. If we co-organize these events with Shenzhen and Zhuhai, matters have to be discussed in the Chinese Olympic Committee. This has to be considered by the SF&OC as well.

Members such as Mr LEE Wing-tat, Mr CHEUNG Hok-ming and Ms Miriam LAU highlighted the issue of football. Regarding the proposal of supporting football representative teams of different age groups, in the annual subsidy provided by the LCSD to the Hong Kong Football Association (HKFA), almost \$4.5 million is for organizing systematic football training programmes for young people aged between 5 and 19. Players with outstanding performance will be selected to join various Hong Kong representative teams of the HKFA to receive training and represent Hong Kong to play in international matches. The number of participants in this programme almost reached 50 000 in 2009-2010.

Regarding the proposal of providing training venues for First Division football clubs, upon the request of the HKFA, the LCSD has already provided eight football pitches for the HKFA to hold First Division matches played in the home and away system since September last year so as to provide 10 First

Division teams with designated football pitches for holding matches and conducting training. We will continue to convert more pitches into third generation artificial turf pitches to improve the conditions. The LCSD will continue to follow up the relevant arrangements with the HKFA to assist in promoting the development of local professional football.

Some Members mentioned the structure and framework of sports in Hong Kong. At present, the Government is maintaining a very close partnership with various organizations responsible for sports development, including the SF&OC, various NSAs and the HKSI. Operationally, NSAs are responsible for the direction of development of their respective sports, while the Government supports the work of NSAs by providing resources, venues and facilities and implementing complementary measures. As for the HKSI and the SF&OC, they provide elite athletes with training and opportunities for participating in international matches. The Government has all along respected the autonomous operation of the SF&OC and NSAs in accordance with the Olympic Charter. With these organizations performing their respective functions, we will continue to foster co-operation and keep enhancing their efficiency and standards.

President, the successful staging of the East Asian Games has provided a very good opportunity for enhancing the sporting culture of Hong Kong and promoting the further development of sports in Hong Kong. The Sports Commission will critically consolidate the experience gained this time and the HAB will also grasp this opportunity and make concerted efforts with members of the community to continue to provide support to elite athletes, develop various programmes and facilities, encourage more members of the public to participate in sports and stage major sports events, in order to stimulate public interest in sports and establish Hong Kong's position as a major sports events capital.

President, I so submit.

**PRESIDENT** (in Cantonese): I now call upon Mr LEE Wing-tat to move his amendment to the motion.

**MR LEE WING-TAT** (in Cantonese): President, I move that Mr IP Kwok-him's motion be amended.

**Mr LEE Wing-tat moved the following amendment: (Translation)**

"To add "the sports development in Hong Kong has long been neglected, but" after "That"; to add "still" after "Hong Kong players have"; to delete "with" after "team sports" and substitute with "which are popular among the public and have"; to add "take the lead in providing additional funding and" after "(b)"; to add "(c) allocate funding to directly support the football academy at Tseung Kwan O, and provide adequate funding to maintain and develop football representative teams of different age groups; (d) provide sufficient training venues for various First Division football clubs and consider waiving their venue rental;" after "local football;"; to delete the original "(c)" and substitute with "(e)"; to delete the original "(d)" and substitute with "(f)"; to delete the original "(e)" and substitute with "(g)"; to delete the original "(f)" and substitute with "(h)"; to delete the original "(g)" and substitute with "(i)"; to delete the original "(h)" and substitute with "(j)"; and to delete the original "(i)" and substitute with "(k)"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Wing-tat to Mr IP Kwok-him's motion, 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 amendment passed.

**PRESIDENT** (in Cantonese): Members have been informed that Miss Tanya CHAN will withdraw her amendment if Mr LEE Wing-tat's amendment has been passed. As this is the case now, Miss Tanya CHAN has therefore withdrawn her amendment.

**PRESIDENT** (in Cantonese): Mr Paul CHAN, as the amendment by Mr LEE Wing-tat has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. You may now move your revised amendment.

**MR PAUL CHAN** (in Cantonese): President, I move that Mr IP Kwok-him's motion as amended by Mr LEE Wing-tat be further amended by my revised amendment.

**Mr Paul CHAN's further amendment to the motion as amended by Mr LEE Wing-tat: (Translation)**

"To add "; (l) review the adequacy of resources currently allocated to sports, and enhance the transparency of the funding policy and the funding approval process; and (m) assist various national sports associations in enhancing their discipline in corporate governance, accounting and compliance with rules and regulations, so as to ensure that the resources allocated to them are utilized in a proper and effective manner" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Paul CHAN's amendment to Mr IP Kwok-him's motion as amended by Mr LEE Wing-tat 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 amendment passed.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, you may now reply and you have one minute 31 seconds.

**MR IP KWOK-HIM** (in Cantonese): I have to express my heartfelt thanks to the 21 Members for the opinions they have expressed in the discussion today, and it is obvious that they are concerned about sports activities in Hong Kong.

The discussion today well reflects that Members care so much about sports in Hong Kong that they have to give harsh criticisms. When it comes to the question of how the sports industry should be revitalized, Members show great concern. They have put forward many proposals, expressed concerns about resources allocation and training, the future and pay of football players and the availability of venues, and so on. I hope that the Government will take full heed of the views expressed by Members. I hope it will enhance its communication with members in the sports sector and academics engaging in the study of sports development, so that they can work together to promote sports in Hong Kong in the next 10 to 20 years. I also hope that the exciting and encouraging moment of the match between the Hong Kong football team and the Japanese team during the East Asian Games will relive again and again in Hong Kong in the future. Thank you, Members.



**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr IP Kwok-him, as amended by Mr LEE Wing-tat and Mr Paul CHAN, be passed.

**PRESIDENT** (in Cantonese): 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.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 13 January 2010.

*Adjourned accordingly at twenty-eight minutes past Nine o'clock.*

**Annex I**

## INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2009

**COMMITTEE STAGE**Amendments to be moved by the Secretary for  
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>By deleting the clause and substituting –</p> <p><b>"2. Commencement</b></p> <p>(1) This Ordinance, except this section and sections 1 and 3(3), comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.</p> <p>(2) This section and sections 1 and 3(3) come into operation on the day on which this Ordinance is published in the Gazette."</p>
3	<p>By adding –</p> <p>"(1A) Section 49(1) is amended, in the English text, by repealing "notwithstanding" and substituting "despite"."</p>
3	<p>By adding –</p> <p>"(3) Section 49 is amended by adding –</p>

"(7) Rules made under subsection (6)  
are subject to the approval of the Legislative  
Council.".



**Appendix 1****REQUEST FOR POST-MEETING AMENDMENTS**

**The Secretary for the Environment requested the following post-meeting amendment**

**Line 5, seventh paragraph, page 14 of the Confirmed version**

To amend "..... the Government had even considered 60 sites before selecting four out of them ....." as "..... the Government had even considered 60 sites before selecting three out of them ....." (Translation)

(Please refer to line 8 to 9, second paragraph, page 3617 of this Translated version)